

ASSEMBLY, No. 1758

STATE OF NEW JERSEY

INTRODUCED MARCH 25, 1996

By Assemblymen ROMA and ROBERTS

1 AN ACT concerning the notification of public works subcontractors
2 and amending of P.L.1963, c.150.

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

9 11. Any employer who willfully hinders or delays the commissioner
10 in the performance of his duties in the enforcement of this act, or fails
11 to make, keep, and preserve any records as required under the
12 provisions of this act, or falsifies any such record, or refuses to make
13 any such record accessible to the commissioner upon demand, or
14 refuses to furnish a sworn statement of such record or any other
15 information required for the proper enforcement of this act to the
16 commissioner upon demand, or pays or agrees to pay wages at a rate
17 less than the rate applicable under this act, or fails to notify a
18 subcontractor of the employer of any responsibility the subcontractor
19 has to pay wages at the rate applicable under this act, or otherwise
20 violates any provision of this act or of any regulation or order issued
21 under this act shall be guilty of a disorderly persons offense and shall,
22 upon conviction therefor, be fined not less than \$100.00 nor more than
23 \$1,000 or be imprisoned for not less than 10 nor more than 90 days,
24 or by both such fine and imprisonment. Each week, in any day of
25 which a worker is paid less than the rate applicable to him under this
26 act and each worker so paid, shall constitute a separate offense.

27 As an alternative to or in addition to any other sanctions provided
28 by law for violations of any provision of P.L.1963, c.150
29 (C.34:11-56.25 et seq.), when the Commissioner of Labor finds that
30 an employer has violated that act, the commissioner is authorized to
31 assess and collect administrative penalties, up to a maximum of \$250
32 for a first violation and up to a maximum of \$500 for each subsequent
33 violation, specified in a schedule of penalties to be promulgated as a
34 rule or regulation by the commissioner in accordance with the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.). When determining the amount of the penalty imposed because
3 of a violation, the commissioner shall consider factors which include
4 the history of previous violations by the employer, the seriousness of
5 the violation, the good faith of the employer and the size of the
6 employer's business. No administrative penalty shall be levied
7 pursuant to this section unless the Commissioner of Labor provides the
8 alleged violator with notification of the violation and of the amount of
9 the penalty by certified mail and an opportunity to request a hearing
10 before the commissioner or his designee within 15 days following the
11 receipt of the notice. If a hearing is requested, the commissioner shall
12 issue a final order upon such hearing and a finding that a violation has
13 occurred. If no hearing is requested, the notice shall become a final
14 order upon expiration of the 15-day period. Payment of the penalty is
15 due when a final order is issued or when the notice becomes a final
16 order. Any penalty imposed pursuant to this section may be recovered
17 with costs in a summary proceeding commenced by the commissioner
18 pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).
19 Any sum collected as a fine or penalty pursuant to this section shall be
20 applied toward enforcement and administration costs of the Division
21 of Workplace Standards in the Department of Labor.
22 (cf: P.L.1991, c.205, s.18)

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24 2. This act shall take effect immediately.

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STATEMENT

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29 This bill amends the prevailing wage act, P.L.1963, c.150 (C.34:11-
30 56.25 et seq.) to impose penalties on any public works contractor who
31 fails to notify any subcontractor of the contractor of whatever
32 responsibility the subcontractor has to pay wages at the rate applicable
33 under that act. The penalties are the same as the penalties for other
34 violations of the act and include fines, imprisonment or both.

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Concerns public works subcontractors.