

SENATE BILL NO. 373—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF DEPARTMENT OF BUSINESS AND
INDUSTRY-LABOR COMMISSIONER)

MARCH 16, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions relating to labor commissioner.
(BDR 53-558)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to labor; expanding the authority of the labor commissioner to adopt regulations; reducing the period within which certain unclaimed money collected by the labor commissioner is presumed abandoned; authorizing a person designated by the labor commissioner to conduct certain hearings and issue certain decisions concerning the labor laws of this state; requiring the attorney general to prosecute certain criminal violations that are reported to him by the labor commissioner; authorizing the labor commissioner to prescribe by regulation the minimum wage paid to employees in private employment in this state; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 607.150 is hereby amended to read as follows:
2 607.150 1. ~~The~~ *To carry out the provisions of subsection 1 of*
3 *NRS 607.160, the* labor commissioner may enter any store, foundry, mill,
4 office, workshop, mine or public or private works at any reasonable time
5 ~~for the purpose of gathering~~ *to gather* facts and statistics ~~contemplated~~
6 ~~by this chapter~~ and make a record thereof.
7 2. Any owner, corporation, occupant or officer who refuses such entry
8 to the labor commissioner, his officers or agents is guilty of a
9 misdemeanor.
10 **Sec. 2.** NRS 607.160 is hereby amended to read as follows:
11 607.160 1. The labor commissioner ~~shall~~ :
12 *(a) Shall* enforce all labor laws of the State of Nevada the enforcement
13 of which is not specifically and exclusively vested in any other officer,
14 board or commission ~~and~~ *; and*



1 (b) May adopt regulations to carry out the provisions of
2 paragraph (a).

3 2. Whenever after due inquiry the labor commissioner believes that a
4 person financially unable to employ counsel has a valid and enforceable
5 claim for wages, commissions or other demands, he may present the facts
6 to the attorney general showing:

7 (a) The names of the claimant and his alleged debtor.

8 (b) A description and the location of the property on which the labor
9 was performed, if the claim is for wages, or which is the office or place of
10 business of the debtor if the claim is for a commission, and the right, title
11 and interest of the debtor therein.

12 (c) Other property, if any, owned by the debtor and the probable value
13 thereof.

14 (d) The time the claimant began and the time he ceased the labor.

15 (e) The number of days' labor performed by him during the
16 employment and the rate of wages or commission arrangement and terms
17 of the employment.

18 (f) The date or dates and the amount, if any, paid on the claim.

19 (g) The balance due, owing and unpaid on the claim.

20 (h) The date on which a demand for payment was made upon the debtor
21 or his agent or representative, and the response, if any, to that demand.

22 (i) The names of the witnesses upon whom the claimant expects to rely
23 to provide facts and to what facts each of the witnesses is expected to
24 testify.

25 3. The attorney general shall prosecute the claim if he determines that
26 the claim is valid and enforceable.

27 **Sec. 3.** NRS 607.170 is hereby amended to read as follows:

28 607.170 1. ~~When the~~ **The** labor commissioner ~~deems it necessary,~~
29 ~~he may take an assignment off~~ **may prosecute** a claim for wages and
30 commissions ~~and prosecute an action for collection off~~ **or commence any**
31 **other action to collect** wages, commissions and other demands of any
32 person who is financially unable to employ counsel in a case in which, in
33 the judgment of the labor commissioner, the claim for wages or
34 commissions **or other action** is valid and enforceable in the courts.

35 2. In all matters relating to wages or commissions and before taking
36 any assignment, the labor commissioner may ~~summon~~ **, in accordance**
37 **with the provisions of NRS 607.210, subpoena** to appear before him, at a
38 suitable place in the county of the claimant, his employer and all other
39 ~~necessary persons for the purpose of adjusting and settling~~ **persons**
40 **required to adjust and settle** claims for wages or commissions before
41 bringing suit therefor, and the labor commissioner may effect reasonable
42 compromises of those claims.

43 3. The labor commissioner or his deputy may maintain a commercial
44 account with any bank or credit union within this state for the deposit of
45 money collected for claims for wages or commissions. The money must be
46 promptly paid to the person entitled thereto. At the end of each calendar
47 year, any unclaimed money in the commercial account which has been a
48 part of the account for ~~15~~ **3** years or more is presumed abandoned under
49 NRS 120A.220.



1 **Sec. 4.** NRS 607.205 is hereby amended to read as follows:
2 607.205 In aid of his enforcement responsibilities under the labor laws
3 of the State of Nevada, including , but not limited to , *the provisions of*
4 NRS 338.030, 412.1393, 412.1395, 607.160, 607.170, 608.270 and chapter
5 611 of NRS, the labor commissioner or a person designated ~~from the~~
6 ~~commissioner's regular staff~~ *by him* may conduct hearings and issue
7 decisions thereon in the manner ~~provided by~~ *set forth in* NRS 607.207.

8 **Sec. 5.** NRS 607.207 is hereby amended to read as follows:
9 607.207 1. When an enforcement question is presented under any
10 labor law of the State of Nevada, the determination of which is not
11 exclusively vested in another officer, board or commission, the labor
12 commissioner or a person designated ~~from the commissioner's regular~~
13 ~~staff~~ *by him* may conduct a hearing in any place convenient to the parties,
14 if practicable, and otherwise in a place chosen by the labor commissioner.
15 2. Notice of ~~such hearing shall~~ *the hearing must* be given by
16 registered or certified mail to each party and to any person who has in
17 writing requested such notice. The hearing ~~shall~~ *must* be conducted ~~no~~
18 *not* less than 15 days ~~following~~ *after* the mailing of the notices. The
19 proceedings ~~shall~~ *must* be recorded and one copy ~~shall~~ *must* be
20 provided at cost to any party who requests it. The labor commissioner or a
21 person designated ~~from the commissioner's regular staff~~ *by him* shall, in
22 any such hearing, make full use of the authority conferred upon him by
23 NRS 607.210.

24 **Sec. 6.** NRS 607.210 is hereby amended to read as follows:
25 607.210 1. The labor commissioner or a person designated ~~from the~~
26 ~~commissioner's regular staff~~ *by him* may take testimony in all matters
27 relating to the duties and requirements of this chapter in ~~some~~ *a* suitable
28 place in the vicinity to which the testimony is applicable.

29 2. The labor commissioner or a person designated ~~from the~~
30 ~~commissioner's regular staff~~ *by him* may compel the attendance of
31 witnesses, and may issue subpoenas. No witness fees may be paid to any
32 witness unless he is required to testify at a place more than 5 miles from
33 his place of residence, in which event the witness is entitled to be paid the
34 same fees as a witness before a district court. Payment must be made from
35 the fund appropriated for those purposes in the county in which the
36 testimony is taken and the witness examined in the same manner as
37 provided for the payment of witness fees in the district court of that county.

38 3. Any person subpoenaed ~~under~~ *pursuant to* the provisions of this
39 ~~section~~ *chapter* who willfully refuses or neglects to testify at the time and
40 place named in the subpoena is guilty of a misdemeanor.

41 **Sec. 7.** NRS 607.215 is hereby amended to read as follows:
42 607.215 1. Within 30 days after the conclusion of the hearing
43 provided for in NRS 607.207, the labor commissioner or a person
44 designated ~~from the commissioner's regular staff~~ *by him* shall issue a
45 written decision, setting forth findings of fact and conclusions of law
46 developed at the hearing.

47 2. The decision, together with the findings of fact and conclusions of
48 law, ~~shall~~ *must* be mailed to each of the parties to whom the notice of the
49 hearing was mailed and to any other persons who may have requested



1 notice of the hearing. The decision becomes enforceable 10 days
2 ~~following such~~ *after the* mailing.

3 3. Upon a petition for judicial review, the court may order trial de
4 novo.

5 4. A decision issued pursuant to this section is binding on all parties
6 and has the force of law.

7 **Sec. 8.** NRS 607.220 is hereby amended to read as follows:

8 607.220 Upon the complaint of the labor commissioner, the ~~district~~
9 ~~attorneys of the several counties~~ *attorney general* shall prosecute all
10 criminal violations of law ~~which may be~~ *that are* reported to ~~them~~ *him*
11 by the labor commissioner.

12 **Sec. 9.** NRS 608.250 is hereby amended to read as follows:

13 608.250 1. Except as otherwise provided in this section, the *labor*
14 *commissioner shall, in accordance with federal law, establish by*
15 *regulation the* minimum wage which may be paid to employees in private
16 employment within the state. ~~is \$3.35 per hour.~~ The labor commissioner
17 shall prescribe increases in the minimum wage in accordance with those
18 prescribed by federal law, unless he determines that ~~such~~ *those* increases
19 are contrary to the public interest. ~~The minimum amount which may be~~
20 ~~paid to a minor is 85 percent of that amount.~~

21 2. The provisions of subsection 1 do not apply to:

22 (a) Casual babysitters.

23 (b) Domestic service employees who reside in the household where they
24 work.

25 (c) Outside salespersons whose earnings are based on commissions.

26 (d) Employees engaged in an agricultural pursuit for an employer who
27 did not use more than 500 man-days of agricultural labor in any calendar
28 quarter of the preceding calendar year.

29 (e) Taxicab and limousine drivers.

30 (f) Severely handicapped persons whose disabilities have diminished
31 their productive capacity in a specific job and who are specified in
32 certificates issued by the rehabilitation division of the department of
33 employment, training and rehabilitation.

34 3. It is unlawful for any person to employ, cause to be employed or
35 permit to be employed, or to contract with, cause to be contracted with or
36 permit to be contracted with, any person for a wage less than that ~~provided~~
37 ~~in~~ *established by the labor commissioner pursuant to the provisions of*
38 this section.

39 **Sec. 10.** NRS 608.260 is hereby amended to read as follows:

40 608.260 If any employer pays any employee a lesser amount than the
41 minimum wage prescribed *by regulation of the labor commissioner*
42 pursuant to *the provisions of* NRS 608.250, ~~such~~ *the* employee may, at
43 any time within 2 years, bring a civil action ~~for the recovery of~~ *to recover*
44 the difference between the amount paid *to* the employee and the *amount of*
45 *the* minimum wage. ~~prescribed pursuant to NRS 608.250. No~~ A contract
46 between the employer and the employee or any acceptance of a lesser wage
47 by the employee is *not* a bar to the action.



1 **Sec. 11.** NRS 608.270 is hereby amended to read as follows:
2 608.270 1. The labor commissioner shall:
3 (a) Administer and enforce the provisions of NRS 608.250; and
4 (b) Furnish the district attorney of any county *or the attorney general*
5 all data and information concerning violations of *the provisions of* NRS
6 608.250, occurring in ~~such~~ *the* county coming to the attention of the labor
7 commissioner.
8 2. ~~Every~~ *Each* district attorney shall, ~~when~~ *if* a complaint is made
9 to him by the labor commissioner or by any aggrieved person, prosecute
10 ~~every~~ *each* violation of *the provisions of* NRS 608.250 ~~,-occurring~~ *that*
11 ~~occurs~~ in his county. ~~Should~~ *If* any such district attorney ~~fail, neglect or~~
12 ~~refuse for a period of~~ *fails, neglects or refuses for* 20 days to commence
13 ~~the~~ *a* prosecution for ~~the~~ *a* violation of *the provisions of* NRS 608.250,
14 after being furnished data and information concerning ~~such~~ *the* violation,
15 and diligently to prosecute the same to conclusion, ~~he~~ *the district*
16 *attorney* is guilty of a misdemeanor, and in addition thereto he ~~shall~~ *must*
17 be removed from office.
18 **Sec. 12.** This act becomes effective on July 1, 2001.

