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SYNOPSIS
Concerns stop-work orders related to prevailing wage and construction worker employment.

CURRENT VERSION OF TEXT
As amended by the General Assembly on February 25, 2019.

(Sponsorship Updated As Of: 5/24/2019)
AN ACT concerning the issuing of stop-work orders \(^1\) for failure to 
pay prevailing wage rates and \(^{1}\) amending P.L.1963, c.150 \(^1\), 
and supplementing P.L.2007, c.114 (C.34:20-1 et seq.)\(^1\).

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

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

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

   (b) As an alternative to or in addition to any other sanctions 
   provided by law for violations of any provision of P.L.1963, 
   c.150 (C.34:11-56.25 et seq.), when the Commissioner of Labor and 
   Workforce Development finds that an employer has violated that 
   act, the commissioner is authorized to assess and collect 
   administrative penalties, up to a maximum of $2,500 for a first 
   violation and up to a maximum of $5,000 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 
   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 

EXPLANATION – Matter enclosed in bold-faced brackets \([\text{thus}]\) in the above bill is 
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
\(^1\) Senate SBA committee amendments adopted December 10, 2018.
\(^2\) Assembly floor amendments adopted January 31, 2019.
\(^3\) Assembly floor amendments adopted February 25, 2019.
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 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.
(c) When the Commissioner of Labor and Workforce
Development finds that the employer has violated provisions of
P.L.1963, c.150 (C.34:11-56.25 et seq.), the commissioner may
refer the matter to the Attorney General or his designee for
investigation and prosecution. Nothing in this subsection shall be
deemed to limit the authority of the Attorney General to investigate
and prosecute violations of the New Jersey Code of Criminal
Justice, nor to limit the commissioner's ability to refer any matter
for criminal investigation or prosecution.
(d) If [an employer continues to violate] the commissioner
makes an initial determination that an employer has violated the
provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) by paying
wages at rates less than the rates applicable under that act [after a
final order assessing a penalty for the violation is issued pursuant to
subsection (b) of this section] whether or not the commissioner
refers the matter to the Attorney General or other appropriate
prosecutorial authority for investigation or prosecution pursuant to
subsection (c) of this section [the commissioner may immediately
issue a stop-work order to cease all business operations at every site
where the violation has [continued] occurred. The stop-work
order may be issued only against the employer found to be in
violation or non-compliance. If a stop-work order has been issued
against a subcontractor pursuant to this subsection, the general
contractor shall retain the right to terminate the subcontractor from
the project. The stop-work order shall remain in effect until the
commissioner issues an order releasing the stop-work order upon
finding that the employer has agreed to pay wages at the required
rate and has paid any wages due and any penalty [assessed under
this section] deemed satisfactory to the commissioner. As a
condition for release from a stop-work order, the commissioner may
require the employer to file with the department periodic reports for
a probationary period that shall not exceed two years that
demonstrate the employer's continued compliance with the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). 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. That penalty shall be collected by the commissioner in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). (cf: P.L.2003, c.276, s.1)

12. (New section) a. [With respect to any individual regarded as an employee under the provisions of section 4 of P.L.2007, c.114 (C.34:20-4), the] The Commissioner of Labor and Workforce Development and any agent of the commissioner, upon receipt of a complaint or through a routine investigation for a violation of any wage and hour law or R.S.34:15-79, or a failure to meet obligations as provided in R.S.43:21-7 and R.S.43:21-14, is authorized to enter, during usual business hours, the place of business or employment of any employer of the individual to determine compliance with the wage and hour laws, R.S.34:15-79, R.S.43:21-7, or R.S.43:21-14, and for that purpose may examine payroll and other records and interview employees, call hearings, administer oaths, take testimony under oath and take depositions.

b. The commissioner may issue subpoenas for the attendance of witnesses and the production of books and records. Any employer or agent of the employer who willfully fails to furnish time and wage records as required by law to the commissioner or agent of the commissioner upon request, or who refuses to admit the commissioner or agent to the place of employment of the employer, or who hinders or delays the commissioner or agent in the performance of duties in the enforcement of this section, may be fined not less than $1,000 and shall be guilty of a disorderly persons offense. Each day of the failure to furnish the time and wage records to the commissioner or agent shall constitute a separate offense, and each day of refusal to admit, of hindering, or of delaying the commissioner or agent shall constitute a separate offense.

c. (1) If the commissioner determines, after either an initial determination as a result of an audit of a business or an investigation pursuant to subsection a. of this section, that an employer is in violation of any wage and hour law or of R.S.34:15-79, or has failed to meet obligations as provided in R.S.43:21-7 or R.S.43:21-14, the commissioner may issue a stop-work order against the employer requiring cessation of all business operations of the employer at the specific place of business or employment in which the violation exists. The stop-work order may be issued only against the employer found to be in violation or non-compliance. If a stop-work order has been issued against a subcontractor pursuant
to this subsection, the general contractor shall retain the right to
terminate the subcontractor from the project. The order shall be
effective when served upon the employer at the place of business
or, for a particular employer worksite, when served at that worksite.
The order shall remain in effect until the commissioner issues an
order releasing the stop-work order upon finding that the employer
has come into compliance and has paid any penalty deemed to be
satisfactory to the commissioner, or after the commissioner
determines, in a hearing held pursuant to paragraph (2) of this
subsection, that the employer did not commit the act on which the
order was based. The stop-work order shall be effective against any
successor entity engaged in the same or equivalent trade or activity
that has one or more of the same principals or officers as the
corporation, partnership or sole proprietorship against which the
stop-work order was issued.

(2) An employer who is subject to a stop-work order shall have
the right to appeal to the commissioner. The contractor may notify
the Director of the Division of Wage and Hour Compliance of its
request for an opportunity to be heard and contest the stop work
order in writing within 72 hours of its receipt of the notification.

Within seven business days of receipt of the notification from the
contractor, the director shall [grant the contractor] hold a hearing
to allow the contractor to contest the issuance of a stop work
order. The director shall permit the contractor to present evidence at
the hearing. If the director fails to hold a hearing within seven
business days of receipt of the notification from the contractor, an
administrative law judge shall have the authority to release the stop-
work order.

The director shall issue a written decision within five business
days of the hearing either upholding or reversing the contractor’s
stop work order. The decision shall include the grounds for
upholding or reversing the contractor’s stop work order.

If the contractor disagrees with the written decision, the
contractor may appeal the decision to the commissioner, in
accordance with the "Administrative Procedure Act," P.L.1968,
c.410 (C.52:14B-1 et seq.).

(3) As an alternative to issuing a stop-work order in accordance
with paragraph (1) of this subsection, if the commissioner
determines, after an investigation pursuant to subsection a. of this
section, that an employer is in violation of R.S.34:15-79, the
commissioner may provide and transfer all details and materials
related to the investigation under this section to the Director of the
Division of Workers’ Compensation for any enforcement of
penalties or stop-work orders the director determines are
appropriate.

This act shall take effect immediately.