

SENATE SUBSTITUTE FOR
SENATE, No. 2869

STATE OF NEW JERSEY

221st LEGISLATURE

ADOPTED MAY 13, 2024

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

Senator ANGELA V. MCKNIGHT

District 31 (Hudson)

Assemblywoman ALIXON COLLAZOS-GILL

District 27 (Essex and Passaic)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex and Hudson)

Co-Sponsored by:

**Senator Pou, Assemblywoman Hall, Assemblyman Rodriguez,
Assemblywomen Ramirez, Reynolds-Jackson, Assemblymen Sampson,
Miller, Hutchison, Bailey, Assemblywoman Lopez, Assemblyman Stanley,
Assemblywomen Sumter, Murphy and Haider**

SYNOPSIS

Establishes penalties for employers who disclose or threaten to disclose employee's immigration status for purpose of concealing violation of State wage, benefit or tax laws.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.

(Sponsorship Updated As Of: 6/28/2024)

1 **AN ACT** concerning violations of employment rights of immigrant
2 workers and supplementing Title 34 of the Revised Statutes.

3

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

6

7 1. a. If the Commissioner of Labor and Workforce Development
8 finds that an employer has, for the purpose of concealing any
9 violation of State wage, benefit and tax laws, disclosed or threatened
10 to disclose to a public body an employee's immigration status, the
11 commissioner is, in addition to imposing any other remedies or
12 penalties authorized by law, authorized to assess and collect an
13 administrative penalty as follows:

14 (1) for the first violation, an administrative penalty not to exceed
15 \$1,000;

16 (2) for the second violation, an administrative penalty not to
17 exceed \$5,000; and

18 (3) for any subsequent violation, an administrative penalty not to
19 exceed \$10,000.

20 b. When determining the amount of the administrative penalty
21 imposed pursuant to subsection a. of this section, the commissioner
22 shall consider factors which include the history of previous violations
23 by the employer, the seriousness of the violation, the good faith of
24 the employer and the size of the employer's business. No
25 administrative penalty shall be levied pursuant to this section unless
26 the commissioner provides the alleged violator with notification of
27 the violation and of the amount of administrative penalty, and unless
28 the commissioner provides the alleged violator an opportunity to
29 request a hearing before the commissioner or the commissioner's
30 designee.

31 c. For violations of subsection a. of this section that occur for
32 the purpose of concealing a violation of any State wage, benefit or
33 tax law, other than the State unemployment and disability benefits
34 laws, the alleged violator may request a hearing within 15 days
35 following receipt of the notice. If a hearing is requested, the
36 commissioner shall issue a final order upon such hearing and a
37 finding that the violation has occurred. If no hearing is requested,
38 the notice shall become a final order upon expiration of the 15-day
39 period. For violations subject to this subsection c., payment of the
40 administrative penalty shall be due when the final order is issued or
41 when the notice becomes the final order.

42 d. For violations of subsection a. of this section that occur for
43 the purpose of concealing a violation of the State unemployment and
44 disability benefits laws, the alleged violator may request a hearing in
45 the manner and within the time prescribed by those laws, and
46 payment of the administrative penalty shall be due when assessment
47 for contributions, penalties and interest are due pursuant to

1 subsection (d) of R.S.43:21-14 or section 31 of P.L.1948, c.110
2 (C.43:21-55).

3 e. Any administrative penalty imposed pursuant to this section
4 may be recovered with costs in a summary proceeding commenced
5 by the commissioner pursuant to the “Penalty Enforcement Law of
6 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).

7 f. Any sum collected as an administrative penalty pursuant to
8 this section shall be applied toward enforcement and administration
9 costs of the Division of Wage and Hour Compliance within the
10 Department of Labor and Workforce Development responsible for
11 enforcement of the State wage, benefit or tax law the violation of
12 which the employer sought to conceal by disclosing or threatening to
13 disclose an employee’s immigration status. Nothing in this section
14 shall prevent the commissioner from assessing interest, penalties, or
15 other fees allowable by law.

16 g. For purposes of this section, “State wage, benefit and tax
17 laws” means “State wage, benefit and tax laws” as defined in section
18 1 of P.L.2009, c.194 (C.34:1A-1.11), and “State unemployment and
19 disability benefits laws” means the “unemployment compensation
20 law,” R.S.43:21-1 et seq., and the “Temporary Disability Benefits
21 Law,” P.L.1948, c.110 (C.43:21-25 et al.).
22

23 2. This act shall take effect immediately.
24
25

26 STATEMENT

27
28 This bill provides that if the Commissioner of Labor and
29 Workforce Development finds that an employer has, for the purpose
30 of concealing any violation of State wage, benefit and tax laws,
31 disclosed or threatened to disclose to a public body an employee’s
32 immigration status, the commissioner is, in addition to imposing any
33 other remedies or penalties authorized by law, authorized to assess
34 and collect an administrative penalty against the employer.
35 Specifically, the bill provides for administrative penalties as follows:

36 (1) for the first violation, an administrative penalty not to exceed
37 \$1,000;

38 (2) for the second violation, an administrative penalty not to
39 exceed \$5,000; and

40 (3) for any subsequent violation, an administrative penalty not to
41 exceed \$10,000.

42 When determining the amount of the administrative penalty
43 imposed pursuant to the bill’s provisions, the commissioner may
44 consider factors which include the history of previous violations by
45 the employer, the seriousness of the violation, the good faith of the
46 employer and the size of the employer’s business. The commissioner

1 may not levy an administrative penalty pursuant to the bill's
2 provisions unless the commissioner provides the alleged violator
3 with notification of the violation and of the amount of administrative
4 penalty, and unless the commissioner provides the alleged violator
5 an opportunity to request a hearing before the commissioner or the
6 commissioner's designee.