

SENATE, No. 2557

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MAY 14, 2018

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Allows issuing of stop-work orders for failure to pay prevailing wage.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/7/2018)

S2557 SINGLETON, OROHO

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1 AN ACT concerning the issuing of stop-work orders for failure to
2 pay prevailing wage rates and amending P.L.1963, c.150.

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

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7 1. Section 11 of P.L.1963, c.150 (C.34:11-56.35) is amended to
8 read as follows:

9 11. (a) Any employer who willfully hinders or delays the
10 commissioner in the performance of his duties in the enforcement of
11 this act, or fails to make, keep, and preserve any records as required
12 under the provisions of this act, or falsifies any such record, or
13 refuses to make any such record accessible to the commissioner
14 upon demand, or refuses to furnish a sworn statement of such record
15 or any other information required for the proper enforcement of this
16 act to the commissioner upon demand, or pays or agrees to pay
17 wages at a rate less than the rate applicable under this act or
18 otherwise violates any provision of this act or of any regulation or
19 order issued under this act shall be guilty of a disorderly persons
20 offense and shall, upon conviction therefor, be fined not less than
21 \$100.00 nor more than \$1,000 or be imprisoned for not less than 10
22 nor more than 90 days, or by both such fine and imprisonment.
23 Each week, in any day of which a worker is paid less than the rate
24 applicable to him under this act and each worker so paid, shall
25 constitute a separate offense.

26 (b) As an alternative to or in addition to any other sanctions
27 provided by law for violations of any provision of P.L.1963,
28 c.150 (C.34:11-56.25 et seq.), when the Commissioner of Labor and
29 Workforce Development finds that an employer has violated that
30 act, the commissioner is authorized to assess and collect
31 administrative penalties, up to a maximum of \$2,500 for a first
32 violation and up to a maximum of \$5,000 for each subsequent
33 violation, specified in a schedule of penalties to be promulgated as a
34 rule or regulation by the commissioner in accordance with the
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
36 seq.). When determining the amount of the penalty imposed
37 because of a violation, the commissioner shall consider factors
38 which include the history of previous violations by the employer,
39 the seriousness of the violation, the good faith of the employer and
40 the size of the employer's business. No administrative penalty shall
41 be levied pursuant to this section unless the Commissioner of Labor
42 and Workforce Development provides the alleged violator with
43 notification of the violation and of the amount of the penalty by
44 certified mail and an opportunity to request a hearing before the
45 commissioner or his designee within 15 days following the receipt

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 of the notice. If a hearing is requested, the commissioner shall
2 issue a final order upon such hearing and a finding that a violation
3 has occurred. If no hearing is requested, the notice shall become a
4 final order upon expiration of the 15-day period. Payment of the
5 penalty is due when a final order is issued or when the notice
6 becomes a final order. Any penalty imposed pursuant to this
7 section may be recovered with costs in a summary proceeding
8 commenced by the commissioner pursuant to the "Penalty
9 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
10 Any sum collected as a fine or penalty pursuant to this section shall
11 be applied toward enforcement and administration costs of the
12 Division of Workplace Standards in the Department of Labor and
13 Workforce Development.

14 (c) When the Commissioner of Labor and Workforce
15 Development finds that the employer has violated provisions of
16 P.L.1963, c.150 (C.34:11-56.25 et seq.), the commissioner may
17 refer the matter to the Attorney General or his designee for
18 investigation and prosecution. Nothing in this subsection shall be
19 deemed to limit the authority of the Attorney General to investigate
20 and prosecute violations of the New Jersey Code of Criminal
21 Justice, nor to limit the commissioner's ability to refer any matter
22 for criminal investigation or prosecution.

23 (d) If an employer continues to violate the provisions of
24 P.L.1963, c.150 (C.34:11-56.25 et seq.) by paying wages at rates
25 less than the rates applicable under that act after a final order
26 assessing a penalty for the violation is issued pursuant to subsection
27 (b) of this section, the commissioner may immediately issue a stop-
28 work order to cease all business operations at every site where the
29 violation has continued. The stop-work order shall remain in effect
30 until the commissioner issues an order releasing the stop-work order
31 upon finding that the employer has agreed to pay wages at the
32 required rate and has paid any wages due and any penalty assessed
33 under this section. As a condition for release from a stop-work
34 order, the commissioner may require the employer to file with the
35 department periodic reports for a probationary period that shall not
36 exceed two years that demonstrate the employer's continued
37 compliance with the provisions of P.L.1963, c.150 (C.34:11-56.25
38 et seq.). The commissioner may assess a civil penalty of \$5,000 per
39 day against an employer for each day that it conducts business
40 operations that are in violation of the stop-work order. That penalty
41 shall be collected by the commissioner in a summary proceeding in
42 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
43 c.274 (C.2A:58-10 et seq.).

44 (cf: P.L.2003, c.276, s.1)

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46 2. This act shall take effect immediately.

STATEMENT

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This bill permits the Commissioner of Labor and Workforce Development to issue a stop-work order against any employer who continues to pay less than prevailing wage rates in violation of P.L.1963, c.150 (C.34:11-56.25 et seq.) after the commissioner has issued a final order assessing a penalty for the violation.

A stop-work order issued under the bill would require the cessation of all business operations at every site where the violation has continued and remain in effect until the commissioner issues an order releasing the stop-work order upon finding that the employer has agreed to pay the required wages and has paid any wages or penalty owed. As a condition of release from a stop-work order, the commissioner may require the employer to file with the department periodic reports for a probationary period of up to two years. The commissioner may assess a civil penalty of \$5,000 per day against an employer for each day that it conducts business operations that are in violation of the stop-work order.