

STATEMENT TO
[First Reprint]
SENATE, No. 1790

with Senate Floor Amendments
(Proposed by Senator WEINBERG)

ADOPTED: MARCH 14, 2019

These amendments:

1. Amend section 2 of P.L.2009, c.194 (C.34:1A-1.12) to increase the number of labor laws for which violations by an employer may lead, under that law, to audits and, upon repeat violations, suspension and revocation of business licenses of the employer.

2. Expressly state that the disorderly persons offense for violations of the wage payment law, P.L.1965, c.173 (C.34:11-4.1 et seq.) applies to knowing failure to fully pay wages agreed to or required by article 1 of chapter 11 of Title 34 of the Revised Statute and all acts supplementing that article, and to any employer retaliation against an employer seeking relief under those laws.

3. Reduce the punishments under the wage payment laws and the minimum wage law, P.L.1966, c.113 (C.34:11-56a et seq.) for a third and subsequent violation from a fine of not less than \$2,000 or more than \$10,000 and imprisonment of up to 18 months down to a fine of not less than \$500 or more than \$1,000 and imprisonment of not less than 10 days or more than 100 days, and remove the requirement that the violator pay the costs of action.

4. Specify that in a case of an employee taking a civil action under the bill against an employer who takes an adverse action against an employee seeking relief under those laws, there is a rebuttable presumption that the adverse action is retaliation if it occurs within 90 days of the seeking of relief, and the court shall require the employer to offer reinstatement if the employee was discharged.

5. Have the bill's extension of the statute of limitations to six years apply to unlawful discharge or other retaliation.

6. Establish the crime of a "pattern of wage non-payment" when an employer knowingly violates, for a third or subsequent time, a range of specified laws regarding wage payment, minimum wage, and theft when the property stolen is unpaid wages. The crime of pattern of wage non-payment is deemed a crime of the third degree, which is subject to punishment of between three and five years of imprisonment and up to \$15,000 in fines.

7. Change the rate of liquidated damages provided in the bill from 200 percent of wages due or lost to not more than 200 percent of those wages in criminal actions and other actions taken by the department, but retains the rate of 200 percent in civil actions taken by aggrieved employees.

8. Eliminate the provision that contracts by the department with community-based organizations or legal services organizations may authorize the organizations to investigate, prepare or represent workers in wage actions and eliminate the provision that organizations be awarded 50 percent of fees or penalties collected in wage actions.