SENATE, No. 725

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:
Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)

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.

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

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

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

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

As an alternative to or in addition to any other sanctions 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.

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

2. This act shall take effect immediately.

STATEMENT

This bill increases certain penalties for violations of the "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.).

Current law states that for a first violation of that law, an employer is guilty of a disorderly persons offense and may be punished by a fine of not less than $100 and not more than $1,000, by imprisonment for not less than 10 and not more than 90 days, or both. The bill increases the fines for a first violation to an amount

not less than $500, but maintains the maximum fine of not more than $1,000.

Current law also states that for a second or subsequent violation, an employer is guilty of a disorderly persons offense and may be punished by a fine of not less than $500 and not more than $1,000, by imprisonment for not less than 10 and not more than 100 days, or both. The bill increases the fines for a second violation to an amount not less than $1,000 and not more than $2,000.

Finally, the bill adds to the law that a third or subsequent violation constitutes a crime of the fourth degree, punishable by a fine of not less than $2,000 and not more than $10,000, by imprisonment for up to 18 months, or both.