

## ARTICLE 6. WAGES AND HOURS

### Rule 1. Definitions

#### 610 IAC 6-1-1 Scope

Authority: IC 22-1-1-8

Affected: IC 22-2

Sec. 1. The definitions in this rule apply throughout this article. (*Department of Labor; 610 IAC 6-1-1; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

#### 610 IAC 6-1-2 "Business day" defined

Authority: IC 22-1-1-8

Affected: IC 22-2

Sec. 2. "Business day" means a day other than:

- (1) Saturday;
- (2) Sunday; or
- (3) a legal holiday.

(*Department of Labor; 610 IAC 6-1-2; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

#### 610 IAC 6-1-3 "Department" defined

Authority: IC 22-1-1-8

Affected: IC 22-2

Sec. 3. "Department" means the Indiana department of labor. (*Department of Labor; 610 IAC 6-1-3; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

#### 610 IAC 6-1-4 "Employer" defined

Authority: IC 22-1-1-8

Affected: IC 22-2

Sec. 4. "Employer" means:

- (1) a person;
- (2) a firm;
- (3) a partnership;
- (4) an association;
- (5) a corporation;
- (6) a limited liability company;
- (7) a receiver; or
- (8) another entity;

employing any person in this state. (*Department of Labor; 610 IAC 6-1-4; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

#### 610 IAC 6-1-5 "Wages" defined

Authority: IC 22-1-1-8

Affected: IC 22-2

Sec. 5. "Wages" means all amounts at which the labor or service rendered is compensated, whether the amount is fixed or based on:

- (1) a time;
- (2) a task;
- (3) a piece;

(4) a commission; or

(5) any other;

basis. (*Department of Labor; 610 IAC 6-1-5; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

**610 IAC 6-1-6 "Work suspension" defined**

Authority: IC 22-1-1-8

Affected: IC 22-2

Sec. 6. "Work suspension" means a suspension of work resulting from an industrial dispute. (*Department of Labor; 610 IAC 6-1-6; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

**Rule 2. Wage and Hour Investigations**

**610 IAC 6-2-1 Scope**

Authority: IC 22-1-1-8

Affected: IC 22-2-2; IC 22-2-4; IC 22-2-5; IC 22-2-6; IC 22-2-9-4

Sec. 1. This rule applies to investigations of an employer's violation of state statutes related to the following matters:

(1) Payment of employment wages in the amount of not less than thirty dollars (\$30) and not more than eight hundred dollars (\$800) due on discharge of employment or in the event of a work suspension.

(2) Payment of minimum wage.

(3) Amount and frequency of wage payment.

(4) Payment of overtime wages.

(5) Impermissible deductions from wages.

(6) Payment of wages for accrued vacation time.

(*Department of Labor; 610 IAC 6-2-1; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

**610 IAC 6-2-2 Initiation of investigation**

Authority: IC 22-1-1-8

Affected: IC 22-2-2; IC 22-2-4; IC 22-2-6; IC 22-2-9-4

Sec. 2. (a) An employee who has been adversely affected by an employer's violation of any of the matters described in section 1 of this rule may file an application for investigation with the department.

(b) The application for investigation must:

(1) be filed on a form designated by the department for that purpose;

(2) be complete and accurate;

(3) include copies of any documents that support the employee's claim; and

(4) be signed by the employee.

(c) The request for investigation must be submitted to the department within twenty-four (24) months of the date the employee performed the work for which the employee is claiming wages. (*Department of Labor; 610 IAC 6-2-2; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

**610 IAC 6-2-3 Investigations**

Authority: IC 22-1-1-8

Affected: IC 22-2-9-4

Sec. 3. (a) The department shall review a request for investigation submitted under section 2 of this rule. If the application:

(1) meets the requirements in section 2 of this rule; and

(2) alleges a violation by an employer;

the department shall conduct an investigation.

(b) In conducting its investigation, the department shall inspect records provided by the employer and employee. The

department may review additional information or conduct interviews of:

- (1) the employer;
- (2) the employee; or
- (3) other witnesses.

(c) The department shall complete its investigation and notify the employer and employee of the results within four (4) months of the date of receipt of all required records. (*Department of Labor; 610 IAC 6-2-3; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

#### **610 IAC 6-2-4 Employer records**

Authority: IC 22-1-1-8

Affected: IC 22-1-1-15; IC 22-1-1-17; IC 22-2-2-8; IC 22-2-9-4

Sec. 4. (a) The department may request from an employer any records related to an investigation under this rule, including, but not limited to, the following:

- (1) Contracts.
- (2) Payroll records.
- (3) Company policies and procedures.
- (4) Court documentation and police reports if the employer alleges that employee theft is the cause of wage discrepancy.

(b) The employer shall provide the records within ten (10) business days after receipt of the request for records. If the employer fails to provide the requested records within the required time frame, the department may seek a subpoena to obtain the records. (*Department of Labor; 610 IAC 6-2-4; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

#### **610 IAC 6-2-5 Results of investigation**

Authority: IC 22-1-1-8

Affected: IC 22-2-2-9; IC 22-2-4-4; IC 22-2-5-2; IC 22-2-9-4

Sec. 5. (a) The department shall notify both the employer and the employee of the results of its investigation.

(b) If the department finds that an employer owes wages to an employee, the employer shall provide to the department a confirmation of payment of the wages within ten (10) business days of receipt of the department's findings. If the employer fails to provide confirmation of payment, the department shall notify both the employer and the employee that the wages are unpaid. In addition, the department will notify the employee that the employee may:

- (1) bring suit against the employer for damages under IC 22-2-5-2; and
- (2) be entitled to recover attorney fees incurred in bringing suit.

The notice to the employee may also include referral information to assist the employee in locating an attorney to represent the employee in bringing suit against the employer.

(c) The department will consider an investigation final and closed:

- (1) when the department determines that wages are not owed;
- (2) when the employer provides confirmation of payment; or
- (3) upon the issuance of a referral letter or notice to the employee.

(d) The department will not reopen wage investigations once closed. (*Department of Labor; 610 IAC 6-2-5; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

#### **610 IAC 6-2-6 Actions by employees against employers**

Authority: IC 22-1-1-8

Affected: IC 22-2-2-9; IC 22-2-4-4; IC 22-2-5-2; IC 22-2-9-4

Sec. 6. An employee is not required to request an investigation under this rule before filing suit against an employer under IC 22-2-5-2. (*Department of Labor; 610 IAC 6-2-6; filed Nov 6, 2006, 8:47 a.m.: 20061206-IR-610060159FRA*)

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