

STATE OF NEW YORK

2078

2025-2026 Regular Sessions

IN SENATE

January 15, 2025

Introduced by Sen. MAYER -- 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 criminal procedure law, in relation to business license suspensions resulting from wage theft

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

1 Section 1. Section 190 of the labor law is amended by adding three new
2 subdivisions 10, 11 and 12 to read as follows:

3 10. "Successor business" means an entity engaged in work that is
4 substantially similar to that of the predecessor, where there is
5 substantial continuity of operation with that of the predecessor.

6 11. "Agency" means any agency, department, board, or commission of the
7 state, or of any political subdivision of the state, that issues a
8 license for the purposes of operating a business within the state.

9 12. "License" means any agency permit, certificate, approval, regis-
10 tration, charter, or similar form of authorization that is required by
11 law and issued by any agency for the purposes of operating a business
12 within the state. "License" shall include, but shall not be limited to:

13 a. a certificate of incorporation issued pursuant to section four
14 hundred two of the business corporation law, including a certificate of
15 incorporation for a benefit corporation issued pursuant to section one
16 thousand seven hundred three of the business corporation law, or a
17 certificate of authority issued pursuant to section one thousand five
18 hundred thirty of the business corporation law;

19 b. articles of organization issued pursuant to section two hundred
20 three of the limited liability company law, or a certificate of authori-
21 ty issued pursuant to section eight hundred five of the limited liabil-
22 ity company law;

23 c. a certificate of incorporation issued pursuant to section four
24 hundred two of the not-for-profit corporation law, or a certificate of

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

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1 authority issued pursuant to section one thousand three hundred four of
2 the not-for-profit corporation law;

3 d. a certificate of limited partnership issued pursuant to section
4 121-201 of the partnership law, or a certificate of authority issued
5 pursuant to section 121-904 of the partnership law;

6 e. any certificate to conduct business under an assumed name or as
7 partners filed pursuant to section one hundred thirty of the general
8 business law that is on file in the office of the clerk of the county in
9 which such business is conducted or transacted, or the office of the
10 secretary of state;

11 f. any license, certificate, permit, or registration issued pursuant
12 to section sixty-four of the alcoholic beverage control law, section two
13 hundred twelve-a or article eight of the labor law, or the agriculture
14 and markets law;

15 g. any license required by or issued pursuant to the general business
16 law, including but not limited to licenses for employment agencies
17 pursuant to article eleven of the general business law; nail specialty,
18 natural hair styling, esthetics, and cosmetology pursuant to article
19 twenty-seven of the general business law; or barbering pursuant to arti-
20 cle twenty-eight of the general business law; and

21 h. any license issued by a municipal agency for conducting business
22 within such municipality, including but not limited to licenses for home
23 improvement contractors; skilled trades; construction; restaurant,
24 catering, or other food service; and taxi, limousine, or other for-hire
25 vehicle services.

26 § 2. Subdivision 1 of section 196 of the labor law is amended by
27 adding a new paragraph f to read as follows:

28 f. (i) Upon notification that an employer has been convicted of fail-
29 ing to pay the wages of an employee pursuant to subdivision one of
30 section one hundred ninety-eight-a of this article, failing to pay mini-
31 imum wage or overtime pay pursuant to section six hundred sixty-two of
32 this article, or wage theft under section 155.05 of the penal law, the
33 commissioner shall, after affording such employer notice and an opportu-
34 nity to be heard pursuant to subparagraph (iv) of this paragraph, issue
35 a written determination directing any appropriate agency to suspend one
36 or more licenses that were issued to or filed by such employer, or such
37 employer's successor business, for a period of time to be determined by
38 the commissioner. The commissioner may prohibit such employer or succes-
39 sor business from being eligible to reapply for a license suspended
40 pursuant to this paragraph, or any other license issued for the purpose
41 of operating a business in the state, for a period up to but not exceed-
42 ing two years.

43 (ii) In determining the length of a license suspension determination
44 pursuant to subparagraph (i) of this paragraph, the commissioner shall
45 consider the following factors:

46 (1) The number of employees for which the employer or successor busi-
47 ness failed to pay required wages, benefits, taxes, or other contrib-
48 utions or assessments;

49 (2) The total amount of wages, benefits, taxes, or other contributions
50 or assessments which the employer or successor business failed to pay;

51 (3) Any other harm resulting from the employer's failure to pay
52 required wages, benefits, taxes, or other contributions or assessments;

53 (4) Whether the employer or successor business made good faith efforts
54 to comply with any applicable requirements, as determined by the commis-
55 sioner;

1 (5) The duration of the employer's or successor business's failure to
2 pay required wages, benefits, taxes, or other contributions or assess-
3 ments;

4 (6) The role of the directors, officers, or agents of the employer or
5 successor business;

6 (7) Any prior misconduct by the employer or successor business; and

7 (8) Any other relevant factors, as determined by the commissioner.

8 (iii) Upon the conviction of an employer for failing to pay the wages
9 of an employee pursuant to subdivision one of section one hundred nine-
10 ty-eight-a of this article, failing to pay minimum wage or overtime pay
11 pursuant to section six hundred sixty-two of this article, or wage theft
12 under section 155.05 of the penal law, the court shall notify the
13 commissioner of such conviction.

14 (iv) Prior to issuing a written determination directing any appropri-
15 ate agency to suspend one or more licenses that were issued to or filed
16 by an employer pursuant to subparagraph (i) of this paragraph, the
17 commissioner shall notify the employer, or such employer's successor
18 business, in writing, of the commissioner's intent to issue such deter-
19 mination and the reasons therefor, and shall afford such employer or
20 successor business an opportunity to be heard in person or by counsel in
21 reference thereto. Such notice shall notify the employer or successor
22 business that a request for a hearing must be made within fifteen days
23 after the issuance of such notification. If the employer requests a
24 hearing within such fifteen-day period, such hearing shall be held at
25 such time and place as the commissioner shall prescribe. If the employer
26 does not request a hearing within such fifteen-day period, then such
27 notification shall be deemed the final written determination by the
28 commissioner. The commissioner shall have subpoena powers pursuant to
29 the civil practice law and rules in carrying out the provisions of this
30 paragraph. If the commissioner, after such hearing, issues a determi-
31 nation directing the suspension of the employer's license or licenses,
32 the commissioner shall notify such employer, in writing, of such deter-
33 mination and the reasons therefor.

34 § 3. Section 198-a of the labor law is amended by adding two new
35 subdivisions 4 and 5 to read as follows:

36 4. The court may prohibit any employer, including any person with an
37 ownership interest in such employer, who is charged with a criminal
38 offense pursuant to subdivision one of this section from applying for a
39 license to operate a business in the state under a different business
40 name, and/or opening or operating any successor business that is engaged
41 in the same or equivalent trade or activity, for the pendency of the
42 criminal proceeding.

43 5. The court shall notify the commissioner of any employer convicted
44 of a criminal offense pursuant to subdivision one of this section.

45 § 4. Section 662 of the labor law is amended by adding two new subdivi-
46 sions 3 and 4 to read as follows:

47 3. The court may prohibit any employer, including any person with an
48 ownership interest in such employer, who is charged with a criminal
49 offense pursuant to subdivision one of this section from applying for a
50 license to operate a business in the state under a different business
51 name, and/or opening or operating any successor business that is engaged
52 in the same or equivalent trade or activity, for the pendency of the
53 criminal proceeding.

54 4. The court shall notify the commissioner of any employer convicted
55 of a criminal offense pursuant to subdivision one of this section.

§ 5. The criminal procedure law is amended by adding a new section 380.98 to read as follows:

§ 380.98 Notification to the commissioner of labor of certain convictions.

Upon judgment of conviction of an employer for a criminal offense pursuant to subdivision one of section one hundred ninety-eight-a or subdivision one of section six hundred sixty-two of the labor law, or wage theft pursuant to section 155.05 of the penal law, the clerk of the court shall include notification and a copy of the written determination in a report of such conviction to the commissioner of labor.

§ 6. Subdivision 3-a of section 500.10 of the criminal procedure law is amended by adding a new paragraph (k) to read as follows:

(k) When a principal is charged with a criminal offense pursuant to subdivision one of section one hundred ninety-eight-a or subdivision one of section six hundred sixty-two of the labor law, or wage theft pursuant to section 155.05 of the penal law, the court may prohibit such principal from applying for a license to operate a business in the state under a different business name, and/or opening or operating any successor business that is engaged in the same or equivalent trade or activity, for the pendency of the criminal proceeding.

§ 7. The criminal procedure law is amended by adding a new section 530.15 to read as follows:

§ 530.15 Protection for victims of wage theft.

When a criminal action is pending involving a complaint charging an employer with a criminal offense pursuant to subdivision one of section one hundred ninety-eight-a or subdivision one of section six hundred sixty-two of the labor law, or wage theft pursuant to section 155.05 of the penal law, the court, in addition to any other powers conferred upon it by this chapter, may prohibit such employer from applying for a license to operate a business in the state under a different business name, and/or opening or operating any successor business that is engaged in the same or equivalent trade or activity, for the pendency of the criminal proceeding.

§ 8. This act shall take effect immediately.