

# SENATE, No. 562

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Senator DAWN MARIE ADDIEGO**

**District 8 (Atlantic, Burlington and Camden)**

**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.



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

3

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

6

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

9 23. Any employer who willfully hinders or delays the  
10 commissioner, the director or their authorized representatives in the  
11 performance of his duties in the enforcement of **[this act]** the "New  
12 Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et  
13 seq.), or fails to make, keep, and preserve any records as required  
14 under the provisions of **[this act]** P.L.1966, c.113 (C.34:11-56a et  
15 seq.), or falsifies any such record, or refuses to make any such  
16 record accessible to the commissioner, the director or their  
17 authorized representatives upon demand, or refuses to furnish a  
18 sworn statement of such record or any other information required  
19 for the proper enforcement of **[this act]** P.L.1966, c.113 (C.34:11-  
20 56a et seq.) to the commissioner, the director or their authorized  
21 representatives upon demand, or pays or agrees to pay wages at a  
22 rate less than the rate applicable under **[this act]** P.L.1966,  
23 c.113 (C.34:11-56a et seq.) or any wage order issued pursuant  
24 thereto, or otherwise violates any provision of **[this act]** P.L.1966,  
25 c.113 (C.34:11-56a et seq.) or of any regulation or order issued  
26 under **[this act]** P.L.1966, c.113 (C.34:11-56a et seq.) shall be  
27 guilty of a disorderly persons offense and shall, upon conviction for  
28 a first violation, be punished by a fine of not less than **[\$100]** \$500  
29 nor more than \$1,000 or by imprisonment for not less than 10 nor  
30 more than 90 days or by both the fine and imprisonment and, upon  
31 conviction for a second **[or subsequent]** violation, be punished by a  
32 fine of not less than **[\$500]** \$1,000 nor more than **[\$1,000]** \$2,000  
33 or by imprisonment for not less than 10 nor more than 100 days or  
34 by both the fine and imprisonment. Upon conviction for a third or  
35 subsequent violation, an employer shall be guilty of a crime of the  
36 fourth degree and be punished by a fine of not less than \$2,000 nor  
37 more than \$10,000 or by imprisonment for up to 18 months or by  
38 both the fine and imprisonment. Each week, in any day of which an  
39 employee is paid less than the rate applicable to him under **[this**  
40 **act]** P.L.1966, c.113 (C.34:11-56a et seq.) or under a minimum fair  
41 wage order, and each employee so paid, shall constitute a separate  
42 offense.

43 As an alternative to or in addition to any other sanctions  
44 provided by law for violations of the "New Jersey State Wage and  
45 Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), when the  
46 Commissioner of Labor and Workforce Development finds that an

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

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34 2. This act shall take effect immediately.

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## 38 STATEMENT

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40 This bill revises certain penalties for violations of the "New  
41 Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et  
42 seq.). The bill provides that an employer who violates any provision  
43 of that law is, upon conviction of a first or second violation, guilty  
44 of a disorderly persons offense, and, upon conviction of a third or  
45 subsequent offense, guilty of a crime of the fourth degree.

46 Current law states that for a first violation, an employer is guilty  
47 of a disorderly persons offense and may be punished by a fine of  
48 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

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1 increases the fines for a first violation to an amount not less than  
2 \$500, but maintains the maximum fine of not more than \$1,000.  
3 Current law also states that for a second or subsequent violation, an  
4 employer is guilty of a disorderly persons offense and may be  
5 punished by a fine of not less than \$500 and not more than \$1,000,  
6 by imprisonment for not less than 10 and not more than 100 days,  
7 or both. The bill increases the fines for a second violation to an  
8 amount not less than \$1,000 and not more than \$2,000. Finally, the  
9 bill provides that a third or subsequent violation constitutes a crime  
10 of the fourth degree, punishable by a fine of not less than \$2,000  
11 and not more than \$10,000, by imprisonment for up to 18 months,  
12 or both.