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:

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

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

(ii) At the discretion of the commissioner, the commissioner shall have full authority to provide for inclusion of an automatic fifteen percent additional amount of damages to come due and owing upon expiration of ninety days from an order to comply becoming final. The commissioner shall provide written notice to the employer in the order to comply of this additional damage.

(b)(i) If the commissioner determines the employer is in violation of 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

article nineteen-A (minimum wage standards and protective labor practices for farm workers), section two hundred twelve-a, section two hundred twelve-b, section one hundred sixty-one or section one hundred sixty-two of this chapter, or a rule or regulation promulgated thereunder, and such aggregate amount exceeds one thousand dollars, the commissioner shall notify the employer of such violation, in writing, and such employer shall have fifteen days to address all violations. If the employer does not address all violations within the allotted fifteen-day period, the commissioner shall notify the commissioner of taxation and finance, in writing, of the name and address of any employer holding a certificate of authority pursuant to section eleven hundred thirty-four of the tax law to suspend such certificate.

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

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

(A) Where a person who holds a certificate of authority (i) willfully fails to file a report or return required by this article, (ii) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required under this article which is false, (iii) willfully fails to comply with the provisions of paragraph two or three of subdivision (e) of section eleven hundred thirty-seven of this [~~article~~] part, (iv) willfully fails to prepay, collect, truthfully account for or pay over any tax imposed under this article or pursuant to the authority of article twenty-nine of this chapter, (v) fails to obtain a bond pursuant to paragraph two of subdivision (e) of section eleven hundred thirty-seven of this part, or fails to comply with a notice issued by the commissioner pursuant to paragraph three of such subdivision, (vi) has been convicted of a crime provided for in this chapter, (vii) where such person, or any person affiliated with such person as such term is defined in subdivision twenty-one of section four hundred seventy of this chapter, has had a retail dealer registration issued pursuant to section four hundred eighty-a of this chapter revoked pursuant to subparagraph (iii) of paragraph (a) of subdivision four of such section four hundred eighty-a, [~~or~~] (viii) has not obtained a valid retail dealer registration under section four hundred eighty-a of this chapter and such person possesses or sells unstamped or unlawfully stamped packages of cigarettes three or more times within a period of five years, or (ix) is found to have violated subdivision one of section two hundred nineteen of the labor law according to the commissioner of labor, the commissioner may revoke or suspend such certificate of authority and all duplicates thereof. Provided, however, that the commissioner may revoke or suspend a certificate of authority based on (a) the grounds set forth in clause (vi) of this subparagraph only where the conviction referred to occurred not more than one year prior to the date of revocation or suspension; and provided further that where the commissioner revokes or suspends a certificate of authority based on the

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

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

(A) Where a person who holds a certificate of authority (i) willfully fails to file a report or return required by this article, (ii) willfully files, causes to be filed, gives or causes to be given a report, return, certificate or affidavit required under this article which is false, (iii) willfully fails to comply with the provisions of paragraph two or three of subdivision (e) of section eleven hundred thirty-seven of this [~~**article**~~] **part**, (iv) willfully fails to prepay, collect, truthfully account for or pay over any tax imposed under this article or pursuant to the authority of article twenty-nine of this chapter, (v) has been convicted of a crime provided for in this chapter, (vi) where such person, or any person affiliated with such person as such term is defined in subdivision twenty-one of section four hundred seventy of this chapter, has had a retail dealer registration issued pursuant to section four hundred eighty-a of this chapter suspended or revoked pursuant to subparagraph (iii) of paragraph (a) of subdivision four of such section four hundred eighty-a, [~~**or**~~] (vii) has not obtained a valid retail dealer registration under section four hundred eighty-a of this chapter and such person possesses or sells unstamped or unlawfully stamped packages of cigarettes three or more times within a period of five years, **or (ix) is found to have violated subdivision one of section two hundred nineteen of the labor law according to the commissioner of labor,** the commissioner may revoke or suspend such certificate of authority and all duplicates thereof. Provided, however, that the commissioner may revoke or suspend a certificate of authority based on (a) the grounds set forth in clause (v) of this subparagraph only where the conviction referred to occurred not more than one year prior to the date of revocation or suspension; and provided further that where the commissioner revokes or suspends a certificate of authority based on the grounds set forth in clause (vi) of this subparagraph, such suspension or revocation shall continue for as long as the revocation of the retail dealer registration pursuant to section four hundred eighty-a of this chapter remains in effect, or (b) the grounds set forth in clause (vii) of this subparagraph, such suspension or revocation shall be for a period of five years.

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