

ASSEMBLY, No. 3926

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED APRIL 13, 2020

Sponsored by:

Assemblywoman JEAN STANFIELD

District 8 (Atlantic, Burlington and Camden)

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District 8 (Atlantic, Burlington and Camden)

SYNOPSIS

Expands wage and hour law good-faith violation defense to DOLWD employee interpretations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning good-faith wage and hour violations by
2 employers and amending P.L.1967, c.216.

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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 2 of P.L.1967, c.216 (C.34:11-56a25.2) is amended
8 to read as follows:

9 2. In any action or proceeding commenced prior to or on or
10 after the date of the enactment of this act based on any act or
11 omission prior to or on or after the date of the enactment of this act,
12 no employer shall be subject to any liability or punishment for or on
13 account of the failure of the employer to pay minimum wages or
14 overtime compensation under this act, if he pleads and proves that
15 the act or omission complained of was in good faith in conformity
16 with and in reliance on any written administrative regulation, order,
17 ruling, approval or interpretation by the Commissioner of **the**
18 **Department of Labor and Industry** Labor and Workforce
19 Development, or the commissioner's authorized representative, or
20 the Director of the **Wage and Hour Bureau** Division of Wage and
21 Hour Compliance, or the director's authorized representative, or
22 any administrative practice or enforcement policy of **such** the
23 department or **bureau** division with respect to the class of
24 employers to which he belonged. Such a defense, if established,
25 shall be a complete bar to the action or proceeding,
26 notwithstanding, that after such act or omission, such administrative
27 regulation, order, ruling, approval, interpretation, practice, or
28 enforcement policy is modified or rescinded or is determined by
29 judicial authority to be invalid or of no legal effect. For the
30 purposes of this section, "authorized representative" means an
31 employee of the Department of Labor and Workforce Development
32 or the Division of Wage and Hour Compliance, as appropriate,
33 operating within the scope of his or her normal responsibilities.
34 (cf: P.L.1967, c.216, s.2)

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36 2. This act shall take effect immediately.

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STATEMENT

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41 This bill provides that the good faith defense against violations
42 of the "New Jersey State Wage and Hour Law" based on an
43 administrative regulation, ruling, approval, or interpretation by the
44 Commissioner of Labor and Workforce Development or the
45 Director of the Division of Wage and Hour Compliance be

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 expanded to include regulations, rulings, approval, or interpretation
2 by the authorized representatives of the commissioner or director.
3 Current law only provides the good faith defense for decisions made
4 by the commissioner or the director themselves. For the purposes of
5 this section, “authorized representative” means an employee of the
6 Department of Labor and Workforce Development or the Division
7 of Wage and Hour Compliance, as appropriate, operating within the
8 scope of his or her normal responsibilities.

9 This bill is in response to the issues raised by Branch v. Cream-
10 O-Land Dairy, 459 N.J. Super. 529 (App. Div. 2019) concerning a
11 violation of the law that was upheld as a violation because the
12 corrective ruling which the violator sought regarding compliance
13 was made by an employee of the Department of Labor and
14 Workforce Development, and not the commissioner.