

***Commerce & Labor Committee***

***HB 1302***

***Brief Description:*** Prohibiting labor pool check cashing charges.

***Sponsors:*** Representatives Keiser, Clements, Hatfield, Conway, McIntire, Kenney and Santos.

***Brief Summary of Bill***

- *Requires labor pools to pay day laborers in cash or with checks.*
- *Prohibits labor pools from charging day laborers fees for cashing checks.*

***Hearing Date:*** 2/6/01

***Staff:*** Jill Reinmuth (786-7134).

***Background:***

*Both the state Minimum Wage Act and the federal Fair Labor Standards Act establish a minimum wage rate, and specify the manner in which minimum wages must be paid. State and federal laws permit an employee to bring a civil action to collect unpaid wages. They also authorize certain agencies to investigate wage violations, order the payment of wages owed to workers, and prosecute actions to collect wages. Criminal penalties apply to some wage violations.*

*State Law: Subject to exemptions for certain establishments and occupations, the state Minimum Wage Act requires an employer to pay employees wages at a minimum hourly rate. Wages are defined as compensation paid in cash or checks convertible into cash on demand at full face value, subject to deductions, charges, or allowances permitted by rule.*

*An employer may not collect or receive from employees rebates of any part of wages. An employer may not withhold or divert any part of wages unless the deduction is:*

- *required or permitted by state or federal law;*

- *authorized in writing by the employee; or*
- *for medical, surgical or hospital care or service.*

*The deduction must be recorded in the employer's books, and must not be for the financial benefit of the employer.*

*An employee may pursue a wage claim for the amount of a prohibited deduction. Alternatively, the employee may assign the wage claim to the director of the state Department of Labor and Industries to pursue. The employer may be liable for twice the amount of the prohibited deduction together with attorneys' fees and costs. The employer also may be guilty of a misdemeanor.*

*Federal Law: Subject to exemptions for certain establishments and occupations, the federal Fair Labor Standards Act also requires an employer to pay an employee wages at a minimum wage rate. Wages must be paid in cash or negotiable instrument payable at par, and they must be paid free and clear.— These requirements are not met where the employee kicks-back— directly or indirectly to the employer part of the wage.*

*An employee may file a civil suit for unpaid minimum wages. Alternatively, the federal Department of Labor may seek to recover unpaid minimum wages, either administratively or through court action. The employer may be liable for twice the amount of the unpaid minimum wages together with attorneys' fees and costs. The employer also may be guilty of a misdemeanor. Willful violations may result in civil penalties of up to \$1,000 for each such violation, and criminal fines of up to \$10,000. A second conviction may result in imprisonment.*

***Summary of Bill:***

*A labor pool must pay a day laborer in cash or a check convertible into cash on demand at full face value. A labor pool may not charge the day laborer for cashing his or her paycheck.*

*A day laborer who is not paid in cash or a check or who is charged a check cashing fee may bring an action against the labor pool for actual damages or \$1,000, whichever is greater, together with attorneys' fees and costs.*

*A labor pool is a business that operates and maintains a central location where day laborers assemble and are dispatched to work for another business. A labor pool is not a farm labor contractor, an employee leasing company, a labor union hiring hall, or a business's own employment office. In addition, a labor pool is not a temporary services agency that supplies only white collar, secretarial or clerical employees, or skilled laborers to another business.*

*Day labor is temporary employment that is occasional or irregular, and is not longer than the time period required to complete a specific assignment.*

***Rules Authority:*** *The bill does not contain provisions addressing the rule-making powers of an agency.*

***Effective Date:*** *Ninety days after adjournment of session in which bill is passed.*

***Appropriation:*** *None.*

***Fiscal Note:*** *Not requested.*