STATE OF NEW YORK

1514

2025-2026 Regular Sessions

IN SENATE

January 10, 2025

Introduced by Sens. HARCKHAM, HINCHEY, JACKSON, MATTERA, PALUMBO, RAMOS, ROLISON, WEBB -- 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 issuing stop-work orders for misclassification of employees

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

Section 1. The labor law is amended by adding a new section 45 to read as follows:

§ 45. Misclassification of employees; stop-work orders. 1. If the commissioner determines, after an investigation pursuant to the provisions of this chapter, that an employer has knowingly misclassified employees as independent contractors or provided false, incomplete, or misleading information to an insurance company on the number of employees of such employer, the commissioner shall notify such employer in writing of their intention to issue a stop-work order. Such notice shall:

a. be served in a manner consistent with section three hundred eight of the civil practice law and rules;

b. notify such employer of their right to a hearing;

c. notify such employer that they shall have seventy-two hours to address the violation or violations before the stop-work order will be issued; and

d. state the factual basis upon which the commissioner has based their decision to issue a stop-work order and how such employer shall come into compliance.

2. a. After receipt of such notice, the employer shall have seventy-two hours to come into compliance and to notify the commissioner of such compliance. Within seventy-two hours after the employer's opportunity to come into compliance, if the employer has not come into compliance, the commissioner shall issue a stop-work order requiring the cessation of

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

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all business operations of the employer at every site at which the violation occurs.

b. A stop-work order shall take effect when served upon the employer or when served at the worksite.

c. A stop-work order shall remain in effect until the commissioner issues an order releasing the stop-work order upon finding that the employer has come into compliance and has paid any penalty assessed.

3. An employer who is subject to a stop-work order shall have the right to apply to the commissioner, not more than ten days after the order is issued, for a hearing to contest whether the employer committed the violation on which the order was based.

4. Failure or refusal to comply with a stop-work order issued by the commissioner shall, in addition to any other penalties authorized by law, result in the assessment of a penalty of not less than one thousand dollars and not more than five thousand dollars for each day the employer is found not to be in compliance.

5. An employee affected by a stop-work order pursuant to this section shall be paid their regular rate for the period the stop-work order is in place or the first ten days the employee would have been scheduled to work if the stop-work order had not been issued, whichever is less, by the employer that was served the stop-work order.

6. Stop-work orders and any additional penalties imposed under this chapter against a corporation, partnership or sole proprietorship shall be effective against any successor entity that has one or more of the same principals or officers as the corporation, partnership or sole proprietorship against which the stop-work order was issued and are engaged in the same or equivalent trade or activity.

7. For the purposes of this section, there shall be a rebuttable presumption of unlawful retaliation if an employer in any manner discriminates, retaliates, or takes any adverse action against any employee within ninety days of the employee initiating a complaint pursuant to this article.

8. The commissioner shall promulgate any rules and regulations necessary to carry out the provisions of this section.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.