

# STATE OF NEW YORK

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8852

## IN SENATE

March 21, 2024

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Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to liquidated damages for labor law violations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short Title. This act shall be known and may be cited as  
2 the "labor law enforcement parity act".

3 § 2. Legislative Findings. 1. The legislature finds and declares that  
4 it has always been its intention that the remedies provided under the  
5 labor law be fully and equally enforceable in both state and federal  
6 court. However, some state courts have misconstrued the liquidated  
7 damages available for violations of the labor law as penalties, despite  
8 the fact that the legislature amended the labor law's liquidated damages  
9 provision in 2009 and 2010 to bring it in line with the compensatory  
10 purposes of the Fair Labor Standards Act's liquidated damages provision.  
11 As a result, while employees have been able to recover the full amount  
12 of compensatory liquidated damages owed to them in federal court  
13 actions, they are not always able to do so in state court actions.  
14 Accordingly, the first purpose of this bill is to clarify that all  
15 liquidated damages available for violations of the labor law, which are  
16 generally an amount equal to the unpaid or underpaid wages, are compen-  
17 satory in nature and not penalties.

18 2. The legislature further finds and declares that both federal and  
19 state courts have recently misconstrued the purposes of New York Labor  
20 Law § 195. Despite allowing claims for violations of the labor law's  
21 wage notice and wage statement provisions to proceed for years, and  
22 allowing workers to recover the full statutory damages provided under  
23 the labor law for these violations, some federal courts have begun  
24 dismissing these claims for lack of Article III standing, claiming that  
25 these violations do not cause workers any concrete injury. Meanwhile,  
26 some state courts have misconstrued the statutory damages available for  
27 violations of the wage notice and wage statement provisions as penalties  
28 and have thus not allowed workers to recover the statutory damages

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD14555-01-4

1 provided, even though they have been able to do so in many federal  
2 courts. Accordingly, the second purpose of this bill is to clarify that  
3 the statutory damages available for violations of the wage notice and  
4 statement provisions of the law are not punitive in nature, and are  
5 instead designed to compensate workers for their employer's failure to  
6 prevent wage theft in the first place, and the harms employees suffer as  
7 a result, including being unable to discover, identify, and remedy wage  
8 theft promptly and possible loss of valid wage theft claims due to the  
9 passage of the statute of limitations, the stress and uncertainty caused  
10 by unclear pay details, which can significantly impact their ability to  
11 make informed employment choices, effectively manage their finances, and  
12 plan for personal, familial, or social commitments.

13 § 3. Subdivision 3 of section 198 of the labor law, as amended by  
14 chapter 397 of the laws of 2021, is amended to read as follows:

15 3. Notwithstanding any other provision of law, an action to recover  
16 upon a liability imposed by this article must be commenced within six  
17 years. The statute of limitations shall be tolled from the date an  
18 employee files a complaint with the commissioner or the commissioner  
19 commences an investigation, whichever is earlier, until an order to  
20 comply issued by the commissioner becomes final, or where the commis-  
21 sioner does not issue an order, until the date on which the commissioner  
22 notifies the complainant that the investigation has concluded. Investi-  
23 gation by the commissioner shall not be a prerequisite to nor a bar  
24 against a person bringing a civil action under this section. All employ-  
25 ees shall have the right to recover full wages, benefits and wage  
26 supplements, statutory damages, and liquidated damages accrued during  
27 the six years previous to the commencing of such action, whether such  
28 action is instituted by the employee or by the commissioner, including  
29 in a class action. There is no exception to liability under this  
30 section for the unauthorized failure to pay wages, benefits or wage  
31 supplements.

32 § 4. Subdivision 1 of section 663 of the labor law, as amended by  
33 chapter 564 of the laws of 2010, is amended to read as follows:

34 1. By employee. If any employee is paid by his or her employer less  
35 than the wage to which he or she is entitled under the provisions of  
36 this article, he or she shall recover in a civil action the amount of  
37 any such underpayments, together with costs all reasonable attorney's  
38 fees, prejudgment interest as required under the civil practice law and  
39 rules, and unless the employer proves a good faith basis to believe that  
40 its underpayment of wages was in compliance with the law, an additional  
41 amount as liquidated damages equal to one hundred percent of the total  
42 of such underpayments found to be due, including in a class action. Any  
43 agreement between the employee, and the employer to work for less than  
44 such wage shall be no defense to such action.

45 § 5. This act shall take effect immediately and shall apply to all  
46 actions concerning labor law violations that occurred within the six  
47 years prior to this act's effective date.