

STATE OF NEW YORK

8453

IN SENATE

January 31, 2024

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed 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:

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

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

20 (ii) At the discretion of the commissioner, the commissioner shall
21 have full authority to provide for inclusion of an automatic fifteen
22 percent additional amount of damages to come due and owing upon expira-
23 tion of ninety days from an order to comply becoming final. The commis-
24 sioner shall provide written notice to the employer in the order to
25 comply of this additional damage.

26 (b)(i) If the commissioner determines the employer is in violation of
27 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.

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1 article nineteen-A (minimum wage standards and protective labor prac-
2 tices for farm workers), section two hundred twelve-a, section two
3 hundred twelve-b, section one hundred sixty-one or section one hundred
4 sixty-two of this chapter, or a rule or regulation promulgated there-
5 under, and such aggregate amount exceeds one thousand dollars, the
6 commissioner shall notify the employer of such violation, in writing,
7 and such employer shall have fifteen days to address all violations. If
8 the employer does not address all violations within the allotted
9 fifteen-day period, the commissioner shall notify the commissioner of
10 taxation and finance, in writing, of the name and address of any employ-
11 er holding a certificate of authority pursuant to section eleven hundred
12 thirty-four of the tax law to suspend such certificate.

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

23 § 2. Subparagraph (A) of paragraph 4 of subdivision (a) of section
24 1134 of the tax law, as amended by section 2 of part P of chapter 59 of
25 the laws of 2021, is amended to read as follows:

26 (A) Where a person who holds a certificate of authority (i) willfully
27 fails to file a report or return required by this article, (ii) willful-
28 ly files, causes to be filed, gives or causes to be given a report,
29 return, certificate or affidavit required under this article which is
30 false, (iii) willfully fails to comply with the provisions of paragraph
31 two or three of subdivision (e) of section eleven hundred thirty-seven
32 of this ~~article~~ part, (iv) willfully fails to prepay, collect, truth-
33 fully account for or pay over any tax imposed under this article or
34 pursuant to the authority of article twenty-nine of this chapter, (v)
35 fails to obtain a bond pursuant to paragraph two of subdivision (e) of
36 section eleven hundred thirty-seven of this part, or fails to comply
37 with a notice issued by the commissioner pursuant to paragraph three of
38 such subdivision, (vi) has been convicted of a crime provided for in
39 this chapter, (vii) where such person, or any person affiliated with
40 such person as such term is defined in subdivision twenty-one of section
41 four hundred seventy of this chapter, has had a retail dealer registra-
42 tion issued pursuant to section four hundred eighty-a of this chapter
43 revoked pursuant to subparagraph (iii) of paragraph (a) of subdivision
44 four of such section four hundred eighty-a, ~~or~~ (viii) has not obtained
45 a valid retail dealer registration under section four hundred eighty-a
46 of this chapter and such person possesses or sells unstamped or unlaw-
47 fully stamped packages of cigarettes three or more times within a period
48 of five years, or (ix) is found to have violated subdivision one of
49 section two hundred nineteen of the labor law according to the commis-
50 sioner of labor, the commissioner may revoke or suspend such certificate
51 of authority and all duplicates thereof. Provided, however, that the
52 commissioner may revoke or suspend a certificate of authority based on
53 (a) the grounds set forth in clause (vi) of this subparagraph only where
54 the conviction referred to occurred not more than one year prior to the
55 date of revocation or suspension; and provided further that where the
56 commissioner revokes or suspends a certificate of authority based on the

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

7 § 3. Subparagraph (A) of paragraph 4 of subdivision (a) of section
8 1134 of the tax law, as amended by section 2-a of part P of chapter 59
9 of the laws of 2021, is amended to read as follows:

10 (A) Where a person who holds a certificate of authority (i) willfully
11 fails to file a report or return required by this article, (ii) willful-
12 ly files, causes to be filed, gives or causes to be given a report,
13 return, certificate or affidavit required under this article which is
14 false, (iii) willfully fails to comply with the provisions of paragraph
15 two or three of subdivision (e) of section eleven hundred thirty-seven
16 of this ~~article~~ part, (iv) willfully fails to prepay, collect, truth-
17 fully account for or pay over any tax imposed under this article or
18 pursuant to the authority of article twenty-nine of this chapter, (v)
19 has been convicted of a crime provided for in this chapter, (vi) where
20 such person, or any person affiliated with such person as such term is
21 defined in subdivision twenty-one of section four hundred seventy of
22 this chapter, has had a retail dealer registration issued pursuant to
23 section four hundred eighty-a of this chapter suspended or revoked
24 pursuant to subparagraph (iii) of paragraph (a) of subdivision four of
25 such section four hundred eighty-a, ~~[ex]~~ (vii) has not obtained a valid
26 retail dealer registration under section four hundred eighty-a of this
27 chapter and such person possesses or sells unstamped or unlawfully
28 stamped packages of cigarettes three or more times within a period of
29 five years, or (ix) is found to have violated subdivision one of section
30 two hundred nineteen of the labor law according to the commissioner of
31 labor, the commissioner may revoke or suspend such certificate of
32 authority and all duplicates thereof. Provided, however, that the
33 commissioner may revoke or suspend a certificate of authority based on
34 (a) the grounds set forth in clause (v) of this subparagraph only where
35 the conviction referred to occurred not more than one year prior to the
36 date of revocation or suspension; and provided further that where the
37 commissioner revokes or suspends a certificate of authority based on the
38 grounds set forth in clause (vi) of this subparagraph, such suspension
39 or revocation shall continue for as long as the revocation of the retail
40 dealer registration pursuant to section four hundred eighty-a of this
41 chapter remains in effect, or (b) the grounds set forth in clause (vii)
42 of this subparagraph, such suspension or revocation shall be for a peri-
43 od of five years.

44 § 4. This act shall take effect immediately; provided, however, that
45 the amendments to subparagraph (A) of paragraph 4 of subdivision (a) of
46 section 1134 of the tax law made by section two of this act shall be
47 subject to the expiration and reversion of such subparagraph pursuant to
48 subdivision (e) of section 23 of part U of chapter 61 of the laws of
49 2011, as amended, when upon such date the provisions of section three of
50 this act shall take effect.