

Senate Bill No. 373—Committee on Commerce and Labor

CHAPTER.....

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:

Section 1. NRS 607.150 is hereby amended to read as follows:

607.150 1. ~~The~~ *To carry out the provisions of subsection 1 of NRS 607.160, the* labor commissioner may enter any store, foundry, mill, office, workshop, mine or public or private works at any reasonable time ~~for the purpose of gathering~~ *to gather* facts and statistics ~~contemplated by this chapter~~ and make a record thereof.

2. Any owner, corporation, occupant or officer who refuses such entry to the labor commissioner, his officers or agents is guilty of a misdemeanor.

Sec. 2. NRS 607.160 is hereby amended to read as follows:

607.160 1. The labor commissioner ~~shall~~ :

(a) Shall enforce all labor laws of the State of Nevada the enforcement of which is not specifically and exclusively vested in any other officer, board or commission ~~it~~ ; *and*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The labor commissioner or his deputy may maintain a commercial account with any bank or credit union within this state for the deposit of money collected for claims for wages or commissions. The money must be promptly paid to the person entitled thereto. At the end of each calendar year, any unclaimed money in the commercial account which has been a part of the account for ~~{5 years}~~ *1 year* or more is presumed abandoned under NRS 120A.220.

Sec. 4. NRS 607.205 is hereby amended to read as follows:

607.205 In aid of his enforcement responsibilities under the labor laws of the State of Nevada, including , but not limited to , *the provisions of* NRS 338.030, 412.1393, 412.1395, 607.160, 607.170, 608.270 and chapter 611 of NRS, the labor commissioner or a person designated ~~{from the commissioner's regular staff}~~ *by him* may conduct hearings and issue decisions thereon in the manner ~~{provided by}~~ *set forth in* NRS 607.207.

Sec. 5. NRS 607.207 is hereby amended to read as follows:

607.207 1. When an enforcement question is presented under any labor law of the State of Nevada, the determination of which is not exclusively vested in another officer, board or commission, the labor commissioner or a person designated ~~{from the commissioner's regular staff}~~ *by him* may conduct a hearing in any place convenient to the parties, if practicable, and otherwise in a place chosen by the labor commissioner.

2. Notice of ~~{such hearing shall}~~ *the hearing must* be given by registered or certified mail to each party and to any person who has in writing requested such notice. The hearing ~~{shall}~~ *must* be conducted ~~{not}~~ *not* less than 15 days ~~{following}~~ *after* the mailing of the notices. The proceedings ~~{shall}~~ *must* be recorded and one copy ~~{shall}~~ *must* be provided at cost to any party who requests it. The labor commissioner or a person designated ~~{from the commissioner's regular staff}~~ *by him* shall, in

any such hearing, make full use of the authority conferred upon him by NRS 607.210.

Sec. 6. NRS 607.210 is hereby amended to read as follows:

607.210 1. The labor commissioner or a person designated ~~from the commissioner's regular staff~~ *by him* may take testimony in all matters relating to the duties and requirements of this chapter in ~~some~~ *a* suitable place in the vicinity to which the testimony is applicable.

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

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

Sec. 7. NRS 607.215 is hereby amended to read as follows:

607.215 1. Within 30 days after the conclusion of the hearing provided for in NRS 607.207, the labor commissioner or a person designated ~~from the commissioner's regular staff~~ *by him* shall issue a written decision, setting forth findings of fact and conclusions of law developed at the hearing.

2. The decision, together with the findings of fact and conclusions of law, ~~shall~~ *must* be mailed to each of the parties to whom the notice of the hearing was mailed and to any other persons who may have requested notice of the hearing. The decision becomes enforceable 10 days ~~following such~~ *after the* mailing.

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

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

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

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

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

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

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

(a) Casual babysitters.

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

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

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

(e) Taxicab and limousine drivers.

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

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

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

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

Sec. 11. NRS 608.270 is hereby amended to read as follows:

608.270 1. The labor commissioner shall:

(a) Administer and enforce the provisions of NRS 608.250; and

(b) Furnish the district attorney of any county *or the attorney general* all data and information concerning violations of *the provisions of* NRS 608.250, occurring in ~~such~~ *the* county coming to the attention of the labor commissioner.

2. ~~Every~~ *Each* district attorney shall, ~~when~~ *if* a complaint is made to him by the labor commissioner or by any aggrieved person, prosecute ~~every~~ *each* violation of *the provisions of* NRS 608.250 ~~occurring~~ *that occurs* in his county. ~~Should~~ *If* any such district attorney ~~fail, neglect or refuse for a period of~~ *fails, neglects or refuses for* 20 days to commence ~~the~~ *a* prosecution for ~~the~~ *a* violation of *the provisions of* NRS 608.250, after being furnished data and information concerning ~~such~~ *the* violation, and diligently to prosecute the same to conclusion, ~~he~~ *the district attorney* is guilty of a misdemeanor, and in addition thereto he ~~shall~~ *must* be removed from office.

Sec. 12. This act becomes effective on July 1, 2001.