



SECTION BY SECTION

House Committee on Education and Labor
Chairman Robert C. "Bobby" Scott

Wage Theft Prevention and Wage Recovery Act of 2022 (H.R. 7701)

Sec. 1. Short Title.

The *Wage Theft Prevention and Wage Recovery Act of 2022*.

Title I—Amendments to the *Fair Labor Standards Act (FLSA) of 1938*

Sec. 101. Requirements to Provide Certain Disclosures, Regular Paystubs, and Final Payments.

This section requires an employer to provide initial disclosures when an employee is first hired and modification disclosures when an employee's job status changes. The employer also is required to issue regular pay stubs detailing all information relevant for an employee to independently verify that their pay is accurate. This information will include:

- If the employee is classified or exempt from minimum wage and overtime requirements;
- Total gross and net wages paid;
- The applicable pay period;
- The rate of pay, hours, overtime hours, and overtime rate applied;
- Any additional compensation or deductions from pay
- Additional information the Secretary reasonably requires.

The Secretary of Labor will prescribe model paystubs and disclosures and make them publicly available to employers.

This section also requires final payments be made to a terminated employee within 14 days or the employer may owe additional compensation to the employee.

Sec. 102. Right To Full Compensation.

An employers will compensate an employee at the rate specified in the employment contract, including the rate in collective bargaining agreements, although that rate may be higher than minimum wage.

Sec. 103. Civil and Criminal Enforcement.

This section strikes the word minimum from the FLSA's damages provisions to allow an employee who has been harmed by a violation of the FLSA to seek the full amount of back wages owed as damages under the FLSA over-and-above the FLSA minimum wage rate.

This section also increases liquidated damages on violations of the FLSA's wage and hour provisions from double damages to triple damages, and from triple to quadruple damages where an employer retaliates against an employee for filing an FLSA claim.

This section also specifies that the right to bring an action, including a joint, class, or collective claim, cannot be waived as a condition of employment or by a pre-dispute arbitration agreement.

This section increases civil monetary penalties on initial violations of wage and hour laws from \$1,100 to \$22,030 and \$110,150 for repeated or willful violations of wage and hour laws.

Additionally, an employer who violates the FLSA's tipped wage provisions will be subject to a civil monetary penalty of \$12,340, an increase from \$1,100.

This section also adds civil monetary penalties of \$50 (initial) and \$100 (repeated or willful) for violations of pay stub disclosure violations, and \$1,000 (initial) and \$5,000 (repeated or willful) for violating FLSA recordkeeping provisions.

Finally, this section clarifies that criminal penalties are to be assessed on each affected employee harmed by a violation of the FLSA. The Secretary of Labor (Secretary) shall also be allowed to refer an offender to the Department of Justice (DOJ) for violations of the FLSA recordkeeping, wage and hour, and retaliation provisions.

Sec. 104. Recordkeeping.

An employee shall have the right to inspect an employer's wage records within 21 days after the employee makes such request. An employer is required to maintain wage records for a period of five years. This section also adopts the common law rebuttable presumption established in *Anderson v. Mt Clemons Pottery Co.* Specifically, in a claim for back wages before a tribunal, if an employer's records are inadequate for establishing the amount or extent of work for which an employee was improperly compensated, there will be a rebuttable presumption that the employee's records are accurate, unless the employer can establish the employer's evidence is not reasonable.

Title II—Amendments to the *Portal-to-Portal Act of 1947*

Sec. 201. Increasing and Tolling Statute of Limitations.

The *Portal-to-Portal Act of 1947* is amended to increase the statute of limitations to bring a claim for wage or hour violations from 2-years to 4-years, and from 3-years to 5-years where the employer's actions are willful.

Title III—Wage Theft Prevention and Wage Recovery Grant Program

Sec. 301. Definitions.

The bill includes several definitions, including wage and hour, wage and hour violations, and terms used in the grant program

Sec. 302. Wage Theft Prevention and Wage Recovery Grant Program.

The Secretary shall provide grants to eligible entities to assist employees and employers. Specifically, the eligible entities shall support activities that include disseminating information and conducting outreach to educate employees about their rights under wage and hour laws, training for employers about their obligations under wage and hour laws, and providing assistance to employees in filing claims of wage and hour violations.

Sec. 303. Authorization of Appropriations.

There is authorized to be appropriated \$50,000,000 for fiscal years 2023 to 2026 to carry out the grant program under section 302.

Title IV—Relation to Other Laws, Regulations, and Effective Date

Sec. 401. Relation to Other Laws.

The paystub and disclosure requirements shall not preempt or supercede any requirement under State or local law that is at least as comprehensive as the requirements under this Act. The Secretary of Labor will provide assistance to employers operating in more than one State as may be necessary to ensure compliance.

Sec. 402. Regulations.

Not later than 18 months after the date of enactment, the Secretary of Labor shall promulgate such regulations as are necessary to carry out the Act, and the amendments made by the Act.

Sec. 403. Effective Date.

The amendments made by the Act will take effect either 6 months after final regulations are promulgated by the Secretary under section 401 or 18 months after enactment – whichever comes first.