

STATE OF NEW YORK

5348--A

2023-2024 Regular Sessions

IN ASSEMBLY

March 7, 2023

Introduced by M. of A. SIMON, SANTABARBARA, DE LOS SANTOS, REYES -- read once and referred to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to payment of wages

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

1 Section 1. This act shall be known and may be cited as the "wage
2 payment integrity act".

3 § 2. Subdivision 1 of section 190 of the labor law, as amended by
4 chapter 328 of the laws of 1972, is amended to read as follows:

5 1. "Wages" means the earnings of an employee for labor or services
6 rendered, regardless of whether the amount of earnings is determined on
7 a time, piece, commission or other basis. The term "wages" also includes
8 any employment compensation that is not payable at the employer's sole
9 and absolute discretion and benefits or wage supplements as defined in
10 section one hundred ninety-eight-c of this article, except for the
11 purposes of sections one hundred ninety-one and one hundred ninety-two
12 of this article. For a bonus or other form of employment compensation
13 to be excluded from "wages", the employer must notify the employee in a
14 clear, prominent, timely and uncontradicted fashion that the employer
15 has sole and absolute discretion to decide whether or not to pay it.

16 § 3. Subdivision 2 of section 195 of the labor law, as amended by
17 chapter 564 of the laws of 2010, is amended to read as follows:

18 2. notify his or her employees in writing of any changes to the infor-
19 mation set forth in subdivision one of this section, at least seven
20 calendar days prior to the time of such changes, unless such changes are
21 reflected on the wage statement furnished in accordance with subdivision
22 three of this section. The failure of an employer to produce the written
23 terms of employment as required under this subdivision and subdivision

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

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1 one of this section, upon request of the commissioner or an employee,
2 shall give rise to a presumption that the terms of employment that the
3 employee has presented are the agreed terms of employment;

4 § 4. Subdivision 5 of section 198-b of the labor law, as added by
5 chapter 1031 of the laws of 1965 and as renumbered by chapter 390 of the
6 laws of 1967, is amended to read as follows:

7 5. A violation of the provisions of this section shall constitute a
8 misdemeanor. Persons violating the provisions of this section are not
9 exempt from civil liability under subdivisions one-a and three of
10 section one hundred ninety-eight of this article.

11 § 5. Subdivision 3 of section 198-c of the labor law, as amended by
12 chapter 304 of the laws of 2007, is amended to read as follows:

13 3. ~~This~~ The criminal penalties prescribed by this section shall not
14 apply to any person in a bona fide executive, administrative, or profes-
15 sional capacity whose earnings are in excess of nine hundred dollars a
16 week.

17 § 6. Subdivision 3 of section 198-c of the labor law, as amended by
18 chapter 433 of the laws of 2023, is amended to read as follows:

19 3. ~~This~~ The criminal penalties prescribed by this section shall not
20 apply to any person in a bona fide executive, administrative, or profes-
21 sional capacity whose earnings are in excess of one thousand three
22 hundred dollars a week.

23 § 7. This act shall take effect immediately and apply to all actions
24 filed on or after such effective date; provided, however, that section
25 six of this act shall take effect on the same date and in the same
26 manner as chapter 433 of the laws of 2023, takes effect.