

10063

I N A S S E M B L Y

May 2, 2012

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.