

119TH CONGRESS
2D SESSION

S. _____

To amend the Fair Labor Standards Act of 1938 to provide for increased criminal and civil penalties for wage theft, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Fair Labor Standards Act of 1938 to provide for increased criminal and civil penalties for wage theft, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Don’t Stand for Tak-
5 ing Employed Americans’ Livings Act” or the “Don’t
6 STEAL Act”.

7 **SEC. 2. RIGHT TO FULL COMPENSATION.**

8 (a) IN GENERAL.—The Fair Labor Standards Act of
9 1938 is amended by inserting after section 7 (29 U.S.C.
10 207) the following:

1 **“SEC. 8. RIGHT TO FULL COMPENSATION.**

2 “(a) COMPENSATION.—

3 “(1) IN GENERAL.—Subject to section 7, an
4 employer shall compensate an employee (who is de-
5 scribed in subsection (b)) at a rate that is not less
6 than the greater of—

7 “(A) the rate required by any contract, col-
8 lective bargaining agreement, or other employ-
9 ment agreement (as such term is defined by the
10 Secretary) that specifies how much such em-
11 ployer shall compensate such employee; or

12 “(B) the wage rate required under applica-
13 ble Federal or State law.

14 “(b) EMPLOYEE ENGAGED IN COMMERCE.—The re-
15 quirement under subsection (a) shall apply with respect
16 to any employee who in any workweek is engaged in com-
17 merce or in the production of goods for commerce, or is
18 employed in an enterprise engaged in commerce or in the
19 production of goods for commerce.”.

20 (b) CONFORMING AMENDMENT.—Section 10 of the
21 Fair Labor Standards Act of 1938 (29 U.S.C. 210) is re-
22 pealed.

23 (c) PROHIBITED ACTS.—Section 15(a)(2) of the Fair
24 Labor Standards Act of 1938 (29 U.S.C. 215(a)(2)) is
25 amended by striking “or section 7” and inserting “, 7,
26 or 8”.

1 **SEC. 3. PENALTIES FOR WAGE THEFT.**

2 (a) CRIMINAL PENALTIES.—Subsection (a) of section
3 16 of the Fair Labor Standards Act of 1938 (29 U.S.C.
4 216) is amended—

5 (1) by striking “Any person” and inserting “(1)
6 Except as provided by paragraph (2), any person”;

7 (2) by striking “subsection” each place it ap-
8 pears and inserting “paragraph”; and

9 (3) by adding at the end the following:

10 “(2)(A) Any person who willfully violates section
11 3(m)(2)(B), 6, 7, or 8, relating to wages, shall be—

12 “(i) in the case of a violation of section
13 3(m)(2)(B), 6, 7, or 8 relating to unpaid wages, or
14 unpaid overtime compensation, in an amount greater
15 than \$1,000, fined in accordance with title 18,
16 United States Code, imprisoned for not more than
17 5 years, or both; or

18 “(ii) in the case of a violation of section
19 3(m)(2)(B), 6, 7, or 8 relating to unpaid wages, or
20 unpaid overtime compensation, in an amount equal
21 to or less than \$1,000, fined in accordance with title
22 18, United States Code, imprisoned for not more
23 than 1 year, or both.

24 “(B) In determining the amount of a fine under sub-
25 paragraph (A), the following factors shall be considered:

1 “(i) The gravity of the violation, including the
2 number of employees affected and the value of the
3 unlawfully kept wages.

4 “(ii) Whether the person charged has previously
5 been convicted for a violation of section 3(m)(2)(B),
6 6, 7, or 8.

7 “(iii) The appropriateness of the penalty given
8 the size of the business of the person convicted.”.

9 (b) CIVIL PENALTIES.—Section 16 of such Act is fur-
10 ther amended—

11 (1) in subsection (b), by striking “or section 7”
12 each place it appears and inserting “, 7, or 8”;

13 (2) in subsection (c)—

14 (A) by striking “or 7” and inserting “, 7,
15 or 8”; and

16 (B) by striking “and 7” and inserting “, 7,
17 and 8”; and

18 (3) in subsection (e), by striking “or 7” and in-
19 serting “, 7, or 8”.

20 (c) FUNDS FOR WAGE AND HOUR DIVISION.—Para-
21 graph (5) of section 16(e) of such Act is amended—

22 (1) by striking “12,” and inserting “12 and
23 fines collected under subsection (a)(2) of this sec-
24 tion,”; and

1 (2) by adding at the end the following: “Sums
2 collected as fines under subsection (a)(2) shall be
3 applied by the Wage and Hour Division of the De-
4 partment of Labor to the costs of enforcing sections
5 3(m)(2)(B), 6, 7, and 8.”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply with respect to violations of section
8 3(m)(2)(B), 6, 7, or 8 of the Fair Labor Standards Act
9 of 1938 occurring on or after the date that is 90 days
10 after the date of enactment of this Act.