STATE OF NEW YORK

7744

2023-2024 Regular Sessions

IN ASSEMBLY

June 6, 2023

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

AN ACT to amend the labor law, in relation to the frequency of payment of wages for certain employees

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

Section 1. The opening paragraph of subparagraph (ii) of paragraph a of subdivision 1 of section 191 of the labor law, as amended by chapter 168 of the laws of 1993, is amended to read as follows:

The commissioner may authorize an employer [~~which has in the three years preceding the application employed an average of one thousand or more persons in this state or has for one year preceding the application employed an average of one thousand or more persons in this state and has for three years preceding the application employed an average of three thousand or more persons outside the state~~] to pay less frequently than weekly but not less frequently than semi-monthly if the employer furnishes satisfactory proof to the commissioner of its continuing ability to meet its payroll responsibilities. In making this determination the commissioner shall consider the following: (A) the employer's history meeting its payroll responsibilities in New York state or if no such history in New York state is available, other financial information, as requested by the commissioner, which will assist the commissioner in determining the likelihood of the employer's continuing ability to meet payroll responsibilities; (B) proof of the employer's coverage for workers' compensation and disability; (C) proof that there are no outstanding warrants of the department of taxation and finance or the department of labor against the employer for failure to remit state personal income tax withholdings or unemployment insurance contributions; and (D) proof that the employer has a computerized record keeping system for payroll which, at a minimum, specifies hours worked, rate of pay, gross wages, deductions and date of pay for each employee. If the employers' manual

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

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workers are represented by a labor organization, the commissioner shall not grant an employer's application for authorization under this subparagraph unless that labor organization consents thereto.

§ 2. Section 191 of the labor law is amended by adding two new subdivisions 4 and 5 to read as follows:

4. Notwithstanding any other provision of law or regulation to the contrary, in the absence of fraud or bad faith, there shall be no civil liability on the part of and no cause of action against an employer by an employee who unknowingly violates the provisions of this section.

5. The commissioner may levy a civil penalty not to exceed twenty-five dollars per employee against any employer knowingly in violation of the provisions of this section.

§ 3. This act shall take effect immediately.