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DELAWARE STATE SENATE  
150th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1  
FOR  
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:

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

3 § 1103. Employees separated from the payroll before regular ~~paydays~~; payday; damages for failure to pay wages.

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

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

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

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

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

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

### SYNOPSIS

This Act clarifies that an employer is liable to an employee for liquidated damages if the employer does not make wages available during the next payday after an employee quits, resigns, is discharged, suspended, or laid off. The only difference between Senate Substitute No. 1 for Senate Bill No. 212 and Senate Bill No. 212 is this revised Synopsis.

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