

**ARKANSAS
DEPARTMENT OF LABOR**

**STATUTES REGULATING
WAGES
AND
HOURS
IN ARKANSAS**

**Revised
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MINIMUM WAGE AND OVERTIME LAW

11-4-201. Title

This subchapter shall be known as the “Minimum Wage Act of the State of Arkansas”.

11-4-202. Policy

It is declared to be the public policy of the State of Arkansas to establish minimum wages for workers in order to safeguard their health, efficiency, and general well-being and to protect them as well as their employers from the effects of serious and unfair competition resulting from wage levels detrimental to their health, efficiency, and well-being.

11-4-203. Definitions.

As used in this subchapter, unless the context otherwise requires:

- (1) “Director” means the Director of the Department of Labor;
- (2) “Employ” means to suffer or to permit to work;
- (3) “Employee” means any individual employed by an employer but shall

not include:

(A) Any individual employed in a bona fide executive, administrative, or professional capacity, or as an outside commission-paid salesperson who customarily performs his or her services away from his or her employer’s premises taking orders for goods or services;

(B) Students performing services for any school, college, or university in which they are enrolled and are regularly attending classes;

(C) Any individual employed by the United States;

(D) Any individual engaged in the activities of any educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to the organizations gratuitously;

(E) Any bona fide independent contractor;

(F) Any individual employed by an agricultural employer who did not use more than five hundred (500) man-days of agricultural labor in any calendar quarter of the preceding calendar year;

(G) The parent, spouse, child, or other member of an agricultural employer’s immediate family;

(H) An individual who:

(i) Is employed as a hand-harvest laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment;

(ii) Commutes daily from his or her permanent residence to the farm on which he or she is so employed; and

(iii) Has been employed in agriculture fewer than thirteen (13) weeks during the preceding calendar year;

(I) A migrant who:

(i) Is sixteen (16) years of age or under and is employed as a hand-

harvest laborer;

(ii) Is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment;

(iii) Is employed on the same farm as his or her parents; and

(iv) Is paid the same piece-rate as employees over age sixteen (16) years are paid on the same farm;

(J) Any employee principally engaged in the range production of live-stock;

(K) Any employee employed in planting or tending trees, cruising, surveying, or felling timber or in preparing or transporting logs or other forestry products to the mill, processing plants, or railroad or other transportation terminal if the number of employees employed by his or her employer in the forestry or lumbering operations does not exceed eight (8);

(L) An employee employed by a nonprofit recreational or educational camp that does not operate for more than seven (7) months in any calendar year;

(M) A nonprofit child welfare agency employee who serves as a houseparent who is:

(i) Directly involved in caring for children who reside in residential facilities of the nonprofit child welfare agency and who are orphans, in foster care, abused, neglected, abandoned, homeless, in need of supervision, or otherwise in crisis situations that lead to out-of-home placements; and

(ii) Compensated at an annual rate of not less than thirteen thousand dollars (\$13,000) or at an annual rate of not less than ten thousand dollars (\$10,000) if the employee resides in the residential facility and receives board and lodging at no cost;

(N) An employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation:

(i) Of less than four thousand (4,000); and

(ii) The major part of which is within the county where the newspaper is published or counties contiguous to the county where the newspaper is published;

(O) An employee employed on a casual basis in domestic service employment to provide:

(i) Babysitting services; or

(ii) Companionship services for individuals who are unable to care for themselves because of age or infirmity;

(P) An employee engaged in the delivery of newspapers to retail subscribers; or

(Q) A home worker engaged in:

(i) Making wreaths composed principally of natural holly, pine, cedar, or other evergreens; and

(ii) Harvesting natural holly, pine, cedar, and other evergreens used in making such wreaths;

(4)(A) "Employer" means any individual, partnership, association, corpo-

ration, business trust, the State, any political subdivision of the State, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

(B) "Employer" shall not include any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee for any workweek in which fewer than four (4) employees are employed;

(5) "Gratuities" means voluntary monetary contributions received by an employee from a guest, patron, or customer for services rendered;

(6) "Independent contractor" means any individual who contracts to perform certain work away from the premises of his or her employer, uses his or her own methods to accomplish the work, and is subject to the control of the employer only as to the result of his or her work;

(7) "Man-day" means any day during any portion of which an employee performs any agricultural labor. Any individual otherwise excluded as an employee under subdivision (3)(I) of this section shall be considered an employee in computing man-days of agricultural labor.

(8) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed; and

(9) "Wage" means compensation due to an employee by reason of his or her employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by this subchapter or by regulations of the director under this subchapter.

11-4-204. Law most favorable to employees applicable—Liberal construction.

(a) Any standards relating to minimum wages, maximum hours, or other working conditions in effect under any other law of this state on May 22, 1968, which are more favorable to employees than those applicable to employees under this subchapter or the regulations issued hereunder shall not be deemed to be amended, rescinded, or otherwise affected by this subchapter but shall continue in full force and effect and may be enforced as provided by law unless and until they are specifically superseded by standards more favorable to employees by operation of or in accordance with regulations issued under this subchapter.

(b) This subchapter shall be liberally construed in favor of its purposes and shall not limit any law or policy that requires payment of higher or supplemental wages or benefits.

11-4-205. Right of collective bargaining not affected.

Nothing in this subchapter shall be deemed to interfere with, impede, or in any way diminish the right of employers and employees to bargain collectively through representatives of their own choosing in order to establish wages or other conditions of work.

11-4-206. Penalties.

(a)(1) Any employer who willfully hinders or delays the Director of the Department of Labor or his or her authorized representative in the performance of his or her duties in the enforcement of this subchapter, willfully refuses to admit the director or his or her authorized representative to any place of employment, willfully fails to make, keep, and preserve any records as required under the provisions of this subchapter; willfully falsifies any such record, willfully refuses to make the record accessible to the director or his or her authorized representative upon demand, willfully refuses to furnish a sworn statement of the record or any other information required for the proper enforcement of this subchapter to the director or his or her authorized representative upon demand; willfully fails to post a summary of this subchapter or a copy of any applicable regulations as required by §11-4-216, pays or agrees to pay minimum wages at a rate less than the rate applicable under this subchapter, or otherwise willfully violates any provision of this subchapter or of any regulation issued under this subchapter shall be deemed in violation of this subchapter and shall be subject to a civil penalty of not fewer than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.) for each violation.

(2) For the purposes of this subsection, each violation shall constitute a separate offense.

(b) Any employer who willfully discharges or in any other manner willfully discriminates against any employee because the employee has made any complaint to his or her employer, or to the director or his or her authorized representative that he or she has not been paid minimum wages in accordance with the provisions of this subchapter or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this subchapter or because the employee has testified or is about to testify in any such proceeding shall be deemed in violation of this subchapter and shall be subject to a civil penalty of not fewer than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000) for each violation.

(c) For the purposes of this section, each day that the violation continues shall constitute a separate offense.

(d) The director shall determine the amount of the penalty and shall consider the appropriateness of the penalty to the size of the business and the gravity of the violation.

(e) The determination by the director shall be final, unless within fifteen (15) days after receipt of notice thereof by certified mail the person, firm, corporation, partnership, or association charged with the violation notifies the director in writing that he or she contests the proposed penalty. In the event that a penalty is contested, a final determination shall be made pursuant to the Arkansas Administrative Procedure Act, §25-15-201 et seq.

(f) Upon a final administrative determination, the amount of the penalty may be recovered in a civil action brought by the director in a court of competent jurisdiction without paying costs or giving bond for costs.

(g) Sums collected under this section shall be paid into the Department of

Labor Special Fund.

(h) Assessment of a civil penalty by the director shall be made no later than three (3) years after the date of the occurrence of the violation.

(i) In addition to the civil penalty provided by this section, the director is authorized to petition any court of competent jurisdiction, without paying costs or giving bond for costs, to enjoin or restrain any person, firm, corporation, partnership, or association who violates the provisions of this subchapter or any regulation issued thereunder.

11-4-207 and 11-4-208. [Repealed.]

11-4-209. Director of the Department of Labor - Powers and duties.

(a) For any occupation, the Director of the Department of Labor shall make and revise such administrative regulations, including definitions of terms, as he or she may deem appropriate to carry out the purposes of this subchapter or necessary to prevent the circumvention or evasion thereof and to safeguard the minimum wage rates established.

(b) The regulations may include, but are not limited to, regulations governing:

- (1) Outside or commission salespersons;
- (2) Learners and apprentices, their number, proportion, and length of service;
- (3) Part-time pay, bonuses, and fringe benefits;
- (4) Special pay for special or extra work;
- (5) Permitted charges to employees or allowances for board, lodging, apparel, or other facilities or services customarily furnished by employers to employees;
- (6) Allowances for gratuities; and
- (7) Allowances for other special conditions or circumstances which may be usual in a particular employer-employee relationship.

(c) Regulations shall be promulgated pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) The director or his or her authorized representatives shall:

(1) Have authority to enter and inspect the place of business or employment of any employer in the state for the purpose of:

(A) Examining and inspecting any or all books, registers, payrolls, and other records of any employer that in any way relate to or have a bearing upon the question of wages, hours, and other conditions of employment of any employees;

(B) Copy any or all of the books, registers, payrolls, and other records as he or she may deem necessary or appropriate; and

(C) Question employees for the purpose of ascertaining whether the provisions of this subchapter and regulations issued under this subchapter have been and are being complied with;

(2) Have authority to require from the employer full and correct statements in writing, including sworn statements, with respect to wages, hours, names,

addresses, and such information pertaining to his or her employees as the director or his or her authorized representative may deem necessary or appropriate;

(3) Publish all regulations promulgated pursuant to this subchapter; and

(4) Otherwise implement and enforce the provisions of this subchapter and the regulations issued under this subchapter.

11-4-210. Minimum wage.

(a) Beginning October 1, 2006, every employer shall pay each of his or her employees wages at the rate of not less than six dollars and twenty-five cents (\$6.25) per hour except as otherwise provided in this subchapter.

(b) With respect to any full-time student attending any accredited institution of education within this state and who is employed to work an amount not to exceed twenty (20) hours during weeks that school is in session or forty (40) hours during weeks when school is not in session, the rate of wage shall be equal to but not less than eighty-five percent (85%) of the minimum wage provided in this section.

11-4-211. Overtime.

(a) Except as otherwise provided in this section and §§ 11-4-210 and 11-4-212, no employer shall employ any of his or her employees for a work week longer than forty (40) hours unless the employee receives compensation for his or her employment in excess of the hours above specified at a rate not less than one and one-half (1 1/2) times the regular rate of pay at which he or she is employed.

(b) The provisions regarding the payment of wages at one and one-half (1 1/2) times the regular rate of pay for overtime services shall not be applicable with respect to agricultural employees.

(c) Neither the provisions of this section nor the provisions of any other law of this state shall be construed to require the payment of compensation at a greater rate than the normal rate for services performed by agricultural employees in excess of forty (40) hours per week.

(d) This section shall not apply to any employee exempt from the overtime requirements of the federal Fair Labor Standards Act pursuant to the provisions of 29 U.S.C. § 213(b)(1) - (24) and (b)(28) - (30), as they exist on March 1, 2006.

(e) No public agency shall be deemed to have violated this section with respect to the employment of any employee in fire protection activities or law enforcement activities, including security personnel in correctional institutions, provided that the public agency pays overtime pay in compliance with 29 U.S.C. § 207(k), as it exists on March 1, 2006.

(f) In lieu of overtime compensation, the State of Arkansas and any political subdivision of the state may award compensatory time off at a rate of not less than one and one-half (1 1/2) hours for each hour of employment for which overtime compensation is required. The compensatory time off may be provided only:

(1)(A) Pursuant to applicable provisions of a collective bargaining agreement, memorandum of understanding or other agreement between the public agency and representatives of such employees.

(B) In the case of employees not covered by subsection (f)(1) of this section an agreement or understanding arrived at between the employer and employee before the performance of the work; and

(2) If the employee has not terminated employment and has not accrued compensatory time in excess of the following:

(A) Four hundred eighty (480) hours for police, firefighters, emergency response personnel and employees engaged in seasonal activities; or

(B) Two hundred forty (240) hours for any public employee not otherwise exempt or covered by subsection (f)(2)(A) of this section.

(g) By rule or regulation, the Director of the Department of Labor may authorize employment in excess of the standard set by subsection (a) of this section or may authorize the calculation of overtime on a basis other than the regular rate of pay required by subsection (a) of this section for employment:

(1) Necessitating irregular hours of work;

(2) At a piece rate;

(3) Paying on a commission basis in a retail or service establishment;

(4) In a hospital or enterprise engaged in the care of the sick, the aged, or the mentally ill;

(5) By an independently-owned-and-controlled local enterprise engaged in the wholesale or bulk distribution of petroleum products; and

(6) Under a collective bargaining agreement.

11-4-212. Allowance for gratuities.

(a) Every employer of an employee engaged in any occupation in which gratuities have been customarily and usually constituted and have been recognized as a part of remuneration for hiring purposes shall be entitled to an allowance for gratuities as a part of the hourly wage rate provided in § 11-4-210 in an amount of no less than three dollars and sixty-two cents (\$3.62) per hour, provided that the employee actually received that amount in gratuities and that the application of the foregoing gratuity allowances results in payment of wages other than gratuities to tipped employees, including full-time students subject to the provisions of § 11-4-210, of no less than two dollars and sixty-three cents (\$2.63) per hour.

(b) In determining whether an employee received in gratuities the amount claimed, the Director of the Department of Labor may require the employee to show to the satisfaction of the director that the actual amount of gratuities received by him or her during any workweek was less than the amount determined by the employer as the amount by which the wage paid the employee was deemed to be increased under this section.

11-4-213. Allowance for furnishing board, lodging, apparel, etc.

(a) Every employer of an employee engaged in any occupation in which board, lodging, apparel, or other items and services are customarily and regu-

larly furnished to the employee for his or her benefit shall be entitled to an allowance for the reasonable value of board, lodging, apparel, or other items and services as part of the hourly wage rate provided in § 11-4-210 in an amount not to exceed thirty cents (30¢) per hour.

(b) In determining whether an employee received board, lodging, apparel, or other items and services having a reasonable value of less than thirty cents (30¢) per hour during any work week, the Director of the Department of Labor may require the employee to show to the satisfaction of the director that the reasonable value of items and services received by the employee was less than the amount determined by the employer as the amount by which the wage paid the employee was deemed to be increased under this section.

11-4-214. Handicapped workers.

(a) Any person handicapped by lack of skill, age, or physical or mental deficiency or injury in any way that his or her earning capacity is impaired shall be granted a temporary special exemption license or permit authorizing the employment of the person at wages lower than the minimum prescribed in this subchapter until such time as the Director of the Department of Labor shall hold a hearing and prescribe regulations regarding exemption of these persons as authorized in this section.

(b)(1) The director may provide by regulation, after notice and public hearing at which any person may be heard, for the employment in any occupation of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury at wages lower than the minimum wage rate provided in § 11-4-210 as he or she may find appropriate to prevent curtailment of opportunities for employment, to avoid undue hardship, and to safeguard the minimum wage rate under this subchapter.

(2) In addition, the director, by regulation or special order, may provide for the employment of handicapped clients in work activities centers under special certificates at wages which are less than the minimum prescribed in § 11-4-210 which the director determines constitutes equitable compensation for the clients in work activities centers.

(c) For the purposes of this section, the term “work activities centers” shall mean centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical and mental impairment is so severe as to make their productivity capacities inconsequential.

11-4-215. Learners, apprentices, and full-time students.

(a) For any occupation the Director of the Department of Labor may provide, by regulation, after a public hearing at which any person may be heard, for the employment in the occupation of learners, apprentices, and full-time students at wages lower than the minimum wage rate provided in § 11-4-210(b) as he or she may find appropriate to prevent curtailment of opportunities for employment and to safeguard the minimum wage rate under this subchapter.

(b) No employee shall be employed at wages fixed pursuant to this sec-

tion, except under special license issued under applicable regulations of the director.

11-4-216. Posting of law.

(a) Every employer subject to any provisions of this subchapter or of any regulations issued under this subchapter shall keep a summary of this subchapter, approved by the Director of the Department of Labor, and copies of any applicable regulations issued under this subchapter, or a summary of the regulations approved by the director, posted in a conspicuous and accessible place in or about the premises wherein any person subject thereto is employed.

(b) Employers shall be furnished copies of the summaries of this statute and regulations by the director on request without charge.

11-4-217. Records kept by employer.

(a) Every employer subject to any provision of this subchapter or of any regulation issued under this subchapter shall make and keep for a period of not less than three (3) years in or about the premises wherein any employee is employed a record of the name, address, and occupation of each of his or her employees, the rate of pay, the amount paid each pay period to each employee, and such other information as the Director of the Department of Labor shall prescribe by regulation as necessary or appropriate for the enforcement of the provisions of this subchapter or of the regulations under this subchapter.

(b) The records shall be open for inspection or transcription by the director or his or her authorized representative at any reasonable time.

(c) Every employer shall furnish to the director or to his or her authorized representative on demand a sworn statement of the records and information upon forms prescribed or approved by the director.

11-4-218. Employee's remedies.

(a)(1) Any employer who pays any employee less than minimum wages, including overtime compensation or compensatory time off as provided for by this subchapter, to which the employee is entitled under or by virtue of this subchapter shall:

(A) Pay any applicable civil penalties; and

(B) Be liable to the employee affected for:

(i) The full amount of the wages, less any amount actually paid to the employee by the employer; and

(ii) Costs and such reasonable attorney's fees as may be allowed by the court.

(2) The employee may be awarded an additional amount up to, but not greater than, the amount under subdivision (a)(1)(B)(i) of this section to be paid as liquidated damages.

(b) Any agreement between the employee and employer to work for less than minimum wages shall be no defense to the action.

(c) The venue of the action shall lie in the circuit court of any county in

which the services which are the subject of the employment were performed.

(d)(1) The Director of the Department of Labor shall have the authority to fully enforce this subchapter by instituting legal action to recover any wages that he or she determines to be due to employees under this subchapter.

(2) No legal action shall be brought by the director until after notice and opportunity for hearing pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and entry of a final administrative order.

(3)(A) Following any appeals taken pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the director shall be entitled to enforce his or her final administrative order in any court of competent jurisdiction without paying costs or giving bond for costs.

(B) The director's findings of fact shall be conclusive in any such proceeding.

(e)(1) An employee may bring an action for equitable and monetary relief against an employer, including the State of Arkansas or a political subdivision of the state, if the employer pays the employee less than the minimum wages, including overtime wages, to which the employee is entitled under or by virtue of this subchapter.

(2) If the employee brings an action under this subsection, then any complaint before the director by the employee on the same matter shall be dismissed with respect to that employee.

(3)(A) The employee shall not be required to exhaust administrative remedies before bringing an action.

(B) There shall be no procedural, pleading, or burden of proof requirements beyond those that apply generally to civil suits in order to maintain the action.

11-4-219. Judicial review.

(a) Any interested person in any occupation for which any administrative regulation has been issued under the provisions of this subchapter who may be aggrieved by any regulation may obtain a review thereof in the circuit court of the county of the residence of the aggrieved party by filing in the court within twenty (20) days after the date of publication of the regulation a written petition praying that the regulation be modified or set aside.

(b) A copy of the petition shall be served upon the Director of the Department of Labor.

(c)(1) The court shall review the record of the proceedings before the director, and the director's findings of fact shall be affirmed if supported by substantial evidence. The court shall determine whether the regulation is in accordance with law.

(2) If the court determines that the regulation is not in accordance with law, it shall remand the case to the director with directions to modify or revoke the regulation.

(d)(1) If application is made to the court for leave to adduce additional evidence by any aggrieved party, the party shall show to the satisfaction of the court that the additional evidence is material and that there were reasonable

grounds for the failure to adduce the evidence before the director.

(2) If the court finds that the evidence is material and that reasonable grounds exist for failure of the aggrieved party to adduce the evidence in prior proceedings, the court shall remand the case to the director with directions that the additional evidence be taken before the director.

(3) The director may modify his or her findings and conclusions, in whole or in part, by reason of the additional evidence.

(e) Hearings in the circuit court on all appeals taken under the provisions of this subchapter shall take precedence over all matters except matters of the same character. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that it shall be subject to review by the Supreme Court.

(f)(1) The commencement of proceedings under subsections (a)-(d) of this section, unless specifically ordered by the court, shall not operate as a stay of an administrative regulation issued under the provisions of this subchapter.

(2) The court shall not grant any stay of an administrative regulation unless the person complaining of the regulation shall file an amount in the court, undertaking with a surety satisfactory to the court, for payment to the employees affected by the regulation in the event that the regulation is affirmed. The surety shall be in an amount by which the compensation the employees are entitled to receive under the regulation exceeds the compensation they actually receive while the stay is in effect.

11-4-220. Person entitled to file a claim.

(a) Any employee covered by this subchapter may file a claim with the Director of the Department of Labor charging that an employer has violated § 11-4-210 or §11-4-211 as to any employee or other person.

(b) The director shall promptly investigate each claim.

(c) The name of any employee identified in a claim shall be kept confidential until the director issues an administrative complaint or the director is ordered to release the information by order of a court of competent jurisdiction.

WAGE AND SEX DISCRIMINATION

11-4-601. Discrimination on the basis of sex prohibited.

(a) Every employer in the state shall pay employees equal compensation for equal services, and no employer shall discriminate against any employee in the matter of wages or compensation solely on the basis of the sex of the employee.

(b) An employer who violates or fails to comply with the provisions of this section shall be guilty of a Class C misdemeanor, and each day that the violation or failure to comply continues shall be a separate offense.

11-4-602 - 11-4-606. [Reserved.]

11-4-607. Definitions for §§ 11-4-608 - 11-4-612.

As used in §§ 11-4-608 - 11-4-612, unless the context otherwise requires:

(1)(A) “Employees” shall mean any person employed for hire in any lawful business, industry, trade, profession, or enterprise.

(B) However, it shall not include persons engaged in domestic service in the home of the employer; in agricultural service, or in temporary or seasonal employment; employees of any social club, fraternal, charitable, educational, religious, scientific, or literary association, no part of the net earnings of which inures to the benefit of any private individual;

(2) “Employer” shall include any person, natural or artificial, acting in the interest of an employer directly or indirectly;

(3) “Employment” means any employment under contract of hire, expressed or implied, written or oral.

11-4-608. Penalties for violation of §§ 11-4-607 - 11-4-612.

Any employer who violates any provision of §§ 11-4-607 - 11-4-612, or who discharges or in any other manner discriminates against any employee because the employee has made a complaint to his or her employer, the Director of the Department of Labor, or any other person, has instituted or caused to be instituted any proceedings under or related to §§ 11-4-607 - 11-4-612, or has testified or is about to testify in any such proceeding shall be fined not more than five hundred dollars (\$500) nor imprisoned more than one (1) year, or both.

11-4-609. Administration of §§ 11-4-607 - 11-4-612.

The Director of the Department of Labor shall have the power and it shall be his or her duty to carry out and administer the provisions of §§ 11-4-607 - 11-4-612.

11-4-610. Wage discrimination between sexes prohibited.

(a) No employer shall discriminate in the payment of wages as between the sexes or shall pay any female in his or her employ salary or wage rates less than the rates paid to male employees for comparable work.

(b) Nothing in §§ 11-4-607 - 11-4-612 shall prohibit a variation in rates of pay based upon a difference in seniority, experience, training, skill, ability, differences in duties and services performed, differences in the shift or time of day worked, or any other reasonable differentiation except difference in sex.

11-4-611. Action to collect unpaid wages.

(a) An employer who violates the provisions of § 11-4-610 shall be liable to the employee or employees affected in the amount of their unpaid wages.

(b)(1) Action to recover the wages may be maintained in any court of competent jurisdiction by any one (1) or more employees.

(2) Any agreement between the employer and the employee to work for less than the wage to which the employee is entitled under §§ 11-4-607 - 11-4-

612 shall be no defense to the action.

(3) In addition to any wages recovered, the court in the action shall allow an additional equal amount of liquidated damages plus a reasonable attorney's fee and court costs.

(4) At the request of any employee paid less than the wage to which he or she is entitled under §§11-4-607 - 11-4-612, the Director of the Department of Labor may take an assignment of the wage claim in trust for the employee and shall bring any legal action necessary to collect the claim. The director shall not be required to pay any court costs in connection with the action.

(c) Any action to recover wages and liquidated damages based on violation of §11-4-610 must be commenced within two (2) years of the accrual thereof and not afterwards.

11-4-612. Employer to keep records.

(a) Every employer subject to §§ 11-4-607 - 11-4-612 shall keep and maintain records of the salaries and wage rates, job classifications, and other terms and conditions of employment of the persons employed by him or her, and the records shall be preserved for a period of three (3) years.

(b) The records shall also be made available to the parties and to the court wherein an action to recover unpaid wages under this subchapter is pending.

WAGE DISPUTES

11-4-301. Definition.

For the purpose of this subchapter, unless the context otherwise requires, the term "labor" shall include all or any work or service performed by any person employed for any period of time where the wages or salary or remuneration for the work or services is to be paid at stated intervals or at the termination of the employment, or for physical work actually performed by an independent contractor, provided that the amount in controversy does not exceed the sum of one thousand dollars (\$1,000).

11-4-302. Act cumulative.

This subchapter is a substitute for Acts 1923, No. 380, but apart from that act is cumulative in its effect and shall not be so construed as to nullify or repeal the laws not existing with regard to liens.

11-4-303. Director of Department of Labor to conduct hearing.

(a) Upon application of either employer or employee, the Director of the Department of Labor or any person authorized by the director shall have authority to inquire into, hear, and decide disputes arising from wages earned and shall allow or reject any deduction from wages.

(b) Upon motion of either employer or employee, the amount found to be due may be paid in the presence of the director or person designated by him or

her, and after final hearing by the director or person appointed by him or her, he or she shall file in the office of the Department of Labor a copy of findings and facts and his or her award.

(c) The amount of the award of the director shall be presumed to be the amount of wages, if any, due and unpaid to the employee.

11-4-304. Judicial review.

(a) If either employer or employee shall fail or refuse to accept the findings of the Director of the Department of Labor, then either shall have the right to proceed at law as provided.

(b) If the claim is meritorious, and if within the discretion of the director the claimant's lack of financial ability entitles him to the services of the department, the director in the name of the State of Arkansas, for the benefit of the claimant, may institute action in any court of competent jurisdiction, without paying costs or giving bond for costs, and shall be entitled to all remedies available to litigants in the prosecution of actions and their enforcement, if successful.

(c) Nothing in this section shall be construed so as to relieve an unsuccessful defendant from paying costs.

11-4-305. Enforcement of laborer's lien.

(a) In all cases where the claimant is entitled to a laborer's lien or a lien on a thing or property worked on, the lien may be enforced as otherwise provided for by law, except that where a sheriff or constable is authorized to take charge of property subject to a lien claim and hold it subject to the decision of the court, as in cases of attachment, the sheriff or constable, upon the claimant's otherwise complying with the law regarding attachments and upon the claimant's filing an affidavit with the clerk of the court that he or she is unable to make an attachment bond, shall take the defendant's receipt for the property described in the plaintiff's statement as required by § 18-43-106, and the property shall be left in the possession of the defendant.

(b) The defendant shall exercise full dominion over the property as if it had not been attached except that he or she may not give it away. The defendant may sell, pledge, mortgage, or otherwise alienate or encumber the property if the proceeds therefrom bear a reasonable relation to the value of the lien, so that the person purchasing or taking an encumbrance upon the property shall possess superior rights to the lien claimant.

(c)(1) The defendant, however, selling or encumbering the property shall be held accountable to the court for the proceeds of the sale or encumbrance and shall file with the clerk of the court at the time of making the sale, or charging the property with an encumbrance, a statement giving the name of the purchaser or encumbrancer, his or her address, and the amount realized from the sale or encumbrance.

(2) The defendant shall also notify the plaintiff of the filing of the statement.

(d) If, upon the successful termination of the litigation in favor of the lien

claimant, the defendant fails within five (5) days to pay into the registry of the court where the action was originally instituted the proceeds from the sale or encumbrance, the defendant shall be held to be in contempt of court and punished as for contempt.

11-4-306. Fees prohibited.

The Director of the Department of Labor or any person designated by him or her shall not charge or be permitted to accept any fees or remuneration whatsoever from any person for the performance of any duties under this subchapter.

PAYMENT OF WAGES

11-4-401. Payment semimonthly.

(a) Except as provided in subsection (c) of this section, all corporations doing business in this state who shall employ any salespersons, mechanics, laborers, or other servants for the transaction of their business shall pay the wages of the employees semimonthly.

(b) Any corporation that shall, through its president or otherwise, violate subsections (a) and (c) of this section shall be deemed guilty of a misdemeanor and on conviction shall be fined in any sum not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) for each offense.

(c) All corporations with an annual gross income of five hundred thousand dollars (\$500,000), or more, doing business in this state who shall employ any salespersons, mechanics, laborers, or other servants for the transaction of their business shall pay the wages of their management level and executive employees who are exempt under the provisions of Section 213 of the Fair Labor Standards Act, from the provisions of Sections 206 and 207 of that act, and who are compensated at a gross rate in excess of twenty-five thousand dollars (\$25,000) per year, at a minimum of once each calendar month.

11-4-402. Discount for advance payment - Payments made in currency.

(a) It shall be unlawful for any milling or manufacturing company, or any other person, corporation, or company employing persons to labor for them in the State of Arkansas, to discount the wages of their employees or laborers when payment is made or demanded before the regular paydays more than at the rate of ten percent (10%) per annum from the date of payment to the regular payday.

(b)(1)(A) All employees shall be paid in currency, or by check or electronic direct deposit into the employee's account.

(B) The employee may opt out of electronic direct deposit by providing the employer a written statement requesting payment by check.

(2) Notwithstanding any provision to the contrary, an employee has a right to be paid in currency if the employer has at any time paid the employee with a check drawn on an account with insufficient funds.

(3) This subsection (b) does not apply to any demand or claim by the Department of Labor.

(c) Any evasion or violation of this section shall be usury and a misdemeanor. The person, company, or corporation, or his, her, or its agents, violating this section shall be fined in any sum not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500), and the entire property of the person, company, or corporation shall be subject to the payment of the fine and costs.

11-4-403. Payment by evidence of indebtedness.

(a) It shall be unlawful for any corporation, company, firm, or person engaged in any trade or business in this state, either directly or indirectly, to issue, sell, give, or deliver to any person employed by the corporation, company, firm, or person, in payment of wages, whether the wages are earned or not, any scrip, token, draft, check, or other evidence of indebtedness payable or redeemable otherwise than in lawful money, at the next regular payday of the corporation, company, firm, or person.

(b) If the scrip, token, draft, check, or other evidence of indebtedness is issued, sold, given or delivered to the laborer, it shall be construed, taken, and held in all courts and places to be promise to pay the sum specified therein in lawful money by the corporation, company, firm, or person issuing, selling, giving, or delivering the same to the person named therein or the holder thereof.

(c) The corporation, company, firm, or person issuing, selling, giving, or delivering the evidence of indebtedness in violation of subsection (a) of this section shall, moreover, be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100). At the discretion of the court trying the action, the officer or agent of the corporation, company, firm, or person issuing, selling, giving, or delivering the evidence of indebtedness may be imprisoned not less than ten (10) nor more than thirty (30) days.

(d) In any suit by any holder of the scrip, token, draft, check, or other evidence of indebtedness or in any prosecution under the provisions of this section, it shall not be required of the plaintiff in the suit or the state in the prosecution to prove that the scrip, token, draft, check, or other evidence of indebtedness was sold, given, issued, or delivered by the defendant in the suit or prosecution to any laborer or employee in payment of wages of the laborer or employee.

(e) The provisions of this section do not apply to coal mines when fewer than twenty (20) men are employed under the ground.

11-4-404. Payment by sale of goods or supplies.

(a) If any corporation, company, firm, or person shall coerce or compel or attempt to coerce or compel any employee in its employment to purchase goods or supplies in payment of wages, whether the wages are earned or not, from any corporation, company, firm, or person, the first-named corporation, company, firm, or person shall be guilty of a misdemeanor and upon conviction

tion shall be punished as provided in § 11-4-403.

(b) If any corporation, company, firm, or person shall directly or indirectly sell to any employee in payment of wages, whether earned or not, goods and supplies at prices higher than a reasonable or current market value thereof in cash, the corporation, company, firm, or person shall be liable to the employee, in a civil action in double the amount of the charges made and paid for any goods and supplies in excess of the reasonable or current value in cash thereof.

(c) The provisions of this section do not apply to coal mines when fewer than twenty (20) men are employed under the ground.

11-4-405. Payment on discharge.

(a)(1) Whenever any railroad company or corporation or any receiver operating any railroad engaged in the business of operating or constructing any railroad or railroad bridge shall discharge, with or without cause, or refuse to further employ any servant or employee thereof, the unpaid wages of the servant or employee then earned at the contract rate, without abatement or deduction, shall be and become due and payable on the day of the discharge or refusal to longer employ.

(2) Any servant or employee may request of his foreman or the keeper of his or her time to have the money due him or her, or a valid check therefor, sent to any station where a regular agent is kept. If the money or a valid check therefor does not reach the station within seven (7) days from the date it is so requested, then, as a penalty for the nonpayment, the wages of the servant or employee shall continue from the date of the discharge or refusal to further employ at the same rate until paid. However, the wages shall not continue more than sixty (60) days unless an action therefor shall be commenced within that time.

(b) This section shall apply to all companies and corporations doing business in this state and to all servants and employees thereof. Any servants or employees who shall hereafter be discharged or refused further employment may request or demand the payment of any wages due and, if not paid within seven (7) days from discharge or refusal to longer employ, than the penalties provided in subdivision (a)(2) of this section for railway employees shall attach.

(c) Any servant or employee whose employment is for a definite period of time and who is discharged without cause before the expiration of that time may, in addition to the penalties prescribed by this section, have an action against any employer for any damages he or she may have sustained by reason of the wrongful discharge, and the action may be joined with an action for unpaid wages and penalty.

(d) No servant or employee who secretes or absents himself to avoid payment to him or her, or refuses to receive payment when fully tendered, shall be entitled to any benefit under this section for the time as he or she so avoids payment.

MISCELLANEOUS LAWS AFFECTING WAGES OR HOURS

7-1-102. Work time to be scheduled for voting - Penalty.

Each employer in the state shall schedule the work hours of employees on election days so that each employee will have an opportunity to exercise the right of franchise. Any employer who fails or refuses to comply with the provisions of this section shall upon conviction be subject to a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars (\$250).

11-4-101. Assignment of wages.

(a) No assignment or order for wages to be earned in the future to secure a loan of less than two hundred dollars (\$200) shall be valid against any employer of the person making the assignment or order until the assignment or order is accepted in writing by the employer and the assignment or order and the acceptance of it has been filed with the recorder of the county where the party making the assignment or order resides if a resident of this state or in the state where he or she is employed.

(b) No assignment of or order for wages to be earned in the future shall be valid when made by a married man, unless the written consent of his wife to making such assignment or order for wages shall be attached thereto.

16-31-106. Penalty for employees' service prohibited.

(a)(1) Any person who is summoned to serve on jury duty shall not be subject to discharge from employment, loss of sick leave, loss of vacation time, or any other form of penalty as a result of his or her absence from employment due to jury duty, upon giving reasonable notice to his or her employer of the summons.

(2) No employer shall subject an employee to discharge, loss of sick leave, loss of vacation time, or any other form of penalty on account of his or her absence from employment by reason of jury duty.

(b) Any person violating the provisions of this section shall be guilty of a Class A misdemeanor.

21-4-101. Leave of absence for public service.

(a) Any person who is employed by any person, firm, or corporation in the State of Arkansas shall be granted a leave of absence, upon the election of any such employee to a public office in the State of Arkansas, or upon appointment by the Governor of any such person to a board or commission in the State of Arkansas, which office requires the employee's absence from their employment.

(b) The leave of absence shall be for such period as the employee may request, not to exceed the duration of the term of office to which the employee has been elected.

(c) The granting of the leave of absence by the employer shall not be held to impair the employee's seniority rights of the job, nor shall the departmental seniority of the employee be broken for job purposes.

NOTE: The Arkansas Prevailing Wage Law concerning minimum wage rates for public construction works, Ark. Code Ann. §§22-9-301 et seq., is printed in a separate publication.

BREAKS FOR PUBLIC SCHOOL EMPLOYEES

6-17-2205 Paid breaks for certain classified employees.

For those classified employees working more than twenty (20) hours per week:

(1)(A) Each school district in the state shall provide no fewer than two (2) paid fifteen-minute breaks during each regular workday for each classified school employee.

(B) The contract day shall not be extended to provide for this section; and

(2) Each school district shall file an affidavit for compliance with the Department of Education regarding the Fair Labor Standards Act for classified employees unless the school district policies or state laws impose higher standards.

The Arkansas Department of Labor does not discriminate on the basis of disability in employment or in the admission or access to, or treatment or employment in, its programs, services, or activities. Becky Bryant, Arkansas Department of Labor, 10421 West Markham, Little Rock, Arkansas 72205-2190, (501) 682-4540 (voice) 1-800-285-1131 (TDD) e-mail becky.bryant@arkansas.gov has been designated to coordinate compliance with the non-discrimination requirements contained in 28 CFR 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the ADA coordinator.