SENATE, No. 2557

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MAY 14, 2018

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)
Senator STEVEN V. OROHO
District 24 (Morris, Sussex and Warren)

SYNOPSIS
Allows issuing of stop-work orders for failure to pay prevailing wage.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning the issuing of stop-work orders for failure to pay prevailing wage rates and amending P.L.1963, c.150.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 11 of P.L.1963, c.150 (C.34:11-56.35) is amended to read as follows:

11. (a) Any employer who willfully hinders or delays the commissioner in the performance of his duties in the enforcement of this act, or fails to make, keep, and preserve any records as required under the provisions of this act, or falsifies any such record, or refuses to make any such record accessible to the commissioner upon demand, or refuses to furnish a sworn statement of such record or any other information required for the proper enforcement of this act to the commissioner upon demand, or pays or agrees to pay wages at a rate less than the rate applicable under this act or otherwise violates any provision of this act or of any regulation or order issued under this act shall be guilty of a disorderly persons offense and shall, upon conviction therefor, be fined not less than $100.00 nor more than $1,000 or be imprisoned for not less than 10 nor more than 90 days, or by both such fine and imprisonment.

Each week, in any day of which a worker is paid less than the rate applicable to him under this act and each worker so paid, shall constitute a separate offense.

(b) As an alternative to or in addition to any other sanctions provided by law for violations of any provision of P.L.1963, c.150 (C.34:11-56.25 et seq.), when the Commissioner of Labor and Workforce Development finds that an employer has violated that act, the commissioner is authorized to assess and collect administrative penalties, up to a maximum of $2,500 for a first violation and up to a maximum of $5,000 for each subsequent violation, specified in a schedule of penalties to be promulgated as a rule or regulation by the commissioner in accordance with the "Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the amount of the penalty imposed because of a violation, the commissioner shall consider factors which include the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer and the size of the employer’s business. No administrative penalty shall be levied pursuant to this section unless the Commissioner of Labor and Workforce Development provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days following the receipt

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
of the notice. If a hearing is requested, the commissioner shall
issue a final order upon such hearing and a finding that a violation
has occurred. If no hearing is requested, the notice shall become a
final order upon expiration of the 15-day period. Payment of the
penalty is due when a final order is issued or when the notice
becomes a final order. Any penalty imposed pursuant to this
section may be recovered with costs in a summary proceeding
commenced by the commissioner pursuant to the "Penalty
Any sum collected as a fine or penalty pursuant to this section shall
be applied toward enforcement and administration costs of the
Division of Workplace Standards in the Department of Labor and
Workforce Development.

(c) When the Commissioner of Labor and Workforce
Development finds that the employer has violated provisions of
P.L.1963, c.150 (C.34:11-56.25 et seq.), the commissioner may
refer the matter to the Attorney General or his designee for
investigation and prosecution. Nothing in this subsection shall be
deemed to limit the authority of the Attorney General to investigate
and prosecute violations of the New Jersey Code of Criminal
Justice, nor to limit the commissioner's ability to refer any matter
for criminal investigation or prosecution.

(d) If an employer continues to violate the provisions of
P.L.1963, c.150 (C.34:11-56.25 et seq.) by paying wages at rates
less than the rates applicable under that act after a final order
assessing a penalty for the violation is issued pursuant to subsection
(b) of this section, the commissioner may immediately issue a stop-
work order to cease all business operations at every site where the
violation has continued. The stop-work order shall remain in effect
until the commissioner issues an order releasing the stop-work order
upon finding that the employer has agreed to pay wages at the
required rate and has paid any wages due and any penalty assessed
under this section. As a condition for release from a stop-work
order, the commissioner may require the employer to file with the
department periodic reports for a probationary period that shall not
exceed two years that demonstrate the employer's continued
compliance with the provisions of P.L.1963, c.150 (C.34:11-56.25
et seq.). The commissioner may assess a civil penalty of $5,000 per
day against an employer for each day that it conducts business
operations that are in violation of the stop-work order. That penalty
shall be collected by the commissioner in a summary proceeding in
accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
c.274 (C.2A:58-10 et seq.).

(cf: P.L.2003, c.276, s.1)

2. This act shall take effect immediately.
STATEMENT

This bill permits the Commissioner of Labor and Workforce Development to issue a stop-work order against any employer who continues to pay less than prevailing wage rates in violation of P.L.1963, c.150 (C.34:11-56.25 et seq.) after the commissioner has issued a final order assessing a penalty for the violation.

A stop-work order issued under the bill would require the cessation of all business operations at every site where the violation has continued and remain in effect until the commissioner issues an order releasing the stop-work order upon finding that the employer has agreed to pay the required wages and has paid any wages or penalty owed. As a condition of release from a stop-work order, the commissioner may require the employer to file with the department periodic reports for a probationary period of up to two years. The commissioner may assess a civil penalty of $5,000 per day against an employer for each day that it conducts business operations that are in violation of the stop-work order.