

SENATE, No. 392

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

Co-Sponsored by:

Senator Diegnan

SYNOPSIS

Increases certain penalties for violations of wage and hour law.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 1/23/2018)

S392 MADDEN, ADDIEGO

2

1 AN ACT concerning penalties for violations of wage and hour law
2 and amending P.L.1966, c.113.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 23 of P.L.1966, c.113 (C.34:11-56a22) is amended
8 to read as follows:

9 23. Any employer who willfully hinders or delays the
10 commissioner, the director or their authorized representatives in the
11 performance of his duties in the enforcement of **[this act]** the "New
12 Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et
13 seq.), or fails to make, keep, and preserve any records as required
14 under the provisions of **[this act]** P.L.1966, c.113 (C.34:11-56a et
15 seq.), or falsifies any such record, or refuses to make any such
16 record accessible to the commissioner, the director or their
17 authorized representatives upon demand, or refuses to furnish a
18 sworn statement of such record or any other information required
19 for the proper enforcement of **[this act]** P.L.1966, c.113 (C.34:11-
20 56a et seq.) to the commissioner, the director or their authorized
21 representatives upon demand, or pays or agrees to pay wages at a
22 rate less than the rate applicable under **[this act]** P.L.1966,
23 c.113 (C.34:11-56a et seq.) or any wage order issued pursuant
24 thereto, or otherwise violates any provision of **[this act]** P.L.1966,
25 c.113 (C.34:11-56a et seq.) or of any regulation or order issued
26 under **[this act]** P.L.1966, c.113 (C.34:11-56a et seq.) shall be
27 guilty of a disorderly persons offense and shall, upon conviction for
28 a first violation, be punished by a fine of not less than **[\$100]** \$500
29 nor more than \$1,000 or by imprisonment for not less than 10 nor
30 more than 90 days or by both the fine and imprisonment and, upon
31 conviction for a second **[or subsequent]** violation, be punished by a
32 fine of not less than **[\$500]** \$1,000 nor more than **[\$1,000]** \$2,000
33 or by imprisonment for not less than 10 nor more than 100 days or
34 by both the fine and imprisonment. Upon conviction for a third or
35 subsequent violation, an employer shall be guilty of a crime of the
36 fourth degree and be punished by a fine of not less than \$2,000 nor
37 more than \$10,000 or by imprisonment for up to 18 months or by
38 both the fine and imprisonment. Each week, in any day of which an
39 employee is paid less than the rate applicable to him under **[this**
40 **act]** P.L.1966, c.113 (C.34:11-56a et seq.) or under a minimum fair
41 wage order, and each employee so paid, shall constitute a separate
42 offense.

43 As an alternative to or in addition to any other sanctions
44 provided by law for violations of the "New Jersey State Wage and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), when the
2 Commissioner of Labor and Workforce Development finds that an
3 individual has violated **【that act】** P.L.1966, c.113 (C.34:11-56a et
4 seq.), the commissioner is authorized to assess and collect
5 administrative penalties, up to a maximum of \$250 for a first
6 violation and up to a maximum of \$500 for each subsequent
7 violation, specified in a schedule of penalties to be promulgated as a
8 rule or regulation by the commissioner in accordance with the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.). When determining the amount of the penalty imposed because
11 of a violation, the commissioner shall consider factors which
12 include the history of previous violations by the employer, the
13 seriousness of the violation, the good faith of the employer and the
14 size of the employer's business. No administrative penalty shall be
15 levied pursuant to this section unless the Commissioner of Labor
16 and Workforce Development provides the alleged violator with
17 notification of the violation and of the amount of the penalty by
18 certified mail and an opportunity to request a hearing before the
19 commissioner or his designee within 15 days following the receipt
20 of the notice. If a hearing is requested, the commissioner shall
21 issue a final order upon such hearing and a finding that a violation
22 has occurred. If no hearing is requested, the notice shall become a
23 final order upon expiration of the 15-day period. Payment of the
24 penalty is due when a final order is issued or when the notice
25 becomes a final order. Any penalty imposed pursuant to this
26 section may be recovered with costs in a summary proceeding
27 commenced by the commissioner pursuant to **【"the penalty**
28 **enforcement law" (N.J.S.2A:58-1 et seq.)】** the "Penalty
29 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
30 Any sum collected as a fine or penalty pursuant to this section shall
31 be applied toward enforcement and administration costs of the
32 Division of Workplace Standards in the Department of Labor and
33 Workforce Development.
34 (cf: P.L.1991, c.205, s.5)

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36 2. This act shall take effect immediately.

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STATEMENT

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41 This bill revises certain penalties for violations of the "New
42 Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et
43 seq.). The bill provides that an employer who violates any
44 provision of that law is, upon conviction of a first or second
45 violation, guilty of a disorderly persons offense, and, upon
46 conviction of a third or subsequent offense, guilty of a crime of the
47 fourth degree.

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1 Current law states that for a first violation an employer is guilty
2 of a disorderly persons offense and may be punished by a fine of
3 not less than \$100 and not more than \$1,000 or by imprisonment for
4 not less than 10 and not more than 90 days or by both the fine and
5 imprisonment. The bill increases the applicable fines for a first
6 violation to not less than \$500 and maintains the maximum fine of
7 not more than \$1,000. Current law also states that for a second or
8 subsequent violation an employer is guilty of a disorderly persons
9 offense and may be punished by a fine of not less than \$500 and not
10 more than \$1,000 or by imprisonment for not less than 10 and more
11 than 100 days or by both the fine and imprisonment. The bill
12 increases the applicable fines for a second violation to not less than
13 \$1,000 and not more than \$2,000. Finally, the bill provides that a
14 third or subsequent violation constitutes a crime of the fourth
15 degree, punishable by a fine of not less than \$2,000 and not more
16 than \$10,000 or by imprisonment for up to 18 months or by both the
17 fine and imprisonment.