

10785

I N A S S E M B L Y

June 18, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Morelle) --
(at request of the Governor) -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to permitted deductions from wages; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 193 of the labor law, as added by
2 chapter 548 of the laws of 1966, is amended to read as follows:
3 1. No employer shall make any deduction from the wages of an employee,
4 except deductions which:
5 a. are made in accordance with the provisions of any law or any rule
6 or regulation issued by any governmental agency INCLUDING REGULATIONS
7 PROMULGATED UNDER PARAGRAPH C AND PARAGRAPH D OF THIS SUBDIVISION; or
8 b. are expressly authorized in writing by the employee and are for the
9 benefit of the employee[;], provided that such authorization is VOLUN-
10 TARY AND ONLY GIVEN FOLLOWING RECEIPT BY THE EMPLOYEE OF WRITTEN NOTICE
11 OF ALL TERMS AND CONDITIONS OF THE PAYMENT AND/OR ITS BENEFITS AND THE
12 DETAILS OF THE MANNER IN WHICH DEDUCTIONS WILL BE MADE. WHENEVER THERE
13 IS A SUBSTANTIAL CHANGE IN THE TERMS OR CONDITIONS OF THE PAYMENT,
14 INCLUDING BUT NOT LIMITED TO, ANY CHANGE IN THE AMOUNT OF THE DEDUCTION,
15 OR A SUBSTANTIAL CHANGE IN THE BENEFITS OF THE DEDUCTION OR THE DETAILS
16 IN THE MANNER IN WHICH DEDUCTIONS SHALL BE MADE, THE EMPLOYER SHALL, AS
17 SOON AS PRACTICABLE, BUT IN EACH CASE BEFORE ANY INCREASED DEDUCTION IS
18 MADE ON THE EMPLOYEE'S BEHALF, NOTIFY THE EMPLOYEE PRIOR TO THE IMPE-
19 MENTATION OF THE CHANGE. SUCH AUTHORIZATION SHALL BE kept on file on
20 the employer's premises FOR THE PERIOD DURING WHICH THE EMPLOYEE IS
21 EMPLOYED BY THE EMPLOYER AND FOR SIX YEARS AFTER SUCH EMPLOYMENT ENDS.
22 NOTWITHSTANDING THE FOREGOING, EMPLOYEE AUTHORIZATION FOR DEDUCTIONS
23 UNDER THIS SECTION MAY ALSO BE PROVIDED TO THE EMPLOYER PURSUANT TO THE
24 TERMS OF A COLLECTIVE BARGAINING AGREEMENT. Such authorized deductions
25 shall be limited to payments for:
26 (I) insurance premiums[,] AND PREPAID LEGAL PLANS;

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

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1 (II) pension or health and welfare benefits[,];
2 (III) contributions to A BONA FIDE charitable [organizations, payments
3 for] ORGANIZATION;
4 (IV) PURCHASES MADE AT EVENTS SPONSORED BY A BONA FIDE CHARITABLE
5 ORGANIZATION AFFILIATED WITH THE EMPLOYER WHERE AT LEAST TWENTY PERCENT
6 OF THE PROFITS FROM SUCH EVENT ARE BEING CONTRIBUTED TO A BONA FIDE
7 CHARITABLE ORGANIZATION;
8 (V) United States bonds[, payments for];
9 (VI) dues or assessments to a labor organization[,];
10 (VII) DISCOUNTED PARKING OR DISCOUNTED PASSES, TOKENS, FARE CARDS,
11 VOUCHERS, OR OTHER ITEMS THAT ENTITLE THE EMPLOYEE TO USE MASS TRANSIT;
12 (VIII) FITNESS CENTER, HEALTH CLUB, AND/OR GYM MEMBERSHIP DUES;
13 (IX) CAFETERIA AND VENDING MACHINE PURCHASES MADE AT THE EMPLOYER'S
14 PLACE OF BUSINESS AND PURCHASES MADE AT GIFT SHOPS OPERATED BY THE
15 EMPLOYER, WHERE THE EMPLOYER IS A HOSPITAL, COLLEGE, OR UNIVERSITY;
16 (X) PHARMACY PURCHASES MADE AT THE EMPLOYER'S PLACE OF BUSINESS;
17 (XI) TUITION, ROOM, BOARD, AND FEES FOR PRE-SCHOOL, NURSERY, PRIMARY,
18 SECONDARY, AND/OR POST-SECONDARY EDUCATIONAL INSTITUTIONS;
19 (XII) DAY CARE, BEFORE-SCHOOL AND AFTER-SCHOOL CARE EXPENSES;
20 (XIII) PAYMENTS FOR HOUSING PROVIDED AT NO MORE THAN MARKET RATES BY
21 NON-PROFIT HOSPITALS OR AFFILIATES THEREOF; and
22 (XIV) similar payments for the benefit of the employee.

23 C. ARE RELATED TO RECOVERY OF AN OVERPAYMENT OF WAGES WHERE SUCH OVER-
24 PAYMENT IS DUE TO A MATHEMATICAL OR OTHER CLERICAL ERROR BY THE EMPLOY-
25 ER. IN MAKING SUCH RECOVERIES, THE EMPLOYER SHALL COMPLY WITH REGU-
26 LATIONS PROMULGATED BY THE COMMISSIONER FOR THIS PURPOSE, WHICH
27 REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, PROVISIONS GOVERNING:
28 THE SIZE OF OVERPAYMENTS THAT MAY BE COVERED BY THIS SECTION; THE
29 TIMING, FREQUENCY, DURATION, AND METHOD OF SUCH RECOVERY; LIMITATIONS ON
30 THE PERIODIC AMOUNT OF SUCH RECOVERY; A REQUIREMENT THAT NOTICE BE
31 PROVIDED TO THE EMPLOYEE PRIOR TO THE COMMENCEMENT OF SUCH RECOVERY; A
32 REQUIREMENT THAT THE EMPLOYER IMPLEMENT A PROCEDURE FOR DISPUTING THE
33 AMOUNT OF SUCH OVERPAYMENT OR SEEKING TO DELAY COMMENCEMENT OF SUCH
34 RECOVERY; THE TERMS AND CONTENT OF SUCH A PROCEDURE AND A REQUIREMENT
35 THAT NOTICE OF THE PROCEDURE FOR DISPUTING THE OVERPAYMENT OR SEEKING TO
36 DELAY COMMENCEMENT OF SUCH RECOVERY BE PROVIDED TO THE EMPLOYEE PRIOR TO
37 THE COMMENCEMENT OF SUCH RECOVERY.

38 D. REPAYMENT OF ADVANCES OF SALARY OR WAGES MADE BY THE EMPLOYER TO
39 THE EMPLOYEE. DEDUCTIONS TO COVER SUCH REPAYMENTS SHALL BE MADE IN
40 ACCORDANCE WITH REGULATIONS PROMULGATED BY THE COMMISSIONER FOR THIS
41 PURPOSE, WHICH REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO,
42 PROVISIONS GOVERNING: THE TIMING, FREQUENCY, DURATION, AND METHOD OF
43 SUCH REPAYMENT; LIMITATIONS ON THE PERIODIC AMOUNT OF SUCH REPAYMENT; A
44 REQUIREMENT THAT NOTICE BE PROVIDED TO THE EMPLOYEE PRIOR TO THE
45 COMMENCEMENT OF SUCH REPAYMENT; A REQUIREMENT THAT THE EMPLOYER IMPL-
46 MENT A PROCEDURE FOR DISPUTING THE AMOUNT OF SUCH REPAYMENT OR SEEKING
47 TO DELAY COMMENCEMENT OF SUCH REPAYMENT; THE TERMS AND CONTENT OF SUCH A
48 PROCEDURE AND A REQUIREMENT THAT NOTICE OF THE PROCEDURE FOR DISPUTING
49 THE REPAYMENT OR SEEKING TO DELAY COMMENCEMENT OF SUCH REPAYMENT BE
50 PROVIDED TO THE EMPLOYEE AT THE TIME THE LOAN IS MADE.

51 S 2. Subdivisions 2 and 3 of section 193 of the labor law, subdivision
52 2 as added and subdivision 3 as renumbered by chapter 160 of the laws of
53 1974 and subdivision 3 as added by chapter 548 of the laws of 1966, are
54 amended to read as follows:

55 2. DEDUCTIONS MADE IN CONJUNCTION WITH AN EMPLOYER SPONSORED PRE-TAX
56 CONTRIBUTION PLAN APPROVED BY THE IRS OR OTHER LOCAL TAXING AUTHORITY,

1 INCLUDING THOSE FALLING WITHIN ONE OR MORE OF THE CATEGORIES SET FORTH
2 IN PARAGRAPH B OF SUBDIVISION ONE OF THIS SECTION, SHALL BE CONSIDERED
3 TO HAVE BEEN MADE IN ACCORDANCE WITH PARAGRAPH A OF SUBDIVISION ONE OF
4 THIS SECTION.

5 3. A. No employer shall make any charge against wages, or require an
6 employee to make any payment by separate transaction unless such charge
7 or payment is permitted as a deduction from wages under the provisions
8 of subdivision one of this section OR IS PERMITTED OR REQUIRED UNDER ANY
9 PROVISION OF A CURRENT COLLECTIVE BARGAINING AGREEMENT.

10 B. NOTWITHSTANDING THE EXISTENCE OF EMPLOYEE AUTHORIZATION TO MAKE
11 DEDUCTIONS IN ACCORDANCE WITH SUBPARAGRAPHS (IV), (IX), AND (X) OF PARA-
12 GRAPH B OF SUBDIVISION ONE OF THIS SECTION AND DEDUCTIONS DETERMINED BY
13 THE COMMISSIONER TO BE SIMILAR TO SUCH DEDUCTIONS IN ACCORDANCE WITH
14 SUBPARAGRAPH (XIV) OF PARAGRAPH B OF SUBDIVISION ONE OF THIS SECTION,
15 THE TOTAL AGGREGATE AMOUNT OF SUCH DEDUCTIONS FOR EACH PAY PERIOD SHALL
16 BE SUBJECT TO THE FOLLOWING LIMITATIONS: (I) SUCH AGGREGATE AMOUNT SHALL
17 NOT EXCEED A MAXIMUM AGGREGATE LIMIT ESTABLISHED BY THE EMPLOYER FOR
18 EACH PAY PERIOD; (II) SUCH AGGREGATE AMOUNT SHALL NOT EXCEED A MAXIMUM
19 AGGREGATE LIMIT ESTABLISHED BY THE EMPLOYEE, WHICH LIMIT MAY BE FOR ANY
20 AMOUNT (IN TEN DOLLAR INCREMENTS) UP TO THE MAXIMUM AMOUNT ESTABLISHED
21 BY THE EMPLOYER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; (III) THE
22 EMPLOYER SHALL NOT PERMIT ANY PURCHASES WITHIN THESE CATEGORIES OF
23 DEDUCTION BY THE EMPLOYEE THAT EXCEED THE AGGREGATE LIMIT ESTABLISHED BY
24 THE EMPLOYEE OR, IF NO LIMIT HAS BEEN SET BY THE EMPLOYEE, THE LIMIT SET
25 BY THE EMPLOYER; (IV) THE EMPLOYEE SHALL HAVE ACCESS WITHIN THE WORK-
26 PLACE TO CURRENT ACCOUNT INFORMATION DETAILING INDIVIDUAL EXPENDITURES
27 WITHIN THESE CATEGORIES OF DEDUCTION AND A RUNNING TOTAL OF THE AMOUNT
28 THAT WILL BE DEDUCTED FROM THE EMPLOYEE'S PAY DURING THE NEXT APPLICABLE
29 PAY PERIOD. INFORMATION SHALL BE AVAILABLE IN PRINTED FORM OR CAPABLE
30 OF BEING PRINTED SHOULD THE EMPLOYEE WISH TO OBTAIN A LISTING. NO
31 EMPLOYEE MAY BE CHARGED ANY FEE, DIRECTLY OR INDIRECTLY, FOR ACCESS TO,
32 OR PRINTING OF, SUCH ACCOUNT INFORMATION.

33 C. WITH THE EXCEPTION OF WAGE DEDUCTIONS REQUIRED OR AUTHORIZED IN A
34 CURRENT EXISTING COLLECTIVE BARGAINING AGREEMENT, AN EMPLOYEE'S AUTHORI-
35 ZATION FOR ANY AND ALL WAGE DEDUCTIONS MAY BE REVOKED IN WRITING AT ANY
36 TIME. THE EMPLOYER MUST CEASE THE WAGE DEDUCTION FOR WHICH THE EMPLOYEE
37 HAS REVOKED AUTHORIZATION AS SOON AS PRACTICABLE, AND, IN NO EVENT MORE
38 THAN FOUR PAY PERIODS OR EIGHT WEEKS AFTER THE AUTHORIZATION HAS BEEN
39 WITHDRAWN, WHICHEVER IS SOONER.

40 [3.] 4. Nothing in this section shall justify noncompliance with arti-
41 cle three-A of the personal property law relating to assignment of earn-
42 ings, [nor] WITH SECTION TWO HUNDRED TWENTY-ONE OF THIS CHAPTER RELATING
43 TO COMPANY STORES OR with any other law applicable to deductions from
44 wages.

45 S 3. This act shall take effect on the sixtieth day after it shall
46 have become a law and shall expire and be deemed repealed 3 years after
47 such effective date.