

STATE OF NEW YORK

7485

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

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

AN ACT to amend the labor law, in relation to wage claims for manual workers

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

1 Section 1. Subdivision 1-a of section 198 of the labor law, as amended
2 by chapter 362 of the laws of 2015, is amended to read as follows:

3 1-a. On behalf of any employee paid less than the wage to which he or
4 she is entitled under the provisions of this article, the commissioner
5 may bring any legal action necessary, including administrative action,
6 to collect such claim and as part of such legal action, in addition to
7 any other remedies and penalties otherwise available under this article,
8 the commissioner shall assess against the employer the full amount of
9 any such underpayment, and an additional amount as liquidated damages,
10 unless the employer proves a good faith basis for believing that its
11 underpayment of wages was in compliance with the law, provided, however,
12 that the provisions of this subdivision shall not apply to a violation
13 of paragraph a of subdivision one of section one hundred ninety-one of
14 this article, provided that the employer had made full payment of wages
15 within fourteen calendar days after the end of the week in which the
16 wages were earned, except in instances where an employer was subject to
17 a commissioner's order issued pursuant to section two hundred eighteen
18 of this chapter to comply with section one hundred ninety-one of this
19 article. Liquidated damages shall be calculated by the commissioner as
20 no more than one hundred percent of the total amount of wages found to
21 be due, except such liquidated damages may be up to three hundred
22 percent of the total amount of the wages found to be due for a willful
23 violation of section one hundred ninety-four of this article. In any
24 action instituted in the courts upon a wage claim by an employee or the
25 commissioner in which the employee prevails, the court shall allow such

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

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1 employee to recover the full amount of any underpayment, all reasonable
2 attorney's fees, prejudgment interest as required under the civil prac-
3 tice law and rules, and, unless the employer proves a good faith basis
4 to believe that its underpayment of wages was in compliance with the
5 law, an additional amount as liquidated damages equal to one hundred
6 percent of the total amount of the wages found to be due, except such
7 liquidated damages may be up to three hundred percent of the total
8 amount of the wages found to be due for a willful violation of section
9 one hundred ninety-four of this article.
10 § 2. This act shall take effect immediately.