

10063

I N   A S S E M B L Y

May 2, 2012

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Introduced by M. of A. LAVINE -- read once and referred to the Committee  
on Labor

AN ACT to amend the labor law, in relation to annual reporting of wage  
information

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (e) of subdivision 1 of section 195 of the labor  
2     law, as added by chapter 564 of the laws of 2010, is amended and a new  
3     paragraph (f) is added to read as follows:

4     (e) The commissioner shall have discretion to waive or alter require-  
5     ments of paragraph (a) of this subdivision for temporary help firms as  
6     defined in section nine hundred sixteen of this chapter[.];

7     (F) THE COMMISSIONER SHALL HAVE DISCRETION TO WAIVE THE REQUIREMENTS  
8     OF PARAGRAPH (A) OF THIS SUBDIVISION TO PROVIDE EMPLOYEES WITH ANNUAL  
9     NOTICES ON OR BEFORE FEBRUARY FIRST OF EACH SUBSEQUENT YEAR OF EMPLOY-  
10    MENT. SUCH WAIVERS SHALL BE LIMITED TO EMPLOYERS OR CLASSIFICATIONS OF  
11    EMPLOYERS DEEMED BY THE COMMISSIONER TO POSE A LESSER RISK OF UNDERPAY-  
12    MENT OF WAGES, AND SHALL INCLUDE AS A CONDITION A REQUIREMENT THAT ANY  
13    EMPLOYEE WHO SUBMITS A WRITTEN REQUEST SHALL BE PROVIDED WITH ONE COPY  
14    OF A NOTICE AS PROVIDED IN PARAGRAPH (A) OF THIS SUBDIVISION APPLICABLE  
15    TO SUCH SUBSEQUENT YEAR OF EMPLOYMENT.

16    S 2. Subdivisions 1-b and 1-d of section 198 of the labor law, as  
17    added by chapter 564 of the laws of 2010, are amended to read as  
18    follows:

19    1-b. If any employee is not provided within ten business days of his  
20    or her first day of employment a notice as required by subdivision one  
21    of section one hundred ninety-five of this article, he or she may  
22    recover in a civil action damages of fifty dollars for each work week  
23    that the violations occurred or continue to occur, but not to exceed a  
24    total of two thousand five hundred dollars, together with costs and  
25    reasonable attorney's fees. The court may also award other relief,  
26    including injunctive and declaratory relief, that the court in its  
27    discretion deems necessary or appropriate.

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

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1 On behalf of any employee not provided a notice as required by subdi-  
2 vision one of section one hundred ninety-five of this article, the  
3 commissioner may bring any legal action necessary, including administra-  
4 tive action, to collect such claim, and as part of such legal action, in  
5 addition to any other remedies and penalties otherwise available under  
6 this article, the commissioner may assess against the employer damages  
7 of fifty dollars for each work week that the violations occurred or  
8 continue to occur. In any action or administrative proceeding to recover  
9 damages for violation of [paragraph (d) of] subdivision one of section  
10 one hundred ninety-five of this article, it shall be an affirmative  
11 defense that (i) the employer made complete and timely payment of all  
12 wages due pursuant to this article or article nineteen or article nine-  
13 teen-A of this chapter to the employee who was not provided notice as  
14 required by subdivision one of section one hundred ninety-five of this  
15 article or (ii) the employer reasonably believed in good faith that it  
16 was not required to provide the employee with notice pursuant to subdi-  
17 vision one of section one hundred ninety-five of this article.

18 1-d. If any employee is not provided a statement or statements as  
19 required by subdivision three of section one hundred ninety-five of this  
20 article, he or she shall recover in a civil action damages of one  
21 hundred dollars for each work week that the violations occurred or  
22 continue to occur, but not to exceed a total of twenty-five hundred  
23 dollars, together with costs and reasonable attorney's fees. The court  
24 may also award other relief, including injunctive and declaratory  
25 relief, that the court in its discretion deems necessary or appropriate.

26 On behalf of any employee not provided a statement as required by  
27 subdivision three of section one hundred ninety-five of this article,  
28 the commissioner may bring any legal action necessary, including admin-  
29 istrative action, to collect such claim, and as part of such legal  
30 action, in addition to any other remedies and penalties otherwise avail-  
31 able under this article, the commissioner may assess against the employ-  
32 er damages of one hundred dollars for each work week that the violations  
33 occurred or continue to occur. In any action or administrative proceed-  
34 ing to recover damages for violation of subdivision three of section one  
35 hundred ninety-five of this article, it shall be an affirmative defense  
36 that (i) the employer made complete and timely payment of all wages due  
37 pursuant to this article or [articles] ARTICLE nineteen or nineteen-A of  
38 this chapter to the employee who was not provided statements as required  
39 by subdivision three of section one hundred ninety-five of this article  
40 or (ii) the employer reasonably believed in good faith that it was not  
41 required to provide the employee with statements pursuant to [paragraph  
42 (e) of] subdivision [one] THREE of section one hundred ninety-five of  
43 this article.

44 S 3. This act shall take effect immediately.