

STATE OF NEW YORK

7886

IN SENATE

January 3, 2024

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to issuing stop work orders for misclassification of employees

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

1 Section 1. The labor law is amended by adding a new section 45 to read
2 as follows:

3 § 45. Misclassification of employees; stop work orders. 1. If the
4 commissioner determines, after an investigation pursuant to the
5 provisions of this chapter, that an employer has knowingly misclassified
6 employees as independent contractors or provided false, incomplete, or
7 misleading information to an insurance company on the number of employ-
8 ees of such employer, the commissioner shall issue, not later than
9 seventy-two hours after making such determination, a stop work order
10 against the employer requiring the cessation of all business operations
11 of such employer. Such stop work order shall be issued only against the
12 employer found to be in violation and only against the specific place of
13 business or employment for which the violation exists. Such order shall
14 be effective when served upon the employer or at the place of business
15 or employment. A stop work order may be served at a place of business or
16 employment by posting a copy of the stop work order in a conspicuous
17 location at the place of business or employment. Such order shall remain
18 in effect until the commissioner issues an order releasing the stop work
19 order upon a finding by the commissioner that the employer has come into
20 compliance, or after a hearing held pursuant to subdivision two of this
21 section.

22 2. Any employer against which a stop work order is issued pursuant to
23 subdivision one of this section may request a hearing before the depart-
24 ment. Such request shall be made in writing to the commissioner not more
25 than ten days after the issuance of such order. Such hearing shall be
26 conducted in accordance with the provisions of this chapter.

27 3. Stop work orders and any additional penalties imposed under this
28 chapter against a corporation, partnership or sole proprietorship shall

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

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1 be effective against any successor entity that has one or more of the
2 same principals or officers as the corporation, partnership or sole
3 proprietorship against which the stop work order was issued and are
4 engaged in the same or equivalent trade or activity.

5 4. The commissioner shall promulgate any rules and regulations neces-
6 sary to carry out the provisions of this section.

7 § 2. This act shall take effect on the one hundred eightieth day after
8 it shall have become a law.