

§639. Wage theft remedies**(REALLOCATED FROM TITLE 26, SECTION 637)**

1. Wage theft; defined. For the purposes of this section, "wage theft" means a violation of section 621-A, 622, 623, 626, 629, 629-A or 664.

[PL 2019, c. 461, §1 (NEW); RR 2019, c. 1, Pt. A, §31 (RAL).]

2. Injunction. In addition to other remedies allowed by this chapter, the Department of Labor or any person or persons injured by an unlawful wage payment practice or policy that causes direct harm to workers may bring an action for injunctive relief to enjoin further wage theft. If a party seeking an injunction prevails, the employer is liable to pay the cost of suit, including a reasonable attorney's fee.

[PL 2019, c. 461, §1 (NEW); RR 2019, c. 1, Pt. A, §31 (RAL).]

3. Issuance of a cease operations order. The Commissioner of Labor or the commissioner's designee may order an employer to cease its business operations if the commissioner or the commissioner's designee determines that the employer has committed wage theft, the commissioner or the commissioner's designee has previously determined the employer's practice or policy resulted in wage theft on more than one occasion or within the last 12 months and:

A. The practice or policy resulting in the wage theft affects 10 or more employees; or [RR 2019, c. 1, Pt. A, §31 (RAL).]

B. The wage theft is equal to or greater than twice an employee's average weekly wage. [PL 2019, c. 461, §1 (NEW); RR 2019, c. 1, Pt. A, §31 (RAL).]

The commissioner or the commissioner's designee shall provide the employer with notice and an opportunity to be heard 3 business days before the effective date of an order issued pursuant to this subsection. The issuance of a cease operations order constitutes final agency action. The commissioner or the commissioner's designee shall issue the cease operations order as narrowly as is determined necessary. Any person who is aggrieved by the imposition of a cease operations order has 10 days from the date of its service to make a request to the commissioner or the commissioner's designee for a hearing. The hearing must be held within 7 business days of the request. The hearing officer shall issue a decision within 5 business days of the hearing.

If an employer refuses to obey an order to cease operations, that order may be enforced in Superior Court.

[PL 2019, c. 461, §1 (NEW); RR 2019, c. 1, Pt. A, §31 (RAL).]

4. Stay of cease operations order. The Commissioner of Labor or the commissioner's designee shall stay the issuance of a cease operations order under subsection 3 if the employer provides evidence acceptable to the commissioner or the commissioner's designee that the employer has paid the employee or employees for the amount of unpaid wages and benefits owed and has implemented wage payment practices and policies that comply with this chapter.

[PL 2019, c. 461, §1 (NEW); RR 2019, c. 1, Pt. A, §31 (RAL).]

5. Rules. The Commissioner of Labor shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2019, c. 461, §1 (NEW); RR 2019, c. 1, Pt. A, §31 (RAL).]

SECTION HISTORY

PL 2019, c. 461, §1 (NEW). RR 2019, c. 1, Pt. A, §31 (RAL).

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