

Tenn. Code Ann. § 50-2-103

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*** Current through the 2015 Regular Session ***

Title 50 Employer And Employee
Chapter 2 Wage Regulations
Part 1 General Provisions

Tenn. Code Ann. § 50-2-103 (2015)

50-2-103. Payment of employees in private employments.

(a) All wages or compensation of employees in private employments shall be due and payable as follows:

(1) All wages or compensation earned and unpaid prior to the first day of any month shall be due and payable not later than the twentieth day of the month following the one in which the wages were earned;

(2) All wages or compensation earned and unpaid prior to the sixteenth day of any month shall be due and payable not later than the fifth day of the succeeding month; and

(3) For the purposes of this subsection (a), the final wages of an employee who quits or is discharged shall include any vacation pay or other compensatory time that is owed to the employee by virtue of company policy or labor agreement. This subdivision (a)(3) does not mandate employers to provide vacations, either paid or unpaid, nor does it require that employers establish written vacation pay policies.

(b) "Private employment," as used in subsection (a), means and includes all employments in concerns where five (5) or more employees are employed, except those under the direct management, supervision and control of the United States, this state, any county, incorporated city or town, or other municipal corporation or political subdivision of the state, or any office or department of the state or general government.

(c) Nothing contained in this section shall be construed as prohibiting the payment of wages at more frequent periods than semimonthly.

(d) Every employer shall establish and maintain regular pay days as provided in this section, and shall post and maintain notices, printed or written in plain type or script, in at least two (2) conspicuous places where the notices can be seen by the employees as they go to and from work, setting forth the regular pay day as prescribed in subsection (a).

(e) (1) The payment of wages or compensation of employees in the employments defined in this section shall be made as follows:

(A) In lawful money of the United States;

(B) By a good and valid negotiable check or draft, payable on presentation of the check or draft at some bank or other established place of business without discount, exchange or

cost of collection, in lawful money of the United States;

(C) Electronic automated fund transfer in lawful money of the United States; or

(D) Credit to a prepaid debit card issued through a network system from which the employee is able to withdraw or transfer funds, subject to the limitations contained in subdivisions (e)(2) and (3).

(2) An employer who chooses to compensate its employees using prepaid debit cards under subdivision (e)(1)(D) shall also give employees the choice of being paid by electronic transfer under subdivision (e)(1)(C). If after the employer has explained this system to an employee and provided full written disclosure of any applicable fees associated with the prepaid debit card and the employee does not designate an account at a financial institution in advance and as required by the employer for the payroll transfer to occur, then the employer may arrange to pay such employee by prepaid debit card pursuant to subdivision (e)(1)(D).

(3) If an employer pays its employees their wages on a prepaid debit card pursuant to subdivision (e)(1)(D), then such employer shall ensure that each employee shall have the ability to make at least one (1) withdrawal or transfer from the prepaid debit card per pay period without cost to the employee for any amount contained on the card.

(f) In case an employee in the employments defined in this section is absent from the usual place of employment at the time the payment of wages or compensation is due and payable, the employee shall be paid the wages or compensation within a reasonable time after making a demand for the wages or compensation.

(g) Any employee who leaves or is discharged from employment shall be paid in full all wages or salary earned by the employee no later than the next regular pay day following the date of dismissal or voluntary leaving, or twenty-one (21) days following the date of discharge or voluntary leaving, whichever occurs last. No employer shall, by any means, secure an exemption from this subsection (g).

(h) (1) (A) Except as provided in subdivision (h)(2), each employee shall have a thirty-minute unpaid meal break if scheduled to work six (6) hours consecutively, except in workplace environments that by their nature of business provide ample opportunity to take an appropriate meal break. The meal break shall not be scheduled during or before the first hour of scheduled work activity.

(B) For purposes of this subsection (h), "meal break" means a rest break or meal period.

(2) (A) At the discretion of an employer, an employee who is principally employed in the service of food or beverages to customers and who, in the course of such employment, receives tips and reports the tips to the employer may waive the employee's right to a thirty-minute unpaid meal break.

(B) To waive the meal break, an employee shall submit a waiver request to the employer in writing on a form established by the employer as provided in subdivision (h)(C)(i). For the waiver to be effective:

(i) The employee must submit the request knowingly and voluntarily; and

(ii) The employer and employee must both consent to the waiver.

(C) An employer who intends to enter into waiver agreements with employees subject to this subdivision (h)(2) shall establish a reasonable policy that permits employees to waive the meal break subject to the demands of the employees' work environment. This policy shall be in writing and posted in at least one (1) conspicuous place in the workplace. The policy shall include, but not be limited to, the following:

(i) A waiver form that contains a statement that the employee acknowledges the employee's right, under state law, to receive an unpaid meal break of not less than thirty (30) minutes during a six-hour work period and that the employee is knowingly and voluntarily waiving this right;

(ii) The length of time the waiver will be in effect; and

(iii) Procedures for rescission of the waiver agreement by the employee or employer.

(D) An employer or employee may rescind a waiver agreement after providing notice to the other party. Such notice must be provided at least seven (7) calendar days prior to the date that the waiver will no longer be in effect.

(E) No employer shall coerce an employee into waiving a meal break.

(i) A violation of this section is a Class B misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Further, every employer, partnership or corporation willfully violating this section is subject to a civil penalty of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) at the discretion of the commissioner or the commissioner's designated representative. Each and every infraction constitutes a separate and distinct offense. If the commissioner, or the commissioner's designated representative, determines that the violation was unintentional, there shall be a warning, in lieu of a penalty, on the first offense. On second or subsequent violations, the civil penalty is applicable and may be assessed at the discretion of the commissioner or the commissioner's designated representative. It shall be at the sole discretion of the commissioner to elect to proceed either civilly or criminally upon any violation of this part; however, the employer shall not be charged both civilly and criminally for the same violation.

(j) The department of labor and workforce development shall enforce this section. Each employer, during normal business hours, shall make available to inspectors of the department specific wage and payroll records of its employees maintained on the premises that are pertinent to a written complaint. Records that are maintained off the premises or inaccessible shall be made available to the inspectors on a timely basis as agreed upon by the inspector and the employer.

HISTORY: Acts 1917, ch. 28, §§ 1-6; Shan., §§ 3608a77b1-3608a77b8; Code 1932, §§ 6713-6720; modified; Acts 1935, ch. 57, § 1; 1937, ch. 153, § 1; C. Supp. 1950, §§ 6714, 6719; T.C.A. (orig. ed.), §§ 50-306 -- 50-313; Acts 1989, ch. 591, § 113; 1991, ch. 384, § 1; 1993, ch. 219, §§ 1, 3, 4; 1999, ch. 32, § 1; 1999, ch. 118, §§ 1, 2; 1999, ch. 520, § 41; 2001, ch. 128, § 1; 2003, ch. 142, § 1; 2010, ch. 874, § 1; 2012, ch. 760, § 1.



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Tenn. Code Ann. § 50-5-101

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Title 50 Employer And Employee
Chapter 5 Child Labor
Part 1 Child Labor Act of 1976

Tenn. Code Ann. § 50-5-101 (2015)

50-5-101. Short title.

This part shall be known and may be cited as the "Child Labor Act of 1976."

HISTORY: Acts 1976, ch. 480, § 1; T.C.A., § 50-701.



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Tenn. Code Ann. § 50-5-112

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*** Current through the 2015 Regular Session ***

Title 50 Employer And Employee
Chapter 5 Child Labor
Part 1 Child Labor Act of 1976

Tenn. Code Ann. § 50-5-112 (2015)

50-5-112. Violations -- Penalties.

(a) (1) Except as provided in § 50-5-103, any employer, who violates this part, or hinders or obstructs the department in administering or enforcing this part, or any parent or guardian who permits a child under the parent's or guardian's control or custody to work in violation of this part, commits a Class A misdemeanor.

(2) At the discretion of the commissioner, the employer shall be subject to a civil penalty of not less than one hundred fifty dollars (\$150) nor more than one thousand dollars (\$1,000) for each instance of an employer's violation of this part. In determining the amount of the penalty, the appropriateness of the penalty to the size of the business of the person charged and the gravity of the violation shall be considered. If the commissioner determines that the violation was unintentional, there shall be a warning in lieu of a penalty on the first offense.

(3) On second or subsequent violations, the civil penalty is applicable and may be assessed at the discretion of the commissioner, or the commissioner's designated representative.

(4) It shall be at the sole discretion of the commissioner to elect to proceed either civilly or criminally upon any violation of this part; however, the employer shall not be charged both civilly and criminally for the same violation.

(b) Each day during which any violation of subsection (a) continues after notification by the department that a violation exists constitutes a separate punishable offense.

(c) Any person who engages a minor under sixteen (16) years of age in youth peddling and transports the minor more than five (5) miles from the minor's residence shall, at the discretion of the commissioner, be subject to a penalty of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000) if evidence of two (2) or more of the following factors is present:

- (1)** The minor is working more than three (3) hours a day on school days;
- (2)** The minor is working more than eighteen (18) hours a week during a school week;
- (3)** The minor is working more than eight (8) hours a day on nonschool days;
- (4)** The minor is working more than forty (40) hours a week during nonschool weeks;

(5) The minor is working after seven o'clock p.m. (7:00 p.m.) if the next day is a school day; or

(6) The employer fails to comply with the recordkeeping requirements of § 50-5-111.

(d) Any person who violates § 50-5-103 shall, at the discretion of the commissioner, be subject to a penalty of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000). Each instance of a minor working in violation of § 50-5-103 shall constitute a separate violation.

(e) Each instance of a minor under sixteen (16) years of age working in violation of the youth peddling provisions of this part shall be considered a separate violation.

(f) Any person who violates the youth peddling provisions of this part commits a Class D felony.

(g) If, within thirty (30) days from the receipt of written notification of penalties assessed pursuant to this part, an employer fails to notify the commissioner in writing of its intent to contest the imposition of the penalty, the assessment of a penalty as stated in the notification shall be deemed a final order of the commissioner, and not subject to further review.

(h) All penalties owed under this part shall be paid to the commissioner.

HISTORY: Acts 1977, ch. 60, § 1; T.C.A., § 50-716; Acts 1989, ch. 591, § 111; 1993, ch. 220, § 1; 1999, ch. 203, §§ 3, 4; 2001, ch. 378, §§ 4-6; 2003, ch. 286, §§ 1, 2.



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Tenn. Code Ann. § 50-1-701

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Title 50 Employer And Employee
Chapter 1 Employment Relationship And Practices
Part 7 Tennessee Lawful Employment Act

Tenn. Code Ann. § 50-1-701 (2015)

50-1-701. Short title.

This part shall be known and may be cited as the "Tennessee Lawful Employment Act."

HISTORY: Acts 2011, ch. 436, § 5.



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Tenn. Code Ann. § 50-1-703

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*** Current through the 2015 Regular Session ***

Title 50 Employer And Employee
Chapter 1 Employment Relationship And Practices
Part 7 Tennessee Lawful Employment Act

Tenn. Code Ann. § 50-1-703 (2015)

50-1-703. Duties of employers -- Office of employment verification assistance -- Application -- Complaints for violations -- Commissioner's order on finding of violation -- Penalties.

(a) (1) Employers shall:

(A) For non-employees, request and maintain a copy, pursuant to subdivision (a)(4), of any one (1) of the following documents prior to the non-employee providing labor or services on or after the phase-in period applicable to the particular size employer described in subsection (b):

(i) A valid Tennessee driver license or photo identification license issued by the department of safety;

(ii) A valid driver license or photo identification license issued by another state where the issuance requirements are at least as strict as those in this state, as determined by the department. The commissioner, in consultation with the department of safety, shall determine which states have issuance requirements that are at least as strict as this state, and shall develop, and periodically update, a publicly accessible list of such states on the department's web site;

(iii) An official birth certificate issued by a United States state, jurisdiction or territory;

(iv) A United States government-issued certified birth certificate;

(v) A valid, unexpired United States passport;

(vi) A United States certificate of birth abroad (DS-1350 or FS-545);

(vii) A report of birth abroad of a citizen of the United States (FS-240);

(viii) A certificate of citizenship (N560 or N561);

(ix) A certificate of naturalization (N550, N570 or N578);

(x) A United States citizen identification card (I-197 or I-179); or

(xi) Valid alien registration documentation or other proof of current immigration

registration recognized by the United States department of homeland security that contains the individual's complete legal name and current alien admission number or alien file number (or numbers if the individual has more than one (1) number); and

(B) For employees, either:

(i) Request and maintain a copy, pursuant to subdivision (a)(4), of any one (1) of the documents described in (a)(1)(A)(i)-(xi) prior to the employee providing labor or services on or after the phase-in period applicable to the particular size employer described in subsection (b); or

(ii) (a) Enroll in the E-Verify program prior to hiring an employee on or after the applicable phase-in period described in subsection (b);

(b) Verify the work authorization status of the employee hired by using the E-Verify program; and

(c) Maintain a record of any results generated by the E-Verify program for that particular employee in a manner consistent with subdivision (a)(4).

(2) (A) An employer who verifies the work authorization status of an employee pursuant to subdivision (a)(1)(B)(ii) has not violated § 50-1-103(b) with respect to the particular employee if the employer meets the requirements in § 50-1-103(d).

(B) No employer shall prevail in any proceeding where a violation of § 50-1-103 is alleged if the sole evidence presented by the employer is evidence of compliance with subdivisions (a)(1)(A) or (a)(1)(B)(i).

(3) No employer shall be in violation of subdivision (a)(1)(B) if the employer has requested, but has not received, assistance pursuant to subdivision (a)(6).

(4) An employer shall maintain:

(A) A record of results generated by the E-Verify program pursuant to (a)(1)(B)(ii) with respect to an employee for three (3) years after the date of the employee's hire or for one (1) year after the employee's employment is terminated, whichever is later; and

(B) Documentation received pursuant to subdivisions (a)(1)(A) and (a)(1)(B)(i) for three (3) years after the documentation is received by the employer or for one (1) year after the employee or non-employee ceases to provide labor or services for the employer, whichever is later.

(5) Nothing in this section shall be construed to prevent an employer from contracting with or otherwise obtaining the services of an E-Verify employer agent, or similar third party, for the purpose of complying with subdivision (a)(1)(B)(ii).

(6) There is created within the department the office of employment verification assistance. The department is authorized to enter into any memorandum of understanding or other agreement required by the E-Verify program to operate this office, and shall create no more than one (1) full-time administrative position to staff the office. If an employer does not have Internet access, then the office shall, at no charge to the employer, enroll the employer in the E-Verify program or conduct work authorization status checks of the employer's employees by using the E-Verify program; provided, that the employer signs a

prescribed form, under penalty of perjury, attesting to the employer's lack of Internet access and completes any paperwork required by the E-Verify program to permit the office to provide such assistance.

(7) Except as otherwise provided in subsection (c), the department shall conduct an inquiry concerning an employer's compliance with subdivision (a)(1) in conjunction with any pending inquiry, investigation, or inspection of the employer by the department's division of labor standards or workers' compensation division, or any successor divisions thereto. When conducting an inquiry, the commissioner shall provide written notification to the employer of the inquiry and a request for documentation establishing compliance with subdivision (a)(1). The employer shall provide such documentation to the commissioner within thirty (30) days from the date the employer received the department's request. If the employer fails to respond with documentation establishing compliance with subdivision (a)(1) within the thirty-day period, then the commissioner shall issue an initial order pursuant to subsection (d).

(b) (1) On or after January 1, 2012, subsection (a) shall apply to:

(A) Governmental entities; and

(B) Private employers with employees of five hundred (500) or more.

(2) On or after July 1, 2012, subsection (a) shall apply to private employers with employees of two hundred (200) to four hundred ninety-nine (499).

(3) On or after January 1, 2013, subsection (a) shall apply to private employers with employees of six (6) to one hundred ninety-nine (199).

(c) (1) Any lawful resident of this state or employee of a federal agency may file a complaint alleging a violation of subdivision (a)(1) to the department. The complaint shall, at a minimum, include the name of the individual filing the complaint, and satisfactory evidence of a violation as determined by the commissioner.

(2) On receipt of a complaint, the commissioner shall determine if the complaint contains satisfactory evidence of a violation of subdivision (a)(1); provided, that the commissioner shall inform the individual filing the complaint the basis for such determination. The commissioner shall not investigate complaints that are based solely on race, color or national origin.

(3) If the commissioner determines that the complaint contains satisfactory evidence of a violation of subdivision (a)(1), then the commissioner shall conduct an inquiry. When conducting an inquiry, the commissioner shall provide written notification to the employer of the alleged violation of subdivision (a)(1) and a request for documentation establishing compliance with subdivision (a)(1). The employer shall provide such documentation to the commissioner within thirty (30) days from the date the employer received the department's request. Upon request by the employer, the department shall provide the employer with the name of the individual filing a complaint.

(4) Upon the expiration of the thirty-day period in subdivision (c)(3), the commissioner shall make a determination of whether a violation of subdivision (a)(1) occurred. If the employer fails to provide documentation establishing compliance with subdivision (a)(1) within the thirty-day period, then the commissioner shall issue an initial order pursuant to subdivision (d)(1). If documentation is submitted within the thirty-day period, then the

commissioner shall determine whether there is clear and convincing evidence of a violation of subdivision (a)(1) based on the documentation submitted, the evidence from the complaint, and other applicable evidence.

(d) (1) If the commissioner determines that an employer has violated subdivision (a)(1) pursuant to subdivision (a)(7) or (c)(4), or determines that an employer has violated § 50-1-704, then the commissioner shall issue an initial order that shall include, at a minimum:

(A) The commissioner's findings and determinations;

(B) The penalties that will apply if a final order is issued;

(C) The process to request a contested case hearing; and

(D) The process by which the commissioner shall waive all penalties for a first violation as provided in subdivision (d)(3).

(2) An employer shall have the right to appeal, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, an initial order issued by the commissioner pursuant to this section; provided, that the employer sends written notice to the commissioner within thirty (30) days of the date of the initial order. If the employer fails to send such written notice, then the contested case hearing process is waived.

(3) The commissioner shall issue a warning in lieu of all penalties for a first violation of subdivision (a)(1) if:

(A) The employer complies with all remedial action requested by the department to remedy the violation of subdivision (a)(1) within sixty (60) days of the date of the initial order; and

(B) The commissioner determines that the violation of subdivision (a)(1) was not a knowing violation.

(e) If the commissioner does not issue a warning in lieu of penalties pursuant to subdivision (d)(3), then the commissioner shall issue a final order on the date the contested case hearing concludes or is waived and assess penalties in accordance with subsections (f)-(j). The final order shall include, at a minimum, the types of evidence required from the private employer in order to avoid suspension of the private employer's license under subdivision (f)(3).

(f) (1) If the commissioner issues a final order for a violation of subdivision (a)(1) by a private employer, or a violation of § 50-1-704, then the commissioner shall assess the following civil penalties:

(A) Five hundred dollars (\$500) for a first violation;

(B) One thousand dollars (\$1,000) for a second violation; or

(C) Two thousand five hundred dollars (\$2,500) for a third or subsequent violation.

(2) In addition to the civil penalties provided in subdivision (f)(1), the commissioner shall also assess the following civil penalties:

(A) For a first violation, five hundred dollars (\$500) for each employee or non-employee not verified pursuant to subdivisions (a)(1)(A) and (B);

(B) For a second violation, one thousand dollars (\$1,000) for each employee or non-employee not verified pursuant to subdivisions (a)(1)(A) and (B); or

(C) For a third or subsequent violation, two thousand five hundred dollars (\$2,500) for each employee or non-employee not verified pursuant to subdivisions (a)(1)(A) and (B).

(3) The private employer shall submit to the commissioner evidence of compliance with subdivision (a)(1) within sixty (60) days of the final order. If the private employer fails to submit such documentation, then the commissioner shall request an order consistent with § 4-5-320, requiring the appropriate local government with respect to business licensure pursuant to title 67, chapter 4, to suspend the private employer's license until the employer remedies the violation; provided, however, if the private employer's license has also been suspended pursuant to § 50-1-103(e)(1)(A) or (B), then the license shall remain suspended until the expiration of the period provided for in § 50-1-103(e)(1)(A) or (B).

(g) A second or subsequent violation of subdivision (a)(1) shall accrue from a separate inquiry conducted under subdivision (a)(7) or (c)(3).

(h) All moneys collected pursuant to this section shall be deposited into the lawful employment enforcement fund created by § 50-1-708.

(i) The penalties described in this section shall not be mutually exclusive, and may be imposed in conjunction with any applicable penalties as provided by law.

(j) If the commissioner issues a final order for a violation of subdivision (a)(1) by a governmental entity, then the commissioner shall post the violation on the department's web site as provided in § 50-1-705.

HISTORY: Acts 2011, ch. 436, § 5; 2013, ch. 147, §§ 1-6.



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Tenn. Code Ann. § 39-17-1801

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*** Current through the 2015 Regular Session ***

Title 39 Criminal Offenses
Chapter 17 Offenses Against Public Health, Safety and Welfare
Part 18 Non-Smoker Protection Act

Tenn. Code Ann. § 39-17-1801 (2015)

39-17-1801. Short title.

This part shall be known and may be cited as the "Non-Smoker Protection Act."

HISTORY: Acts 2007, ch. 410, § 1.



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Tenn. Code Ann. § 39-17-1806

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Title 39 Criminal Offenses
Chapter 17 Offenses Against Public Health, Safety and Welfare
Part 18 Non-Smoker Protection Act

Tenn. Code Ann. § 39-17-1806 (2015)

39-17-1806. Enforcement -- Notice -- Complaints -- Inspections -- Informing violators.

(a) This part shall be enforced by the department of health in those enclosed public places otherwise regulated by the department. This part shall be enforced by the department of labor and workforce development in those enclosed public places otherwise regulated by the department. If neither department otherwise regulates an enclosed public place where smoking is prohibited pursuant to this part, the department of labor and workforce development shall enforce this part. The commissioner of health or the commissioner of labor and workforce development may apply for injunctive relief to enforce this part in any court of competent jurisdiction.

(b) Notice of the provisions of this part shall be given to all applicants for a business license pursuant to title 67, chapter 4, part 7.

(c) Any person who desires to register a complaint under this part may initiate the complaint with the department of health or the department of labor and workforce development, or both.

(d) The department of health and the department of labor and workforce development shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this part.

(e) An owner, manager, operator, or employee of an establishment regulated by this part shall inform persons violating this part of the appropriate provisions of this part.

HISTORY: Acts 2007, ch. 410, § 1.



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