

# STATE OF NEW YORK

8856

## IN ASSEMBLY

(Prefiled)

January 4, 2012

Introduced by M. of A. GABRYSZAK -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to eliminating an employer's annual notice requirement

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 1 of section 195 of the labor  
2 law, as amended by chapter 564 of the laws of 2010, is amended to read  
3 as follows:

4 (a) provide his or her employees, in writing in English and in the  
5 language identified by each employee as the primary language of such  
6 employee, at the time of hiring, [~~and on or before February first of~~  
7 ~~each subsequent year of the employee's employment with the employer,]~~ a  
8 notice containing the following information: the rate or rates of pay  
9 and basis thereof, whether paid by the hour, shift, day, week, salary,  
10 piece, commission, or other; allowances, if any, claimed as part of the  
11 minimum wage, including tip, meal, or lodging allowances; the regular  
12 pay day designated by the employer in accordance with section one  
13 hundred ninety-one of this article; the name of the employer; any "doing  
14 business as" names used by the employer; the physical address of the  
15 employer's main office or principal place of business, and a mailing  
16 address if different; the telephone number of the employer; plus such  
17 other information as the commissioner deems material and necessary. Each  
18 time the employer provides such notice to an employee, the employer  
19 shall obtain from the employee a signed and dated written acknowledge-  
20 ment, in English and in the primary language of the employee, of receipt  
21 of this notice, which the employer shall preserve and maintain for six  
22 years. Such acknowledgement shall include an affirmation by the employee  
23 that the employee accurately identified his or her primary language to  
24 the employer, and that the notice provided by the employer to such  
25 employee pursuant to this subdivision was in the language so identified  
26 or otherwise complied with paragraph (c) of this subdivision, and shall  
27 conform to any additional requirements established by the commissioner

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 with regard to content and form. For all employees who are not exempt  
2 from overtime compensation as established in the commissioner's minimum  
3 wage orders or otherwise provided by New York state law or regulation,  
4 the notice must state the regular hourly rate and overtime rate of pay;  
5 § 2. This act shall take effect immediately.

BILL NUMBER: A8856

SPONSOR: Gabryszak

TITLE OF BILL: An act to amend the labor law, in relation to eliminating an employer's annual notice requirement

PURPOSE: To eliminate the requirement for private sector businesses to produce an annual notice requirement to every employee.

SUMMARY OF PROVISIONS: Section 1 amends section 195 of the labor law, as amended by chapter 564 of the laws of 2010, to remove the clause "and on or before February first of each subsequent year of the employee's employment with the employer."

JUSTIFICATION: Although the Wage Theft Prevention Act of 2010 was enacted with good intentions, there is a major flaw in its provisions. It created a costly and repetitious annual written pay notice that is mandated to be provided by all private sector employers to all employees between January 1" and January 31" of each year. This bill amends the "Wage Theft Prevention Act of 2010" to eliminate the annual requirement of a written pay notice by all private employers for every employee, as well as the requirement that each year the employer must obtain written acknowledgement of the given notice from every employee and retain it for six years. This mandate imposes new and substantial cost to every private sector employer in New York State, from hundreds of dollars for small employers to thousands of dollars for large employers. This obligation is in addition to requirements that private employers also provide every new employee with a written pay notice, as well as additionally on paycheck stub information for all employees on every paycheck. Nearly all the information on this annual requirement can be found on each employee's paycheck stub and the additional notice given to incoming employees. This legislation seeks to remove a costly repetition in the law by eliminating only the annual notice and continuing all other provisions of the act.

LEGISLATIVE HISTORY: New Legislation.

FISCAL IMPLICATIONS: None to the state. Cost savings to business.

EFFECTIVE DATE:; This act shall take effect immediately.