

# STATE OF NEW YORK

9079

## IN ASSEMBLY

February 6, 2024

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

AN ACT to amend the labor law and the tax law, in relation to suspending certain certificates of authority of employers who are in violation of certain provisions of the labor law

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

1 Section 1. Subdivision 1 of section 219 of the labor law, as amended  
2 by chapter 564 of the laws of 2010, the opening paragraph as further  
3 amended by section 104 of part A of chapter 62 of the laws of 2011, is  
4 amended to read as follows:

5 1. (a) (i) If the commissioner determines that an employer has failed  
6 to pay wages, benefits or wage supplements required pursuant to article  
7 six (payment of wages), article nineteen (minimum wage act) or article  
8 nineteen-A (minimum wage standards and protective labor practices for  
9 farm workers) of this chapter, or a rule or regulation promulgated there-  
10 under, the commissioner shall issue to the employer an order directing  
11 compliance therewith, which shall describe particularly the nature of  
12 the alleged violation. A copy of such order shall be provided to any  
13 employee who has filed a complaint and to his or her authorized repre-  
14 sentative. Such order shall direct payment of wages or supplements found  
15 to be due, liquidated damages in the amount of one hundred percent of  
16 unpaid wages, and interest at the rate of interest then in effect as  
17 prescribed by the superintendent of financial services pursuant to  
18 section fourteen-a of the banking law per annum from the date of the  
19 underpayment to the date of the payment.

20 (ii) At the discretion of the commissioner, the commissioner shall  
21 have full authority to provide for inclusion of an automatic fifteen  
22 percent additional amount of damages to come due and owing upon expira-  
23 tion of ninety days from an order to comply becoming final. The commis-  
24 sioner shall provide written notice to the employer in the order to  
25 comply of this additional damage.

26 (b)(i) If the commissioner determines the employer is in violation of  
27 article six (payment of wages), article nineteen (minimum wage act),

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

LBD13149-02-4

1 article nineteen-A (minimum wage standards and protective labor prac-  
2 tices for farm workers), section two hundred twelve-a, section two  
3 hundred twelve-b, section one hundred sixty-one or section one hundred  
4 sixty-two of this chapter, or a rule or regulation promulgated there-  
5 under, and such aggregate amount exceeds one thousand dollars, the  
6 commissioner shall notify the employer of such violation, in writing,  
7 and such employer shall have fifteen days to address all violations. If  
8 the employer does not address all violations within the allotted  
9 fifteen-day period, the commissioner shall notify the commissioner of  
10 taxation and finance, in writing, of the name and address of any employ-  
11 er holding a certificate of authority pursuant to section eleven hundred  
12 thirty-four of the tax law to suspend such certificate.

13 (ii) The commissioner of taxation and finance shall not reinstate a  
14 license suspended pursuant to subparagraph (i) of this paragraph until  
15 the commissioner of taxation and finance receives written notice from  
16 the commissioner that the employer whose license was suspended is in  
17 compliance with article six (payment of wages), article nineteen (mini-  
18 imum wage act), article nineteen-A (minimum wage standards and protective  
19 labor practices for farm workers), section two hundred twelve-a, section  
20 two hundred twelve-b, section one hundred sixty-one or section one  
21 hundred sixty-two of this chapter, and any rule or regulation promulgat-  
22 ed thereunder.

23 § 2. Subparagraph (A) of paragraph 4 of subdivision (a) of section  
24 1134 of the tax law, as amended by section 2 of part P of chapter 59 of  
25 the laws of 2021, is amended to read as follows:

26 (A) Where a person who holds a certificate of authority (i) willfully  
27 fails to file a report or return required by this article, (ii) willful-  
28 ly files, causes to be filed, gives or causes to be given a report,  
29 return, certificate or affidavit required under this article which is  
30 false, (iii) willfully fails to comply with the provisions of paragraph  
31 two or three of subdivision (e) of section eleven hundred thirty-seven  
32 of this ~~article~~ part, (iv) willfully fails to prepay, collect, truth-  
33 fully account for or pay over any tax imposed under this article or  
34 pursuant to the authority of article twenty-nine of this chapter, (v)  
35 fails to obtain a bond pursuant to paragraph two of subdivision (e) of  
36 section eleven hundred thirty-seven of this part, or fails to comply  
37 with a notice issued by the commissioner pursuant to paragraph three of  
38 such subdivision, (vi) has been convicted of a crime provided for in  
39 this chapter, (vii) where such person, or any person affiliated with  
40 such person as such term is defined in subdivision twenty-one of section  
41 four hundred seventy of this chapter, has had a retail dealer registra-  
42 tion issued pursuant to section four hundred eighty-a of this chapter  
43 revoked pursuant to subparagraph (iii) of paragraph (a) of subdivision  
44 four of such section four hundred eighty-a, ~~or~~ (viii) has not obtained  
45 a valid retail dealer registration under section four hundred eighty-a  
46 of this chapter and such person possesses or sells unstamped or unlaw-  
47 fully stamped packages of cigarettes three or more times within a period  
48 of five years, or (ix) is found to have violated subdivision one of  
49 section two hundred nineteen of the labor law according to the commis-  
50 sioner of labor, the commissioner may revoke or suspend such certificate  
51 of authority and all duplicates thereof. Provided, however, that the  
52 commissioner may revoke or suspend a certificate of authority based on  
53 (a) the grounds set forth in clause (vi) of this subparagraph only where  
54 the conviction referred to occurred not more than one year prior to the  
55 date of revocation or suspension; and provided further that where the  
56 commissioner revokes or suspends a certificate of authority based on the

1 grounds set forth in clause (vii) of this subparagraph, such suspension  
2 or revocation shall continue for as long as the revocation of the retail  
3 dealer registration pursuant to section four hundred eighty-a of this  
4 chapter remains in effect, or (b) the grounds set forth in clause (viii)  
5 of this subparagraph, such suspension or revocation shall be for a peri-  
6 od of five years.

7 § 3. Subparagraph (A) of paragraph 4 of subdivision (a) of section  
8 1134 of the tax law, as amended by section 2-a of part P of chapter 59  
9 of the laws of 2021, is amended to read as follows:

10 (A) Where a person who holds a certificate of authority (i) willfully  
11 fails to file a report or return required by this article, (ii) willful-  
12 ly files, causes to be filed, gives or causes to be given a report,  
13 return, certificate or affidavit required under this article which is  
14 false, (iii) willfully fails to comply with the provisions of paragraph  
15 two or three of subdivision (e) of section eleven hundred thirty-seven  
16 of this ~~article~~ part, (iv) willfully fails to prepay, collect, truth-  
17 fully account for or pay over any tax imposed under this article or  
18 pursuant to the authority of article twenty-nine of this chapter, (v)  
19 has been convicted of a crime provided for in this chapter, (vi) where  
20 such person, or any person affiliated with such person as such term is  
21 defined in subdivision twenty-one of section four hundred seventy of  
22 this chapter, has had a retail dealer registration issued pursuant to  
23 section four hundred eighty-a of this chapter suspended or revoked  
24 pursuant to subparagraph (iii) of paragraph (a) of subdivision four of  
25 such section four hundred eighty-a, ~~[ex]~~ (vii) has not obtained a valid  
26 retail dealer registration under section four hundred eighty-a of this  
27 chapter and such person possesses or sells unstamped or unlawfully  
28 stamped packages of cigarettes three or more times within a period of  
29 five years, or (ix) is found to have violated subdivision one of section  
30 two hundred nineteen of the labor law according to the commissioner of  
31 labor, the commissioner may revoke or suspend such certificate of  
32 authority and all duplicates thereof. Provided, however, that the  
33 commissioner may revoke or suspend a certificate of authority based on  
34 (a) the grounds set forth in clause (v) of this subparagraph only where  
35 the conviction referred to occurred not more than one year prior to the  
36 date of revocation or suspension; and provided further that where the  
37 commissioner revokes or suspends a certificate of authority based on the  
38 grounds set forth in clause (vi) of this subparagraph, such suspension  
39 or revocation shall continue for as long as the revocation of the retail  
40 dealer registration pursuant to section four hundred eighty-a of this  
41 chapter remains in effect, or (b) the grounds set forth in clause (vii)  
42 of this subparagraph, such suspension or revocation shall be for a peri-  
43 od of five years.

44 § 4. This act shall take effect immediately; provided, however, that  
45 the amendments to subparagraph (A) of paragraph 4 of subdivision (a) of  
46 section 1134 of the tax law made by section two of this act shall be  
47 subject to the expiration and reversion of such subparagraph pursuant to  
48 subdivision (e) of section 23 of part U of chapter 61 of the laws of  
49 2011, as amended, when upon such date the provisions of section three of  
50 this act shall take effect.