

CHAPTER 64

AN ACT to amend 103.39 of the statutes, relating to the payment of wages and salaries.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

103.39 of the statutes is amended to read:

103.39 (1) Every person \* \* \* engaged in any enterprise or business for pecuniary profit within the state \* \* \* shall as often as on the fifteenth and on the last day of each month pay to every employe engaged in its business, except those employes engaged in hospitals or sanatoriums, logging operations, farm labor, domestic service or employes employed on a salary basis equal to at least \$350 per month, all wages or salaries earned by such employe to a day not more than 16 days prior to the date of such payment. Any such employe who is absent at the time fixed for payment or who for any other reason is not paid at that time shall be paid thereafter at any time upon 6 days' demand. Any such employe, except sales agents employed on a commission basis, not having a written contract for a definite period who quits his employment shall be paid in full upon 3 days' demand, and any employe who is discharged shall be paid in full within 3 days. No person \* \* \* coming within the meaning of this section shall by special contract with employes or by any other means secure exemption from \* \* \* this section and each \* \* \* employe coming within the meaning of this section shall have a right of action against any such person \* \* \* for the full amount of his wages due on each regular pay day as herein provided, in any court of competent jurisdiction. Whenever such regular payments cover wages earned to a date more than 8 days prior to the day of payment \* \* \* if the day fixed for the semimonthly payment falls on Sunday or a holiday payment shall be made on the previous business day.

(2) In case of the death of an employe to whom wages or salary are due, the full amount of the wages or salary due shall upon demand be paid by the employer to the wife, children, husband or other dependent living with such employe at the time of his death. In the case of an employe of the state, the amount of the wage or salary due shall include all unused vacation allowance. Any county or municipality may include unused vacation allowances for any employe who died after January 1, 1961. Any employer may not less than 5 days after the death of an employe and before the filing of a petition for letters testamentary or of administration in the matter of the decedent's estate, make payment of the wage or salary due the deceased employe to the wife, children, father or mother, brother or sister of the decedent, giving preference in the foregoing order; or, if no such relatives survive, the employer may apply such payment or so much thereof as may be necessary to paying creditors of the decedent in the order of preference prescribed in s. 313.16 for satisfaction of debts by executors and administrators. The making of payment in such manner shall be a discharge and release of the employer to the amount of such payment. As used in this subsection "employer" includes the state and any of its subdivisions and any employer defined under sub. (1).

(3) In an action by an employe against his employer on a wage claim, no security for payment of costs shall be required. In any such proceeding the court may allow the prevailing party, in addition to all other costs, a reasonable sum not exceeding \$10 for expenses. No assignee of a wage claim shall be benefited or affected by this subsection except as expressly provided by s. 101.10 (14).

(4) Any person \* \* \* violating \* \* \* this section who, having the ability to pay, \* \* \* *fails* to pay the wages *or salary* due and payable as herein provided or \* \* \* *falsely* \* \* \* *denies* the amount or validity thereof or that the same is due, with intent to secure any discount upon such indebtedness or with intent to annoy, harass, oppress, hinder or defraud the person to whom such wages *or salaries* are due, \* \* \* *is* guilty of a misdemeanor and \* \* \* *shall be fined* not less than \$25 \* \* \* *nor* more than \$100 or \* \* \* *imprisoned* in the county jail for not less than 10 days nor more than 90 days \* \* \* or \* \* \* both \* \* \*. Each \* \* \* failure or refusal to pay each employe the amount of wages *or salaries* due him at the time, or under the conditions required in this section \* \* \*, *constitutes* a separate offense. In addition to the criminal penalty herein provided, every person \* \* \* violating \* \* \* this section shall be liable for the payment of the following increased wages or salaries: 10 per cent if the delay does not exceed 3 days; 20 per cent if the delay is more than 3 days, but does not exceed 10 days; 30 per cent if the delay is more than 10 days, but does not exceed 20 days; 40 per cent if the delay is more than 20 days, but does not exceed 30 days; 50 per cent if the delay is more than 30 days; but in no event shall such increased wages or salaries exceed \$50.

Approved May, 20, 1963.

---