



JERSEY CITY WAGE THEFT ORDINANCE



What does Jersey City's Wage Theft Ordinance do?

Jersey City's Wage Theft Ordinance deters employers from engaging in wage theft by linking established wage theft violations to the City's licensing authority. Any Jersey City business that is found liable for wage theft (either in court, or by the NJ Dep't of Labor) must demonstrate that it has paid its workers what it owes within 90 days of any judgment or appeal, or risk suspension of its business license.

Who enforces Jersey City's Wage Theft Ordinance?

The Wage Theft Ordinance will be enforced by the City Department or Division responsible for a given business's license to operate in Jersey City, which may include the Department of Health & Human Services or Division of Commerce. For example, a restaurant seeking a food establishment license from the Department of Health & Human Services must certify to that Department that it has no outstanding judgments for wage theft against it.

What information must businesses provide in their certifications to the City?

Businesses must certify whether there have been any judgments or decisions against them for unpaid wages within the 24 months prior to their license applications. If a business has a judgment or decision against it, the business must either certify the dates, location, and nature of the wage theft and its payment of restitution to the employees, or certify that it is appealing the judgment or decision.

Which businesses will be impacted by Jersey City's Wage Theft Ordinance?

Every applicant for a business license or renewal of a license must certify under the penalty of perjury that there are no outstanding judgments for unpaid wages against it. The City expects that the majority of businesses are following the law and paying their employees their rightful wages. Only those businesses who try to evade their responsibilities or who lie on their certification to the City will face suspension under the Ordinance.

What happens if a business provides false information in its certification to the City?

Any business that falsely certifies its compliance with the Ordinance may have its license revoked and could be subject to prosecution. Businesses will be certifying their compliance with the Ordinance under the penalty of perjury, and false statements to the government will be dealt with appropriately.

Will the City be investigating or prosecuting claims of wage theft?

No. Employees who believe they are not being paid their rightful wages must protect their rights either by filing a claim with the New Jersey Department of Labor and Workforce Development, Wage and Hour Division, which investigates employers' payment practices, or filing a lawsuit. The City will not be investigating local businesses.

If my business has been found liable for a violation of wage theft which is outstanding can I transfer the business license?

No. No license shall be transferred to or from an applicant, licensee or business entity that has been found liable of a violation and not cured by the appropriate judicial or administrative agency.

How will the City find out whether an applicant has had a prior violation of wage theft?

Each year the City will file an OPRA Request with the New Jersey Department of Labor and Workforce Development, Wage and Hour Division requesting any wage claim forms filed against a licensee during the previous twenty-four (24) months.

What must a business do if the City contacts it about an outstanding wage theft violation?

Businesses contacted by the City about a wage theft violation will have 30 days to demonstrate either payment to the aggrieved employees or appeal of the judgment or decision. Failure to comply within 30 days will result in suspension of the business's license until it shows that it has paid its employees what it owes.

When will this Ordinance go into effect?

The City ordinance went into effect on October 1, 2015.



JERSEY CITY WAGE THEFT ORDINANCE



What is “Wage Theft”?

Wage theft occurs when workers are not paid their legally or contractually promised wages, such as minimum wage or overtime. It can also occur when an employer does not provide workers their last paycheck when they leave a job, steals tips, engages in payroll fraud, misclassifies an employee as an independent contractor, or does not pay the worker at all. Wage theft is illegal under Federal, State, and local law.

How big a problem is wage theft?

Wage theft is a serious problem nationwide that can occur in any field or industry, including retail, restaurants, home health care, and salons. Day laborers, non-English speaking workers, and undocumented immigrants tend to be most at risk of wage theft as they are often paid “off the books” and are uninformed about their rights. The following statistics provide a sense of the problem:

- *In FY 2014, the U.S. Dep’t of Labor recovered \$280 million in wage/hour violations*
- *Between 2008 and 2013, the number of claims filed under the Fair Labor Standards Act (FLSA) increased 146% (from 5,302 to 7,764)*

Don’t existing laws cover wage and hour abuses?

Wage and hour laws exist at the federal, state, and local levels—including Jersey City and Hudson County living wage laws—but wage theft violations are often hard to enforce because most employees do not even realize they are being underpaid or misclassified. Low-wage workers often do not speak English or fear retaliation from employers for complaining. In addition, the time and cost of going to court for a wage claim often deters workers from asserting their rights.

What should workers do if they suspect they are victims of wage theft?

Workers who suspect their employers are not paying them their rightful wages should contact the NJ Department of Labor, Wage & Hour Division at the phone numbers and addresses below. Information and claims forms are available on the Department of Labor’s website on how to file a claim:

Division of Wage and Hour Compliance
P.O. Box 389
Trenton, NJ 08625-0389
Tel. (609) 292-2305
Tel. (609) 292-2337
FAX (609) 695-1174

For Overnight Mail:

New Jersey Department of Labor & Workforce Development
Division of Wage and Hour Compliance
1 John Fitch Plaza, 3rd Floor
Trenton, NJ 08611