

New Jersey's Wage Theft Act Dramatically Increases Potential Penalties for Employers Over Wage and Hour Violations

The Wage Theft Act in New Jersey creates new dangers for employers in the wage and hour landscape and will likely lead to a significant increase in litigation.

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In line with several new laws passed this year in New Jersey aimed at increasing protections for workers in New Jersey – including [changes to the New Jersey Family Leave Act](#) and the [New Jersey Law Against Discrimination](#), and a [raise in the minimum wage](#) – Acting Governor Sheila Oliver signed the New Jersey Wage Theft Act (the “Act”) into law on August 6, 2019. The Act is positioned to make New Jersey’s wage and hour laws one of the strongest and most protective in the nation.

First, the Act significantly increases the civil penalties and fines for employers who violate the wage and hour laws. For example, employers who are found liable for a failure to pay wages will be required to pay treble damages: they must pay both the wages owed *plus* liquidated damages in the amount of 200% of the wages owed. Although an employer may avoid payment of liquidated damages for a first offense if the failure to pay was inadvertent, the employer would nevertheless have to admit to the underlying violation and pay the amount owed within 30 days. Critically, the Act also imposes potential criminal and administrative penalties for such wage and hour violations, including fines and even jail time.

Second, the Act creates significant legal hurdles for employers facing wage and hour complaints. For example, if an employer takes an adverse action against an employee within 90 days of the filing a wage and hour complaint, there is a legal presumption of retaliation. Similar legal presumptions in favor of the employee will be made when an employer fails to keep detailed records of an employee’s daily hours worked and wages paid.

Third, the Act applies to more than just wage payments, and covers an employer’s failure to pay health benefits, pensions, medical treatment, disability benefits and worker’s compensation. The Act also extends the statute of limitations for certain wage claims to six years.

In sum, the Act greatly expands protections for employees and will likely result in a significant increase in litigation over wage and hour disputes in the near future. Employers should work closely with their accounting and human resources departments to ensure compliance with the State’s wage and hour laws and to continuously monitor and expeditiously correct any wage or benefits payment errors.

If you have any questions concerning this law and how it may affect your employment policies or procedures, or if you have any other employment law questions, please contact DanaLynn T. Colao or Monvan Hu of Saiber LLC’s Employment and Labor Law practice.