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:

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

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

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

3. Stop work orders and any additional penalties imposed under this 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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be effective against any successor entity that has one or more of the same principals or officers as the corporation, partnership or sole proprietorship against which the stop work order was issued and are engaged in the same or equivalent trade or activity.

4. The commissioner shall promulgate any rules and regulations necessary to carry out the provisions of this section.

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