

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 361**

Introduced by Hansen, M., 26.

Read first time January 16, 2019

Committee: Business and Labor

1 A BILL FOR AN ACT relating to employment; to amend sections 48-1205,  
2 48-1206, 48-1207, 48-1208, and 48-1209, Reissue Revised Statutes of  
3 Nebraska, and section 48-1228, Revised Statutes Cumulative  
4 Supplement, 2018; to prohibit retaliation under the Nebraska Wage  
5 Payment and Collection Act and the Wage and Hour Act as prescribed;  
6 to provide for a private right of action; to provide powers for the  
7 Commissioner of Labor; to harmonize provisions; and to repeal the  
8 original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. An employer shall not retaliate or discriminate against  
2 an employee or applicant for employment because the employee or  
3 applicant:

4           (1) Files a complaint under the Wage and Hour Act; or

5           (2) Testifies, assists, or participates in an investigation,  
6 proceeding, or action concerning a violation of the act.

7           Sec. 2. Section 48-1205, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9           48-1205 Every employer subject to the Wage and Hour Act provisions  
10 ~~of sections 48-1201 to 48-1209~~ shall keep a summary of the act sections  
11 ~~48-1201 to 48-1209~~, furnished by the Commissioner of Labor without  
12 charge, posted in a conspicuous place on or about the premises wherein  
13 any person subject to the act ~~provisions of sections 48-1201 to 48-1209~~  
14 is employed.

15           Sec. 3. Section 48-1206, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17           48-1206 (1) The Commissioner of Labor shall have the authority to  
18 subpoena records and witnesses related to the enforcement of section  
19 48-1203, section 1 of this act, and this section. The commissioner or his  
20 or her agent may inspect all related records and gather testimony on any  
21 matter relative to the enforcement of the Wage and Hour Act.

22           (2) Any employer who violates any of the provisions of section  
23 48-1203 shall be guilty of a Class IV misdemeanor.

24           (3) It shall be the duty of the county attorney for the county in  
25 which any violation of the Wage and Hour Act occurs to prosecute the same  
26 in the district court in the county where the offense occurred.

27           (4) Any employer who violates any provision of section 48-1203 shall  
28 be liable to the employees affected in the amount of their unpaid minimum  
29 wages, as the case may be.

30           (5) In any action brought to enforce section 1 of this act, the  
31 court shall have jurisdiction to grant such legal or equitable relief as

1 the court deems appropriate to effectuate the purposes of the Wage and  
2 Hour Act, including temporary or permanent injunctive relief and general  
3 and special damages.

4 (6) (5) Action to recover unpaid minimum wages as provided in  
5 subsection (4) of this section or for a violation of section 1 of this  
6 act may be maintained in any court of competent jurisdiction by any one  
7 or more employees for and in behalf of himself, herself, or themselves  
8 and other employees similarly situated, or such employee or employees may  
9 designate an agent or representative to maintain such action for and in  
10 behalf of all employees similarly situated. The court in which any action  
11 is brought under this subsection shall, in addition to any judgment  
12 awarded to the plaintiff or plaintiffs, allow costs of the action and  
13 reasonable attorney's fees to be paid by the defendant. In any  
14 proceedings brought pursuant to this subsection, the employee shall not  
15 be required to pay any filing fee or other court costs necessarily  
16 incurred in such proceedings.

17 Sec. 4. Section 48-1207, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 48-1207 Nothing in the Wage and Hour Act ~~sections 48-1201 to 48-1209~~  
20 shall be deemed to interfere with, impede, or in any way diminish the  
21 right of employees to bargain collectively with their employers through  
22 representatives of their own choosing in order to establish wages or  
23 other conditions of work in excess of the applicable minimum under the  
24 act ~~provisions of sections 48-1201 to 48-1209.~~

25 Sec. 5. Section 48-1208, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 48-1208 Any standards relating to minimum wage, maximum hours, or  
28 other working conditions in effect on October 23, 1967, by or under any  
29 other law of this state, which are more favorable to employees than those  
30 applicable to such employees under the Wage and Hour Act ~~provisions of~~  
31 ~~sections 48-1201 to 48-1209,~~ shall not be deemed to be amended,

1 rescinded, or otherwise affected by the act ~~sections 48-1201 to 48-1209~~  
2 but shall continue in full force and effect.

3 Sec. 6. Section 48-1209, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 48-1209 Sections 48-1201 to 48-1209 and section 1 of this act shall  
6 be known and may be cited as the Wage and Hour Act.

7 Sec. 7. Section 48-1228, Revised Statutes Cumulative Supplement,  
8 2018, is amended to read:

9 48-1228 Sections 48-1228 to 48-1234 and section 8 of this act shall  
10 be known and may be cited as the Nebraska Wage Payment and Collection  
11 Act.

12 Sec. 8. An employer shall not retaliate or discriminate against an  
13 employee or applicant for employment because the employee or applicant:

14 (1) Files a complaint under the Nebraska Wage Payment and Collection  
15 Act; or

16 (2) Testifies, assists, or participates in an investigation,  
17 proceeding, or action concerning a violation of the act.

18 Sec. 9. Original sections 48-1205, 48-1206, 48-1207, 48-1208, and  
19 48-1209, Reissue Revised Statutes of Nebraska, and section 48-1228,  
20 Revised Statutes Cumulative Supplement, 2018, are repealed.