

## **“Article 6. Payment of Wages”**

### **New York Consolidated Laws, Labor Law - LAB § 190. Definitions**

As used in this article:

1. “Wages” means the earnings of an employee for labor or services rendered, regardless of whether the amount of earnings is determined on a time, piece, commission or other basis. The term “wages” also includes benefits or wage supplements as defined in [section one hundred ninety-eight-c](#) of this article, except for the purposes of [sections one hundred ninety-one](#) and [one hundred ninety-two](#) of this article.
2. “Employee” means any person employed for hire by an employer in any employment.
3. “Employer” includes any person, corporation, limited liability company, or association employing any individual in any occupation, industry, trade, business or service. The term “employer” shall not include a governmental agency.
4. “Manual worker” means a mechanic, workingman or laborer.
5. “Railroad worker” means any person employed by an employer who operates a steam, electric or diesel surface railroad or is engaged in the sleeping car business. The term “railroad worker” shall not include a person employed in an executive capacity.
6. “Commission salesman” means any employee whose principal activity is the selling of any goods, wares, merchandise, services, real estate, securities, insurance or any article or thing and whose earnings are based in whole or in part on commissions. The term “commission salesman” does not include an employee whose principal activity is of a supervisory, managerial, executive or administrative nature.
7. “Clerical and other worker” includes all employees not included in subdivisions four, five and six of this section, except any person employed in a bona fide executive, administrative or professional capacity whose earnings are in excess of nine hundred dollars a week.
8. “Week” means a calendar week or a regularly established payroll week. “Month” means a calendar month or a regularly established fiscal month.
9. “Non-profitmaking organization” means a corporation, unincorporated association, community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

### **New York Consolidated Laws, Labor Law - LAB § 191. Frequency of payments**

1. Every employer shall pay wages in accordance with the following provisions:

a. Manual worker.--- (i) A manual worker shall be paid weekly and not later than seven calendar days after the end of the week in which the wages are earned; provided however that a manual worker employed by an employer authorized by the commissioner pursuant to subparagraph (ii) of this paragraph or by a non-profitmaking organization shall be paid in accordance with the agreed terms of employment, but not less frequently than semi-monthly.

(ii) The commissioner may authorize an employer which has in the three years preceding the application employed an average of one thousand or more persons in this state or has for one year preceding the application employed an average of one thousand or more persons in this state and has for three years preceding the application employed an average of three thousand or more persons outside the state to pay less frequently than weekly but not less frequently than semi-monthly if the employer furnishes satisfactory proof to the commissioner of its continuing ability to meet its payroll responsibilities. In making this determination the commissioner shall consider the following: (A) the employer's history meeting its payroll responsibilities in New York state or if no such history in New York state is available, other financial information, as requested by the commissioner, which will assist the commissioner in determining the likelihood of the employer's continuing ability to meet payroll responsibilities; (B) proof of the employer's coverage for workers' compensation and disability; (C) proof that there are no outstanding warrants of the department of taxation and finance or the department of labor against the employer for failure to remit state personal income tax withholdings or unemployment insurance contributions; and (D) proof that the employer has a computerized record keeping system for payroll which, at a minimum, specifies hours worked, rate of pay, gross wages, deductions and date of pay for each employee. If the employers' manual workers are represented by a labor organization, the commissioner shall not grant an employer's application for authorization under this subparagraph unless that labor organization consents thereto.

Upon notice to the employer and an opportunity to be heard, the commissioner may rescind such authorization whenever the commissioner has determined, based upon the factors enumerated above, that the employer is no longer able to meet its payroll responsibilities as previously authorized.

b. Railroad worker.--- A railroad worker shall be paid on or before Thursday of each week the wages earned during the seven-day period ending on Tuesday of the preceding week; and provided further that at the written request and notification of address by any employee, every railroad corporation, with the exception of those commuter railroads under the jurisdiction of the metropolitan transportation authority, shall mail every check for wages of such employee via the United States postal service, first class mail.

c. Commission salespersons.--A commission salesperson shall be paid the wages, salary, drawing account, commissions and all other monies earned or payable in accordance with the agreed terms of employment, but not less frequently than once in each month and not later than the last day of the month following the month in which they are earned; provided, however, that if monthly or more frequent payment of wages, salary, drawing accounts or commissions are substantial, then additional compensation earned, including but not limited to extra or incentive earnings, bonuses and special payments, may be paid less frequently than once in each month,

but in no event later than the time provided in the employment agreement or compensation plan. The employer shall furnish a commission salesperson, upon written request, a statement of earnings paid or due and unpaid. The agreed terms of employment shall be reduced to writing, signed by both the employer and the commission salesperson, kept on file by the employer for a period not less than three years and made available to the commissioner upon request. Such writing shall include a description of how wages, salary, drawing account, commissions and all other monies earned and payable shall be calculated. Where the writing provides for a recoverable draw, the frequency of reconciliation shall be included. Such writing shall also provide details pertinent to payment of wages, salary, drawing account, commissions and all other monies earned and payable in the case of termination of employment by either party. The failure of an employer to produce such written terms of employment, upon request of the commissioner, shall give rise to a presumption that the terms of employment that the commissioned salesperson has presented are the agreed terms of employment.

d. Clerical and other worker.--A clerical and other worker shall be paid the wages earned in accordance with the agreed terms of employment, but not less frequently than semi-monthly, on regular pay days designated in advance by the employer.

2. No employee shall be required as a condition of employment to accept wages at periods other than as provided in this section.

3. If employment is terminated, the employer shall pay the wages not later than the regular pay day for the pay period during which the termination occurred, as established in accordance with the provisions of this section. If requested by the employee, such wages shall be paid by mail.

### **New York Consolidated Laws, Labor Law - LAB § 191-a. Definitions**

For purposes of this article the term:

(a) "Commission" means compensation accruing to a sales representative for payment by a principal, the rate of which is expressed as a percentage of the dollar amount of wholesale orders or sales.

(b) "Earned commission" means a commission due for services or merchandise which is due according to the terms of an applicable contract or, when there is no applicable contractual provision, a commission due for merchandise which has actually been delivered to, accepted by, and paid for by the customer, notwithstanding that the sales representative's services may have terminated.

(c) "Principal" means a person or company engaged in the business of manufacturing, and who:

(1) Manufactures, produces, imports, or distributes a product for wholesale;

(2) Contracts with a sales representative to solicit orders for the product; and

(3) Compensates the sales representative in whole or in part by commissions.

(d) “Sales representative” means a person or entity who solicits orders in New York state and is not covered by [subdivision six of section one hundred ninety](#) and [paragraph \(c\) of subdivision one of section one hundred ninety-one](#) of this article because he or she is an independent contractor, but does not include one who places orders for his own account for resale.

### **New York Consolidated Laws, Labor Law - LAB § 191-b. Contracts with sales representatives**

1. When a principal contracts with a sales representative to solicit wholesale orders within this state, the contract shall be in writing and shall set forth the method by which the commission is to be computed and paid.
2. The principal shall provide each sales representative with a signed copy of the contract. The principal shall obtain a signed receipt for the contract from each sales representative.
3. A sales representative during the course of the contract, shall be paid the earned commission and all other monies earned or payable in accordance with the agreed terms of the contract, but not later than five business days after the commission has become earned.

### **New York Consolidated Laws, Labor Law - LAB § 191-c. Payment of sales commission**

1. When a contract between a principal and a sales representative is terminated, all earned commissions shall be paid within five business days after termination or within five business days after they become due in the case of earned commissions not due when the contract is terminated.
2. The earned commission shall be paid to the sales representative at the usual place of payment unless the sales representative requests that the commission be sent to him or her through the mails. If the commissions are sent to the sales representative by mail, the earned commissions shall be deemed to have been paid as of the date of their postmark for purposes of this section.
3. A principal who fails to comply with the provisions of this section concerning timely payment of all earned commissions shall be liable to the sales representative in a civil action for double damages. The prevailing party in any such action shall be entitled to an award of reasonable attorney's fees, court costs, and disbursements.

### **New York Consolidated Laws, Labor Law - LAB § 192. Cash payment of wages**

1. No employer shall without the advance written consent of any employee directly pay or deposit the net wage or salary of such employee in a bank or other financial institution.

2. This section shall not apply to any person employed in a bona fide executive, administrative, or professional capacity whose earnings are in excess of nine hundred dollars a week, nor to employees working on a farm not connected with a factory.

3. *Redesignated 2 by [L.1994, c. 170, § 205](#).*

### **New York Consolidated Laws, Labor Law - LAB § 193. Deductions from wages**

<[Eff. Nov. 6, 2020, pursuant to [L.2012, c. 451, § 3](#). See, also, other [§ 193](#).]>

1. No employer shall make any deduction from the wages of an employee, except deductions which:

a. are made in accordance with the provisions of any law or any rule or regulation issued by any governmental agency; or

b. are expressly authorized in writing by the employee and are for the benefit of the employee; provided that such authorization is kept on file on the employer's premises. Such authorized deductions shall be limited to payments for insurance premiums, pension or health and welfare benefits, contributions to charitable organizations, payments for United States bonds, payments for dues or assessments to a labor organization, and similar payments for the benefit of the employee.

2. No employer shall make any charge against wages, or require an employee to make any payment by separate transaction unless such charge or payment is permitted as a deduction from wages under the provisions of subdivision one of this section.

3. Nothing in this section shall justify noncompliance with article three-A of the personal property law relating to assignment of earnings, nor with any other law applicable to deductions from wages.

### **New York Consolidated Laws, Labor Law - LAB § 194. Differential in rate of pay because of sex prohibited**

1. No employee shall be paid a wage at a rate less than the rate at which an employee of the opposite sex in the same establishment is paid for equal work on a job the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions, except where payment is made pursuant to a differential based on:

a. a seniority system;

b. a merit system;

c. a system which measures earnings by quantity or quality of production; or

d. a bona fide factor other than sex, such as education, training, or experience. Such factor: (i) shall not be based upon or derived from a sex-based differential in compensation and (ii) shall be job-related with respect to the position in question and shall be consistent with business necessity. Such exception under this paragraph shall not apply when the employee demonstrates (A) that an employer uses a particular employment practice that causes a disparate impact on the basis of sex, (B) that an alternative employment practice exists that would serve the same business purpose and not produce such differential, and (C) that the employer has refused to adopt such alternative practice.

2. For the purpose of subdivision one of this section, “business necessity” shall be defined as a factor that bears a manifest relationship to the employment in question.

3. For the purposes of subdivision one of this section, employees shall be deemed to work in the same establishment if the employees work for the same employer at workplaces located in the same geographical region, no larger than a county, taking into account population distribution, economic activity, and/or the presence of municipalities.

4. (a) No employer shall prohibit an employee from inquiring about, discussing, or disclosing the wages of such employee or another employee.

(b) An employer may, in a written policy provided to all employees, establish reasonable workplace and workday limitations on the time, place and manner for inquires about, discussion of, or the disclosure of wages. Such limitations shall be consistent with standards promulgated by the commissioner and shall be consistent with all other state and federal laws. Such limitations may include prohibiting an employee from discussing or disclosing the wages of another employee without such employee's prior permission.

(c) Nothing in this subdivision shall require an employee to disclose his or her wages. The failure of an employee to adhere to such reasonable limitations in such written policy shall be an affirmative defense to any claims made against an employer under this subdivision, provided that any adverse employment action taken by the employer was for failure to adhere to such reasonable limitations and not for mere inquiry, discussion or disclosure of wages in accordance with such reasonable limitations in such written policy.

(d) This prohibition shall not apply to instances in which an employee who has access to the wage information of other employees as a part of such employee's essential job functions discloses the wages of such other employees to individuals who do not otherwise have access to such information, unless such disclosure is in response to a complaint or charge, or in furtherance of an investigation, proceeding, hearing, or action under this chapter, including an investigation conducted by the employer.

(e) Nothing in this section shall be construed to limit the rights of an employee provided under any other provision of law or collective bargaining agreement.

## **New York Consolidated Laws, Labor Law - LAB § 195. Notice and record-keeping requirements**

Every employer shall:

1. (a) provide his or her employees, in writing in English and in the language identified by each employee as the primary language of such employee, at the time of hiring, a notice containing the following information: the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances; the regular pay day designated by the employer in accordance with [section one hundred ninety-one](#) of this article; the name of the employer; any “doing business as” names used by the employer; the physical address of the employer's main office or principal place of business, and a mailing address if different; the telephone number of the employer; plus such other information as the commissioner deems material and necessary. Each time the employer provides such notice to an employee, the employer shall obtain from the employee a signed and dated written acknowledgement, in English and in the primary language of the employee, of receipt of this notice, which the employer shall preserve and maintain for six years. Such acknowledgement shall include an affirmation by the employee that the employee accurately identified his or her primary language to the employer, and that the notice provided by the employer to such employee pursuant to this subdivision was in the language so identified or otherwise complied with paragraph (c) of this subdivision, and shall conform to any additional requirements established by the commissioner with regard to content and form. For all employees who are not exempt from overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by New York state law or regulation, the notice must state the regular hourly rate and overtime rate of pay;
- (b) The commissioner shall prepare templates that comply with the requirements of paragraph (a) of this subdivision. Each such template shall be dual-language, including English and one additional language. The commissioner shall determine, in his or her discretion, which languages to provide in addition to English, based on the size of the New York state population that speaks each language and any other factor that the commissioner shall deem relevant. All such templates shall be made available to employers in such manner as determined by the commissioner;
- (c) When an employee identifies as his or her primary language a language for which a template is not available from the commissioner, the employer shall comply with this subdivision by providing that employee an English-language notice or acknowledgment;
- (d) An employer shall not be penalized for errors or omissions in the non-English portions of any notice provided by the commissioner;
- (e) The commissioner shall have discretion to waive or alter requirements of paragraph (a) of this subdivision for temporary help firms as defined in [section nine hundred sixteen](#) of this chapter.

2. notify his or her employees in writing of any changes to the information set forth in subdivision one of this section, at least seven calendar days prior to the time of such changes, unless such changes are reflected on the wage statement furnished in accordance with subdivision three of this section;

3. furnish each employee with a statement with every payment of wages, listing the following: the dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; and net wages. For all employees who are not exempt from overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by New York state law or regulation, the statement shall include the regular hourly rate or rates of pay; the overtime rate or rates of pay; the number of regular hours worked, and the number of overtime hours worked. For all employees paid a piece rate, the statement shall include the applicable piece rate or rates of pay and number of pieces completed at each piece rate. Upon the request of an employee, an employer shall furnish an explanation in writing of how such wages were computed;

3-a. in addition, every railroad corporation shall furnish each employee with a statement with every payment of wages listing accrued total earnings and taxes to date and further furnish said employee at the same time with a separate listing of his daily wages and how they were computed;

4. establish, maintain and preserve for not less than six years contemporaneous, true, and accurate payroll records showing for each week worked the hours worked; the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; and net wages for each employee. For all employees who are not exempt from overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by New York state law or regulation, the payroll records shall include the regular hourly rate or rates of pay, the overtime rate or rates of pay, the number of regular hours worked, and the number of overtime hours worked. For all employees paid a piece rate, the payroll records shall include the applicable piece rate or rates of pay and number of pieces completed at each piece rate;

5. notify his employees in writing or by publicly posting the employer's policy on sick leave, vacation, personal leave, holidays and hours.

6. notify any employee terminated from employment, in writing, of the exact date of such termination as well as the exact date of cancellation of employee benefits connected with such termination. In no case shall notice of such termination be provided more than five working days after the date of such termination. Failure to notify an employee of cancellation of accident or health insurance subjects an employer to an additional penalty pursuant to [section two hundred seventeen](#) of this chapter.



## **New York Consolidated Laws, Labor Law - LAB § 196. Powers of commissioner**

1. In addition to the powers of the commissioner specified in other sections of this chapter, the commissioner shall have the following duties, powers and authority:
  - a. He or she shall investigate and attempt to adjust equitably controversies between employers and employees relating to this article, or article five, seven, nineteen or nineteen-A of this chapter.
  - b. He or she may take assignments of claims for wages under this chapter from employees or third parties in trust for such employees or for the benefit of various funds for such employees. All such assignments shall run to the commissioner and his or her successor in office. The commissioner may sue employers on wage claims thus assigned, with the benefits and subject to the provisions of existing law applying to actions by employees for collection of wages. He or she may join in a single action any number of wage claims against the same employer.
  - c. He or she may institute proceedings on account of any criminal violation of any provision of this article, or article five, seven, nineteen or nineteen-A of this chapter.
  - d. If it shall appear to him or her that any employer has been convicted of a violation of any provision of this article or article nineteen or nineteen-A of this chapter or that any order to comply issued against an employer under this chapter remains unsatisfied for a period of ten days after the time to appeal therefrom has expired, and that no appeal therefrom is then pending, the commissioner may require such employer to deposit with him or her a bond in such sum as he or she may deem sufficient and adequate in the circumstances, together with two or more sureties or a duly authorized surety company, to be approved by the commissioner. The bond shall be payable to the commissioner and shall be conditioned that the employer will, for a definite future period, not exceeding two years, pay his or her employees in accordance with the provisions of this article or article nineteen or nineteen-A of this chapter, and shall be further conditioned upon the payment by the employer of any amounts due pursuant to an order to comply or judgment against such employer pursuant to the provisions of this article or article nineteen or nineteen-A of this chapter.

If within ten days after demand for such bond, which demand may be made by certified or registered mail, such employer shall fail to deposit the same, the commissioner may bring an action in the name and on behalf of the people of the state of New York against such employer in the supreme court to compel such employer to furnish such a bond or to cease doing business until he or she has done so. The employer shall have the burden of proving that either such a bond is unnecessary or that the amount demanded is excessive. If the court finds that there is just cause for requiring the bond and that same is reasonably necessary or proper to secure prompt payment of the wages of the employees of such employer and his or her compliance with the provisions of this article or article nineteen or nineteen-A of this chapter, the court may enjoin such employer and such other person or persons as may have been or may be concerned with or in any way participating in the failure to pay the wages resulting in the conviction or order to comply as aforesaid, from doing business until the requirement is met and make other and further orders appropriate to compel compliance with the requirement.

If any order to comply issued against an employer under this article or article nineteen or nineteen-A of this chapter remains unsatisfied for a period of ten days after the time to appeal therefrom has expired, and that no appeal therefrom is then pending, the commissioner may require the employer to provide an accounting of assets of the employer, including but not limited to, a list of all bank accounts, accounts receivable, personal property, real property, automobiles or other vehicles, and any other assets, in a form and manner as prescribed by the commissioner. An employer shall provide such amended accountings of assets as the commissioner shall order. If within ten days after demand for such an accounting of assets, which demand may be made by certified or registered mail, such employer shall fail to provide same, or if the employer fails to provide an amended accounting as required under this section, the commissioner may bring an action in the name and on behalf of the people of the state of New York against such employer in the supreme court to compel such employer to furnish the accounting and pay a civil penalty of no more than ten thousand dollars.

e. He or she is hereby authorized and empowered to enter into reciprocal agreements with the labor department or corresponding agency of any other state or with the person, board, officer, or commission authorized to act on behalf of such department or agency, for the collection in such other states of claims and judgments for wages based upon claims assigned to the commissioner.

The commissioner may, to the extent provided for by any reciprocal agreement entered into by law or with any agency of another state as herein provided, maintain actions in the courts of such other state for the collection of claims and judgments for wages and may assign such claims and judgments to the labor department or agency of such other state for collection to the extent that such an assignment may be permitted or provided for by the law of such state or by reciprocal agreement.

The commissioner may, upon the written consent of the labor department or other corresponding agency of any other state or of any person, board, officer or commission of such state authorized to act on behalf of such labor department or corresponding agency, maintain actions in the courts of this state upon assigned claims and judgments for wages arising in such other state in the same manner and to the same extent that such actions by the commissioner are authorized when arising in this state. However, such actions may be maintained only in cases where such other state by law or reciprocal agreement extends a like comity to cases arising in this state.

2. Nothing in this section shall be construed as requiring the commissioner in every instance to investigate and attempt to adjust controversies, or to take assignments of wage claims, or to institute criminal prosecutions for any violation under this article or article five, seven, nineteen or nineteen-A of this chapter, but he or she shall be deemed vested with discretion in such matters.

**New York Consolidated Laws, Labor Law - LAB § 196-a. Complaints by employees to commissioner**

(a) Any employee; person or organization acting on the employee's behalf; or the recognized and certified collective bargaining agent acting on the employee's behalf, may file with the commissioner a complaint regarding a violation of this article, article five, seven, nineteen, or nineteen-A of this chapter for an investigation of such complaint and statement setting the appropriate remedy, if any. The commissioner shall keep the names of employees that are the subject of an investigation confidential until such time that disclosure is necessary for resolution of an investigation or a complaint. Failure of an employer to keep adequate records or provide statements of wages to employees as required under this chapter, in addition to exposing such employer to penalties authorized under [subdivision one of section two hundred eighteen](#) of this chapter, shall not operate as a bar to filing of a complaint by an employee. In such a case the employer in violation shall bear the burden of proving that the complaining employee was paid wages, benefits and wage supplements.

(b) Any employee, or the recognized and certified collective bargaining agent acting on the employee's behalf, contractor, or the recognized and certified labor organization with which the contractor has executed a collective bargaining agreement covering wages, benefits and supplements, may file with the commissioner a complaint regarding an alleged violation of this article or article nineteen of this chapter occasioned by another person, corporation, employer or entities in violation of article thirty-five-E of the general business law for an investigation of such complaint and statement setting the appropriate remedy, if any.

#### **New York Consolidated Laws, Labor Law - LAB § 196-d. Gratuities**

No employer or his agent or an officer or agent of any corporation, or any other person shall demand or accept, directly or indirectly, any part of the gratuities, received by an employee, or retain any part of a gratuity or of any charge purported to be a gratuity for an employee. This provision shall not apply to the checking of hats, coats or other apparel. Nothing in this subdivision shall be construed as affecting the allowances from the minimum wage for gratuities in the amount determined in accordance with the provisions of article nineteen of this chapter nor as affecting practices in connection with banquets and other special functions where a fixed percentage of the patron's bill is added for gratuities which are distributed to employees, nor to the sharing of tips by a waiter with a busboy or similar employee.

#### **New York Consolidated Laws, Labor Law - LAB § 197. Civil penalty**

Any employer who fails to pay the wages of his employees or shall differentiate in rate of pay because of sex, as provided in this article, shall forfeit to the people of the state the sum of five hundred dollars for each such failure, to be recovered by the commissioner in any legal action necessary, including administrative action or a civil action.

#### **New York Consolidated Laws, Labor Law - LAB § 198. Costs, remedies**

1. In any action instituted upon a wage claim by an employee or the commissioner in which the employee prevails, the court may allow such employee in addition to ordinary costs, a reasonable sum, not exceeding fifty dollars for expenses which may be taxed as costs. No assignee of a wage claim, except the commissioner, shall be benefited by this provision.

1-a. On behalf of any employee paid less than the wage to which he or she is entitled under the provisions of this article, the commissioner may bring any legal action necessary, including administrative action, to collect such claim and as part of such legal action, in addition to any other remedies and penalties otherwise available under this article, the commissioner shall assess against the employer the full amount of any such underpayment, and an additional amount as liquidated damages, unless the employer proves a good faith basis for believing that its underpayment of wages was in compliance with the law. Liquidated damages shall be calculated by the commissioner as no more than one hundred percent of the total amount of wages found to be due, except such liquidated damages may be up to three hundred percent of the total amount of the wages found to be due for a willful violation of [section one hundred ninety-four](#) of this article. In any action instituted in the courts upon a wage claim by an employee or the commissioner in which the employee prevails, the court shall allow such employee to recover the full amount of any underpayment, all reasonable attorney's fees, prejudgment interest as required under the civil practice law and rules, and, unless the employer proves a good faith basis to believe that its underpayment of wages was in compliance with the law, an additional amount as liquidated damages equal to one hundred percent of the total amount of the wages found to be due, except such liquidated damages may be up to three hundred percent of the total amount of the wages found to be due for a willful violation of [section one hundred ninety-four](#) of this article.

1-b. If any employee is not provided within ten business days of his or her first day of employment a notice as required by [subdivision one of section one hundred ninety-five](#) of this article, he or she may recover in a civil action damages of fifty dollars for each work day that the violations occurred or continue to occur, but not to exceed a total of five thousand dollars, together with costs and reasonable attorney's fees. The court may also award other relief, including injunctive and declaratory relief, that the court in its discretion deems necessary or appropriate.

On behalf of any employee not provided a notice as required by [subdivision one of section one hundred ninety-five](#) of this article, the commissioner may bring any legal action necessary, including administrative action, to collect such claim, and as part of such legal action, in addition to any other remedies and penalties otherwise available under this article, the commissioner may assess against the employer damages of fifty dollars for each work day that the violations occurred or continue to occur, but not to exceed a total of five thousand dollars. In any action or administrative proceeding to recover damages for violation of [paragraph \(a\) of subdivision one of section one hundred ninety-five](#) of this article, it shall be an affirmative defense that (i) the employer made complete and timely payment of all wages due pursuant to this article or article nineteen or article nineteen-A of this chapter to the employee who was not provided notice as required by [subdivision one of section one hundred ninety-five](#) of this article or (ii) the employer

reasonably believed in good faith that it was not required to provide the employee with notice pursuant to [subdivision one of section one hundred ninety-five](#) of this article.

1-d. If any employee is not provided a statement or statements as required by [subdivision three of section one hundred ninety-five](#) of this article, he or she shall recover in a civil action damages of two hundred fifty dollars for each work day that the violations occurred or continue to occur, but not to exceed a total of five thousand dollars, together with costs and reasonable attorney's fees. The court may also award other relief, including injunctive and declaratory relief, that the court in its discretion deems necessary or appropriate.

On behalf of any employee not provided a statement as required by [subdivision three of section one hundred ninety-five](#) of this article, the commissioner may bring any legal action necessary, including administrative action, to collect such claim, and as part of such legal action, in addition to any other remedies and penalties otherwise available under this article, the commissioner may assess against the employer damages of two hundred fifty dollars for each work day that the violations occurred or continue to occur, but not to exceed a total of five thousand dollars. In any action or administrative proceeding to recover damages for violation of [subdivision three of section one hundred ninety-five](#) of this article, it shall be an affirmative defense that (i) the employer made complete and timely payment of all wages due pursuant to this article or articles nineteen or nineteen-A of this chapter to the employee who was not provided statements as required by [subdivision three of section one hundred ninety-five](#) of this article or (ii) the employer reasonably believed in good faith that it was not required to provide the employee with statements pursuant to [paragraph \(e\) of subdivision one of section one hundred ninety-five](#) of this article.

2. The remedies provided by this article may be enforced simultaneously or consecutively so far as not inconsistent with each other.

3. Notwithstanding any other provision of law, an action to recover upon a liability imposed by this article must be commenced within six years. The statute of limitations shall be tolled from the date an employee files a complaint with the commissioner or the commissioner commences an investigation, whichever is earlier, until an order to comply issued by the commissioner becomes final, or where the commissioner does not issue an order, until the date on which the commissioner notifies the complainant that the investigation has concluded. Investigation by the commissioner shall not be a prerequisite to nor a bar against a person bringing a civil action under this section. All employees shall have the right to recover full wages, benefits and wage supplements and liquidated damages accrued during the six years previous to the commencing of such action, whether such action is instituted by the employee or by the commissioner.

4. In any civil action by an employee or by the commissioner, the employee or commissioner shall have the right to collect attorney's fees and costs incurred in enforcing any court judgment. Any judgment or court order awarding remedies under this section shall provide that if any amounts remain unpaid upon the expiration of ninety days following issuance of judgment, or ninety days after expiration of the time to appeal and no appeal is then pending, whichever is later, the total amount of judgment shall automatically increase by fifteen percent.

## **New York Consolidated Laws, Labor Law - LAB § 198-a. Criminal penalties**

1. Every employer who does not pay the wages of all of his employees in accordance with the provisions of this chapter, and the officers and agents of any corporation, partnership, or limited liability company who knowingly permit the corporation, partnership, or limited liability company to violate this chapter by failing to pay the wages of any of its employees in accordance with the provisions thereof, shall be guilty of a misdemeanor for the first offense and upon conviction therefor shall be fined not less than five hundred nor more than twenty thousand dollars or imprisoned for not more than one year, and, in the event that any second or subsequent offense occurs within six years of the date of conviction for a prior offense, shall be guilty of a felony for the second or subsequent offense, and upon conviction therefor, shall be fined not less than five hundred nor more than twenty thousand dollars or imprisoned for not more than one year plus one day, or punished by both such fine and imprisonment, for each such offense. An indictment of a person or corporation operating a steam surface railroad for an offense specified in this section may be found and tried in any county within the state in which such railroad ran at the time of such offense.
2. Every employer who violates or fails to comply with the requirements of [subdivision four of section one hundred ninety-five](#) of this article, and the officers and agents of any corporation, partnership, or limited liability company who knowingly permit the corporation, partnership, or limited liability company to violate or fail to comply therewith, shall be guilty of a misdemeanor and upon conviction therefor shall be fined not less than five hundred nor more than five thousand dollars or imprisoned for not more than one year.
3. Every employer who knowingly violates or fails to comply with the requirements of [subdivision four of section one hundred ninety-five](#) of this article, and the officers and agents of any corporation, partnership, or limited liability company who knowingly permit the corporation, partnership, or limited liability company to violate or fail to comply therewith, shall be guilty of a felony where such employer, officer or agent has been convicted of a violation of such subdivision within the previous six years, and upon conviction therefor shall be fined not less than five hundred nor more than twenty thousand dollars or imprisoned for not more than one year plus one day, or punished by both such fine and imprisonment, for each such offense. In determining the penalty, the court shall consider the severity of the violation, the size of the employer, and the employer's good faith effort to comply with the requirements of [subdivision four of section one hundred ninety-five](#) of this article.

## **New York Consolidated Laws, Labor Law - LAB § 198-b. “Kick-back” of wages prohibited**

1. As used in this section, the term “person” shall include any firm, partnership, association, corporation or group of persons.
2. Whenever any employee who is engaged to perform labor shall be promised an agreed rate of wages for his or her services, be such promise in writing or oral, or shall be entitled to be paid or provided prevailing wages or supplements pursuant to article eight or nine of this chapter, it

shall be unlawful for any person, either for that person or any other person, to request, demand, or receive, either before or after such employee is engaged, a return, donation or contribution of any part or all of said employee's wages, salary, supplements, or other thing of value, upon the statement, representation, or understanding that failure to comply with such request or demand will prevent such employee from procuring or retaining employment. Further, any person who directly or indirectly aids, requests or authorizes any other person to violate any of the provisions of this section shall be guilty of a violation of the provisions of this section.

3. Whenever an agreement between a bona fide labor organization and an employer or an association of employers requires that employees shall be paid an agreed wage or rate of wages for their services, it shall be unlawful for any person, either for that person or any other person, to request, demand or receive, either before or after such employee is engaged, that such employee pay back, return, donate, contribute or give any part or all of said employee's wages, salary, supplements or thing of value, to any person, upon the statement, representation or understanding that failure to comply with such requests or demand will prevent such employee from procuring or retaining employment, and any person who directly or indirectly aids, requests or authorizes any other person to violate any of the provisions of this section shall be guilty of a violation of the provisions of this section.

4. The provisions of this section shall not apply to any agent or representative of a duly constituted labor organization acting in the collection of dues or assessments of such organization.

5. A violation of the provisions of this section shall constitute a misdemeanor.

### **New York Consolidated Laws, Labor Law - LAB § 198-c. Benefits or wage supplements**

1. In addition to any other penalty or punishment otherwise prescribed by law, any employer who is party to an agreement to pay or provide benefits or wage supplements to employees or to a third party or fund for the benefit of employees and who fails, neglects or refuses to pay the amount or amounts necessary to provide such benefits or furnish such supplements within thirty days after such payments are required to be made, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in [section one hundred ninety-eight-a](#) of this article. Where such employer is a corporation, the president, secretary, treasurer or officers exercising corresponding functions shall each be guilty of a misdemeanor.

2. As used in this section, the term “benefits or wage supplements” includes, but is not limited to, reimbursement for expenses; health, welfare and retirement benefits; and vacation, separation or holiday pay.

3. This section shall not apply to any person in a bona fide executive, administrative, or professional capacity whose earnings are in excess of nine hundred dollars a week.

### **New York Consolidated Laws, Labor Law - LAB § 198-d. Posting regulations on illegal wage deductions**

Every employer engaged in the sale or service of food or beverages shall post in his establishment, in a place accessible to his employees and in a visually conspicuous manner, a copy of [sections one hundred ninety-three](#) and [one hundred ninety-six-d](#) of this chapter and any regulations promulgated pursuant thereto relating to illegal deductions from wages and tips by employers.

### **New York Consolidated Laws, Labor Law - LAB § 199. Rules and regulations**

The commissioner may issue such rules and regulations as he determines necessary for the purposes of carrying out the provisions of this article.

### **New York Consolidated Laws, Labor Law - LAB § 199-a. Notification of process**

1. Each employee who files a complaint regarding a violation of a provision of this article (payment of wages), article nineteen (minimum wage act), or article nineteen-A (minimum wage standards and protective labor practices for farm workers), [section one hundred sixty-one](#) , [section one hundred sixty-two](#) , [section two hundred twelve-a](#) , [section two hundred twelve-b](#) , or [section two hundred fifteen](#) of this chapter, or a rule or regulation promulgated thereunder, shall be provided with a written description of the anticipated processing of the complaint, including investigation, case conference, potential civil and criminal penalties, and collection procedures.
2. Each employee and his or her authorized representative shall be notified in writing of any case conference before it is held and given the opportunity to attend.
3. Each employee and his or her authorized representative shall be notified in writing of any award and collection of back wages and civil penalties, and of any intent to seek criminal penalties. In the event that criminal penalties are sought the employee and his or her authorized representative shall be notified of the outcome of prosecution.