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DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 212

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO AN EMPLOYER'S FAILURE TO PAY AN EMPLOYEE WAGES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1103, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1103. Employees separated from the payroll before regular ~~paydays~~ payday; damages for failure to pay wages.

(a) Whenever an employee quits, resigns, is discharged, ~~suspended~~ suspended, or laid off, the wages earned by the employee ~~shall~~ become due and payable by the employer on the next regularly scheduled ~~payday(s)~~ payday either through the usual pay channels or by mail, if requested by the employee, as if the employment had not been suspended or terminated.

(b)(1) If an employer, ~~without any reasonable grounds for dispute~~, employer fails to pay an employee ~~wages~~, wages as required under this chapter, the employer ~~shall, in addition, be~~ is also liable to the employee for liquidated damages in the amount of ~~40~~ the lower of the following:

a. Ten percent of the unpaid wages for each day, except Sunday and legal holidays, upon which ~~such~~ the failure continues after the day upon which payment is ~~required or in an~~ required.

b. An amount equal to the unpaid wages, ~~whichever is smaller, except that, for the purpose of such liquidated damages, such~~ wages.

(2) For purposes of liquidated damages under paragraph (b)(1) of this section, the failure to pay shall ~~is not be~~ deemed to continue after the date of the filing of a petition of bankruptcy with respect to the employer if the employer is adjudicated ~~bankrupt thereupon~~ bankrupt.

(c) An employer who is unable to prepare the payroll due to a labor dispute, power failure, ~~blizzard~~ blizzard, or like weather catastrophe, epidemic, ~~fire~~ fire, or explosion ~~shall~~ may not be deemed to have violated this chapter.

SYNOPSIS

This Act removes the ability of an employer to avoid liability for damages if the employer has reasonable grounds for dispute to increase the effective enforcement of wage theft violations.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual and revises the section heading to accurately describe the content of the section.

Author: Senator Walsh