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HOUSE BILL NO. 948

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact §§ 40.1-28.12, 40.1-29, and 40.1-29.1 of the Code of Virginia and to repeal § 40.1-28.11 of the Code of Virginia, relating to Virginia Minimum Wage Act; enforcement; penalties.

Patron—Maldonado

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 40.1-28.12, 40.1-29, and 40.1-29.1 of the Code of Virginia are amended and reenacted as follows:

§ 40.1-28.12. Enforcement; penalties.

Any employer who violates the minimum wage requirements of this ~~law~~ *article* shall be liable to the employee or employees affected in the amount of the unpaid minimum wages, plus interest at eight per centum per annum upon such unpaid wages as may be due the plaintiff, said interest to be awarded from the date or dates said wages were due the employee or employees. The court may, in addition to any judgment awarded to the employee or employees, require defendant to pay reasonable attorney's fees incurred by the employee or employees for all applicable remedies, damages, penalties, and other relief available in a proceeding brought pursuant to the provisions of § 40.1-29.

§ 40.1-29. Time and medium of payment; withholding wages; written statement of earnings; agreement for forfeiture of wages; proceedings to enforce compliance; penalties.

A. All employers operating a business or engaging an individual to perform domestic service shall establish regular pay periods and rates of pay for employees except executive personnel. All such employers shall pay salaried employees at least once each month and employees paid on an hourly rate at least once every two weeks or twice in each month, except that (i) a student who is currently enrolled in a work-study program or its equivalent administered by any secondary school, institution of higher education, or trade school; and (ii) employees whose weekly wages total more than 150 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500, upon agreement by each affected employee, may be paid once each month if the institution or employer so chooses. Upon termination of employment, an employee shall be paid all wages or salaries due him for work performed prior thereto; such payment shall be made on or before the date on which he would have been paid for such work had his employment not been terminated.

B. Payment of wages or salaries shall be (i) in lawful money of the United States, (ii) by check payable at face value upon demand in lawful money of the United States, (iii) by electronic automated fund transfer in lawful money of the United States into an account in the name of the employee at a financial institution designated by the employee, or (iv) by credit to a prepaid debit card or card account from which the employee is able to withdraw or transfer funds with full written disclosure by the employer of any applicable fees and affirmative consent thereto by the employee. However, an employer that elects not to pay wages or salaries in accordance with clause (i) or (ii) to an employee who is hired after January 1, 2010, shall be permitted to pay wages or salaries by credit to a prepaid debit card or card account in accordance with clause (iv), even though such employee has not affirmatively consented thereto, if the employee fails to designate an account at a financial institution in accordance with clause (iii) and the employer arranges for such card or card account to be issued through a network system through which the employee shall have the ability to make at least one free withdrawal or transfer per pay period, which withdrawal may be for any sum in such card or card account as the employee may elect, using such card or card account at financial institutions participating in such network system.

C. No employer shall withhold any part of the wages or salaries of any employee, except for payroll, wage, or withholding taxes or in accordance with law, without the written and signed authorization of the employee. On each regular pay date, each employer, other than an employer engaged in agricultural employment including agribusiness and forestry, shall provide to each employee a written statement, by a paystub or online accounting, that shows the name and address of the employer; the number of hours worked during the pay period if the employee is paid on the basis of (i) the number of hours worked or (ii) a salary that is less than the standard salary level adopted by regulation of the U.S. Department of Labor pursuant to § 13(a)(1) of the federal Fair Labor Standards Act, 29 U.S.C. § 213(a)(1), as amended, establishing an exemption from the Act's overtime premium pay requirements; the rate of pay; the gross wages earned by the employee during the pay period; and the amount and purpose of any deductions therefrom. The paystub or online accounting shall include sufficient information to enable the employee to determine how the gross and net pay were calculated. An employer engaged in agricultural employment including agribusiness and

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59 forestry, upon request of its employee, shall furnish the employee a written statement of the gross wages
60 earned by the employee during any pay period and the amount and purpose of any deductions therefrom.

61 D. No employer shall require any employee, except executive personnel, to sign any contract or
62 agreement ~~which~~ *that* provides for the forfeiture of the employee's wages for time worked as a condition of
63 employment or the continuance therein, except as otherwise provided by law.

64 E. An employer who willfully and with intent to defraud fails or refuses to pay wages in accordance with
65 this section ~~or~~, § 40.1-29.3, *or the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.)*, unless the failure to pay
66 was because of a bona fide dispute between the employer and its employee:

67 1. To an employee or employees is guilty of a Class 1 misdemeanor if the value of the wages earned and
68 not paid by the employer is less than \$10,000; and

69 2. To an employee or employees is guilty of a Class 6 felony (i) if the value of the wages earned and not
70 paid is \$10,000 or more or (ii) regardless of the value of the wages earned and not paid; if the conviction is a
71 second or subsequent conviction under this section ~~or~~, § 40.1-29.3, *or the Virginia Minimum Wage Act*
72 *(§ 40.1-28.8 et seq.)*.

73 For purposes of this section, the determination as to the "value of the wages earned" shall be made by
74 combining all wages the employer failed or refused to pay pursuant to this section ~~and~~, § 40.1-29.3, *and the*
75 *Virginia Minimum Wage Act (§ 40.1-28.8 et seq.)*.

76 F. The Commissioner may require a written complaint of the violation of this section *or the Virginia*
77 *Minimum Wage Act (§ 40.1-28.8 et seq.)* and, with the written and signed consent of an employee, may
78 institute proceedings on behalf of an employee to enforce compliance with this section *or the Virginia*
79 *Minimum Wage Act*, and to collect any moneys unlawfully withheld from such employee that shall be paid to
80 the employee entitled thereto. In addition, following the issuance of a final order by the Commissioner or a
81 court, the Commissioner may engage private counsel, approved by the Attorney General, to collect any
82 moneys owed to the employee or the Commonwealth. Upon entry of a final order of the Commissioner, or
83 upon entry of a judgment, against the employer, the Commissioner or the court shall assess attorney fees of
84 one-third of the amount set forth in the final order or judgment.

85 G. In addition to being subject to any other penalty provided by the provisions of this section, any
86 employer who fails to make payment of wages in accordance with subsection A *or the Virginia Minimum*
87 *Wage Act (§ 40.1-28.8 et seq.)* shall be liable for the payment of all wages due, and an additional equal
88 amount as liquidated damages, plus interest at an annual rate of eight percent accruing from the date the
89 wages were due.

90 H. Any employer who knowingly fails to make payment of wages in accordance with subsection A ~~or~~,
91 § 40.1-29.3, *or the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.)* shall be subject to a civil penalty not to
92 exceed \$1,000 for each violation. The Commissioner shall notify any employer that the Commissioner
93 alleges has violated any provision of this section ~~or~~, § 40.1-29.3, *or the Virginia Minimum Wage Act* by
94 certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of
95 notice of the alleged violation, the employer may request an informal conference regarding such violation
96 with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall
97 consider the size of the business of the employer charged and the gravity of the violation. The decision of the
98 Commissioner shall be final. Civil penalties owed under this section shall be paid to the Commissioner for
99 deposit into the general fund of the State Treasurer. The Commissioner shall prescribe procedures for the
100 payment of proposed assessments of penalties that are not contested by employers. Such procedures shall
101 include provisions for an employer to consent to abatement of the alleged violation and pay a proposed
102 penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such
103 alleged violation.

104 I. Final orders of the Commissioner, the general district courts, or the circuit courts may be recorded,
105 enforced, and satisfied as orders or decrees of a circuit court upon certification of such orders by the
106 Commissioner or the court as appropriate.

107 J. In addition to any civil or criminal penalty provided by this section, and without regard to any
108 exhaustion of alternative administrative remedies provided for in this section, if an employer fails to pay
109 wages to an employee in accordance with this section *or the Virginia Minimum Wage Act (§ 40.1-28.8 et*
110 *seq.)*, the employee may bring an action, individually, jointly, with other aggrieved employees, or on behalf
111 of similarly situated employees as a collective action consistent with the collective action procedures of the
112 Fair Labor Standards Act, 29 U.S.C. § 216(b), against the employer in a court of competent jurisdiction to
113 recover payment of the wages, and the court shall award the wages owed, an additional equal amount as
114 liquidated damages, plus prejudgment interest thereon as provided in subsection G, and reasonable attorney
115 fees and costs. If the court finds that the employer knowingly failed to pay wages to an employee in
116 accordance with this section *or the Virginia Minimum Wage Act*, the court shall award the employee an
117 amount equal to triple the amount of wages due and reasonable attorney fees and costs.

118 K. As used in this section, a person acts "knowingly" if the person, with respect to information, (i) has
119 actual knowledge of the information, (ii) acts in deliberate ignorance of the truth or falsity of the information,
120 or (iii) acts in reckless disregard of the truth or falsity of the information. Establishing that a person acted

121 knowingly shall not require proof of specific intent to defraud.

122 L. An action under this section shall be commenced within three years after the cause of action accrued.
123 The period for filing is tolled upon the filing of an administrative action under subsection F until the
124 employee has been informed that the action has been resolved or until the employee has withdrawn the
125 complaint, whichever is sooner.

126 **§ 40.1-29.1. Investigations of employers for nonpayment of wages.**

127 If in the course of an investigation of a complaint of an employer's failure or refusal to pay wages in
128 accordance with the requirements of § 40.1-29 *or the Virginia Minimum Wage Act* (§ 40.1-28.8 *et seq.*), the
129 Commissioner acquires information creating a reasonable belief that other employees of the same employer
130 may not have been paid wages in accordance with such requirements, the Commissioner shall have the
131 authority to investigate whether the employer has failed or refused to make any required payment of wages to
132 other employees of the employer as required by § 40.1-29 *or the Virginia Minimum Wage Act*. If the
133 Commissioner finds in the course of such investigation that the employer has violated a provision of
134 § 40.1-29 *or the Virginia Minimum Wage Act*, the Commissioner may institute proceedings on behalf of any
135 employee against his employer. Such proceedings shall be undertaken in accordance with the provisions of
136 § 40.1-29, except that the Commissioner shall not require a written complaint of the violation or the written
137 and signed consent of any employee as a condition of instituting such proceedings.

138 **2. That § 40.1-28.11 of the Code of Virginia is repealed.**

139 **3. That the provisions of this act may result in a net increase in periods of imprisonment or**
140 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
141 **appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;**
142 **therefore, Chapter 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing**
143 **Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of**
144 **Virginia, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the**
145 **custody of the Department of Juvenile Justice.**