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:

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

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

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

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

2. notify his or her employees in writing of any changes to the information set forth in subdivision one of this section, at least seven calendar days prior to the time of such changes, unless such changes are reflected on the wage statement furnished in accordance with subdivision three of this section**. The failure of an employer to produce the written 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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one of this section, upon request of the commissioner or an employee, shall give rise to a presumption that the terms of employment that the employee has presented are the agreed terms of employment;

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

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

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

3. [~~This~~] **The criminal penalties prescribed by this** section shall not apply to any person in a bona fide executive, administrative, or professional capacity whose earnings are in excess of nine hundred dollars a week.

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

3. [~~This~~] **The criminal penalties prescribed by this** section shall not apply to any person in a bona fide executive, administrative, or professional capacity whose earnings are in excess of one thousand three hundred dollars a week.

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