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# SENATE BILL No. 389

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-2-4; IC 22-2-5; IC 22-5-22.

**Synopsis:** Wage payment issues. Provides that an employer that fails to pay wages when due is liable for interest at the legal rate on the unpaid amount, with certain exceptions. Provides a procedure for an employer to deduct amounts due to the employer from the employee from the unpaid wages. Provides that the employer or employee are not precluded from recovering other damages to which either is entitled. Exempts employees who are classified as exempt under the federal Fair Labor Standards Act from the provisions dealing with wage payment. Repeals and relocates language making it a Class C infraction for an employer to sell merchandise or supplies to an employee for a price higher than to the public. Repeals language requiring an employer to pay employees in commercial paper. Repeals duplicative language concerning frequency of wage payments to employees. Repeals outdated language concerning liens of laborers.

**Effective:** July 1, 2003.

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### Young R Michael

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January 16, 2003, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

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## SENATE BILL No. 389



A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 22-2-5-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a) Except as provided in**  
3 **subsections (b) and (d)**, every such person, firm, corporation, limited  
4 liability company, or association who shall fail to make payment of  
5 wages to any such employee as provided in section 1 of this chapter  
6 shall ~~as liquidated damages for such failure~~, pay to such employee for  
7 each day that the amount due to ~~him~~ **the employee** remains unpaid ~~ten~~  
8 **percent (10%) of the amount due to him in addition thereto**, not  
9 ~~exceeding double the amount of wages due~~, and said damages ~~interest~~  
10 **on the unpaid balance due at the annual rate of interest as set forth**  
11 **in IC 24-4.6-1-101.**

12 **(b) Upon termination of an employment relationship, the**  
13 **employer shall pay to the employee:**

14 **(1) the unpaid wages minus any amount deducted for amounts**  
15 **applied as due to the employer from the employee, for a**  
16 **purpose related to the employment, as itemized by the**  
17 **employer with the amount due in a written notice**



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accompanying the unpaid wages; and  
**(2) any interest as stated in subsection (a).**  
**(c) If the employer fails to provide the written notice in conjunction with the unpaid wages, the employee may recover the amount in disagreement in an action brought under subsection (e).**  
**(d) Interest on the unpaid balance does not begin to accrue until the earlier of the events described in sections 1(b)(1) and 1(b)(2) of this chapter.**  
**(e) The wages, including any amount in disagreement under subsection (b), and interest may be recovered in any court having jurisdiction of a suit to recover the amount due to such employee. and in any suit so brought to recover said wages or the liquidated damages for nonpayment thereof, or both, the court shall tax and assess as costs in said case a reasonable fee for the plaintiff's attorney or attorneys.**  
**(f) This section does not preclude the employer or employee from recovering other damages to which either is entitled.**  
 SECTION 2. IC 22-2-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **Employees who are classified as exempt under the Fair Labor Standards Act (29 U.S.C. 201 et.seq.),** farmers, and those engaged in the business of agriculture and horticulture shall be specifically exempt from the provisions of this chapter.  
 SECTION 3. IC 22-5-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:  
**Chapter 22. Employer Sales to Employees**  
**Sec. 1. An employer may not sell to an employee of the employer any:**  
**(1) merchandise; or**  
**(2) supplies;**  
**at a higher price than the employer sells the merchandise or supplies for cash to another person who is not an employee of the employer.**  
**Sec. 2. A person who violates section 1 of this chapter commits a Class C infraction.**  
 SECTION 4. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 22-2-4-1; IC 22-2-4-2; IC 22-2-4-3; IC 22-2-4-4; IC 22-2-4-6.

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