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H.800

Introduced by Representatives Botzow of Pownal and Marcotte of Coventry
Referred to Committee on
Date:
Subject: Labor; employment practices; wages; investigations of unpaid wages
Statement of purpose of bill as introduced: This bill proposes to provide the
Commissioner of Labor with authority to issue a stop-work order to an
employer for a continuous and ongoing failure to pay wages.

An act relating to investigations of complaints of unpaid wages

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 21 V.S.A. § 342a is amended to read:

§ 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

* * *

(e) If, after the Commissioner has issued a written determination and an order for collection, the Commissioner determines that the employer has willfully failed to pay the wages due and that the willful failure is continuous and ongoing, the Commissioner may issue an emergency order to that employer to stop work until the employer has paid the amount due pursuant to the order for collection. If the Commissioner determines that issuing a stop-work order would immediately threaten the safety or health of the public,

1 the Commissioner may permit work to continue until the immediate threat to
2 public safety or health is removed. The Commissioner shall document the
3 reasons for permitting work to continue, and the document shall be available to
4 the public. In addition, the employer shall be assessed an administrative
5 penalty of not more than \$250.00 for every day that the employer fails to pay
6 the amount due pursuant to the order for collection after the Commissioner
7 issues the stop-work order. When a stop-work order is issued, the
8 Commissioner shall post a notice at a conspicuous place on the work site of the
9 employer informing the employees that their employer failed to comply with
10 this subchapter and that work at the work site has been ordered to cease until
11 the amount due pursuant to the collection order has been paid. The stop-work
12 order shall be rescinded as soon as the Commissioner determines that the
13 employer has paid the amount due pursuant to the collection order.

14 (f) Within 30 days after the date of the collection order, the employer or
15 employee may file an appeal from the determination to a departmental
16 administrative law judge. The appeal shall, after notice to the employer and
17 employee, be heard by the administrative law judge within a reasonable time.
18 The administrative law judge shall review the complaint de novo, and after a
19 hearing, the determination and order for collection shall be sustained,
20 modified, or reversed by the administrative law judge. Prompt notice in

1 writing of the decision of the administrative law judge and the reasons for it
2 shall be given to all interested parties.

3 ~~(f)~~(g) Notwithstanding any other provision of law, the employer or
4 employee may appeal the decision of the administrative law judge within 30
5 days by filing a written request with the Employment Security Board. The
6 appeal shall be heard by the Board after notice to the employee and employer.
7 The Board may affirm, modify, or reverse the decision of the administrative
8 law judge solely on the basis of evidence in the record or any additional
9 evidence it may direct to be taken. Prompt notice of the decision of the Board
10 shall be given to the employer and employee in the manner provided by section
11 1357 of this title. The Board's decision shall be final unless an appeal to the
12 Supreme Court is taken. Testimony given at any hearing upon a complaint of
13 unpaid wages shall be recorded, but the record need not be transcribed unless
14 ordered. The costs of transcription shall be paid by the requesting party.

15 ~~(g)~~(h) The Commissioner may enforce a final order for collection under
16 this section within two years of the date of the final order in the Civil Division
17 of the Superior Court.

18 ~~(h)~~(i) Information obtained from any employer, employee, or witness in the
19 course of investigating a complaint of unpaid wages shall be confidential and
20 shall not be disclosed or open to public inspection in any manner that reveals
21 the employee's or employer's identity or be admissible in evidence in any

1 action or proceeding other than one arising under this subchapter. However,
2 such information may be released to any public official for the purposes
3 provided in subdivision 1314(e)(1) of this title.

4 Sec. 2. EFFECTIVE DATE

5 This act shall take effect on July 1, 2016.