AN ACT to amend the labor law, in relation to requiring that workers receive written notification of the prevailing wage rates and supplements at the beginning, and during the performance, of every public works contract.

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

Section 1. Paragraph a of subdivision 3-a of section 220 of the labor law, as amended by chapter 458 of the laws of 1999, is amended to read as follows:

a. It shall be the duty of the department of jurisdiction as defined in this section to ascertain from the plans and specifications the classification of workers, mechanics and laborers to be employed on such project. Such department shall file with the fiscal officer, as defined in this section, the classification of workers, mechanics and laborers to be employed upon such public works project, together with a statement of the work to be performed by each such classification. From such statement it shall be the duty of the fiscal officer to make a proper classification of such workers, mechanics and laborers taking into account whether the work is heavy and highway, building, sewer and water, tunnel work or residential and to make a determination of the schedules of wages and supplements to be paid or provided, as the case may be, therefor. The contractor and every sub-contractor on public works contracts shall post in a prominent and accessible place on the site where the work is performed a legible statement of all wage rates and supplements as specified in the contract to be paid or provided, as the case may be, for the various classes of mechanics, workers, or laborers employed on the work. Such posted statement shall be written in plain English and titled, in lettering no smaller than two inches in height and two inches in width,
with the phrase "Prevailing Rate of Wages". Such posted statement shall be constructed of materials capable of withstanding adverse weather conditions. The contractor and every sub-contractor shall notify all laborers, workers or mechanics in their employ in writing of the prevailing rate of wage for their particular job classification. Such notification shall be given to every laborer, worker or mechanic on their first pay stub and with every pay stub thereafter. At the beginning of performance of every public works contract, and with the first paycheck after July first of each year, the contractor and every sub-contractor shall notify all laborers, workers, and mechanics in their employ in writing, in accordance with such form as is prescribed by the department, of the telephone number and address for the department. The notice shall also inform each laborer, worker, or mechanic of his or her right to contact the department or some other representative if, at any time while working for the public works contractor or sub-contractor, he or she does not receive the proper prevailing rate of wages or supplements for his or her particular job classification that he or she is entitled to receive under the contract. If after investigation the commissioner finds that a contractor or sub-contractor has (1) failed to post any notice required under this subdivision, (2) failed to set forth the prevailing wage on the pay stub, (3) wilfully posted the incorrect prevailing wage, or (4) wilfully set forth the incorrect prevailing wage on the pay stub, the commissioner, shall by an order which shall describe particularly the nature of the alleged violation, assess the contractor or sub-contractor a civil penalty of not more than fifty dollars upon the first finding of a violation, two hundred fifty dollars upon the second finding of a violation, and five hundred dollars for each subsequent violation. In assessing the amount of the penalty, the commissioner shall give due consideration to the size of the employer’s business, the good faith of the employer, and the gravity of the violation. The contractor and every sub-contractor shall keep original payrolls or transcripts thereof, subscribed and affirmed by him or her as true under the penalties of perjury, showing the hours and days worked by each worker, laborer or mechanic, the occupation at which he or she worked, the hourly wage rate paid and the supplements paid or provided, on the site of the work where the contractor or sub-contractor maintains no regular place of business in New York state and where the amount of the contract is in excess of twenty-five thousand dollars. All other contractors or sub-contractors shall produce within five days on the site of the work and upon formal order of the commissioner or his or her designated representative such original payrolls or transcripts thereof, subscribed and affirmed by him or her as true under the penalties of perjury, as may be deemed necessary to adequately enforce the provisions of this article. Every contractor, and sub-contractor, shall submit to the department of jurisdiction within thirty days after issuance of its first payroll, and every thirty days thereafter, a transcript of the original payroll record, as provided by this article, subscribed and affirmed as true under the penalties of perjury. The department of jurisdiction shall be required to receive and maintain such payroll records. The original payrolls or transcripts shall be preserved for three years from the date of completion of the work on the awarded contract. The department of jurisdiction as herein referred to shall be the department of the state, board or officer in the state, or municipal corporation or commission or board appointed pursuant to law, whose duty it is to prepare or direct the preparation of the plans and specifications for a public work project.
§ 2. This act shall take effect on the one hundred eightieth day after
it shall have become a law. Effective immediately, the addition, amend-
ment and/or repeal of any rules or regulations necessary for the imple-
mentation of this act on its effective date is authorized to be made and
completed on or before such effective date.