

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to hours of work

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

- 1 Section 1. Subdivisions 1, 2 and 2-a of section 220 of the labor law,
2 subdivision 2 as amended by chapter 678 of the laws of 2007, and subdi-
3 vision 2-a as amended by chapter 8 of the laws of 2008, are amended to
4 read as follows:
5 1. Eight hours shall constitute a legal day's work for all classes of
6 employees in this state except those engaged in farm and domestic
7 service unless otherwise provided by law OR UNLESS A PERSON IS EMPLOYED
8 FOR LESS THAN FIVE DAYS IN ANY WEEK IN WHICH CASE TEN HOURS MAY CONSTI-
9 TUTE A LEGAL DAY'S WORK.
10 2. Each contract to which the state or a public benefit corporation or
11 a municipal corporation or a commission appointed pursuant to law is a
12 party, and any contract for public work entered into by a third party
13 acting in place of, on behalf of and for the benefit of such public
14 entity pursuant to any lease, permit or other agreement between such
15 third party and the public entity, and which may involve the employment
16 of laborers, workers or mechanics shall contain a stipulation that no
17 laborer, worker or mechanic in the employ of the contractor, subcontrac-
18 tor or other person doing or contracting to do the whole or a part of
19 the work contemplated by the contract shall be permitted or required to
20 work:
21 (A) more than eight hours in any one calendar day or more than five
22 days in any one week; OR
23 (B) MORE THAN TEN HOURS IN ANY ONE CALENDAR DAY OR MORE THAN FOUR DAYS
24 IN ANY ONE WEEK, except in cases of extraordinary emergency including
25 fire, flood or danger to life or property. No such person shall be so
26 employed:
27 (C) more than eight hours in any day or more than five days in any one
28 week; OR

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

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1 (D) MORE THAN TEN HOURS IN ANY ONE CALENDAR DAY OR MORE THEN FOUR DAYS
2 IN ANY ONE WEEK, except in such emergency. Extraordinary emergency with-
3 in the meaning of this section shall be deemed to include situations in
4 which sufficient laborers, workers and mechanics cannot be employed to
5 carry on public work expeditiously as a result of such restrictions upon
6 the number of hours and days of labor and the immediate commencement or
7 prosecution or completion without undue delay of the public work is
8 necessary in the judgment of the commissioner for the preservation of
9 the contract site and for the protection of the life and limb of the
10 persons using the same. Upon the application of any person interested,
11 the commissioner shall make a determination as to whether or not on any
12 public project or on all public projects in any area of this state,
13 sufficient laborers, workers and mechanics of any or all classifications
14 can be employed to carry on work expeditiously if their labor is
15 restricted:

16 (E) to eight hours per day and five days per week; OR

17 (F) TO TEN HOURS PER DAY AND FOUR DAYS PER WEEK, and in the event that
18 the commissioner determines that there are not sufficient workers,
19 laborers and mechanics of any or all classifications which may be
20 employed to carry on such work expeditiously if their labor is
21 restricted to;

22 (G) to eight hours per day and five days per week; OR

23 (H) TO TEN HOURS PER DAY AND FOUR DAYS PER WEEK, and the immediate
24 commencement or prosecution or completion without undue delay of the
25 public work is necessary in the judgment of the commissioner for the
26 preservation of the contract site and for the protection of the life and
27 limb of the persons using the same, the commissioner shall grant a
28 dispensation permitting all laborers, workers and mechanics, or any
29 classification of such laborers, workers and mechanics, to work such
30 additional hours or days per week on such public project or in such
31 areas the commissioner shall determine. Whenever such a dispensation is
32 granted, all work in excess of:

33 (I) eight hours per day and five days per week; OR

34 (J) TEN HOURS PER DAY AND FOUR DAYS PER WEEK, shall be considered
35 overtime work, and the laborers, workers and mechanics performing such
36 work shall be paid a premium wage commensurate with the premium wages
37 prevailing in the area in which the work is performed. No such dispensa-
38 tion shall be effective with respect to any public work unless and until
39 the department of jurisdiction, as defined in this section, certifies to
40 the commissioner that such public work is of an important nature and
41 that a delay in carrying it to completion would result in serious disad-
42 vantage to the public. Time lost in any week because of inclement weath-
43 er by employees engaged in the construction, reconstruction and mainte-
44 nance of highways outside of the limits of cities and villages may be
45 made up during that week and/or the succeeding three weeks.

46 2-a. Any person contracting with the state or a public benefit corpo-
47 ration, or a municipal corporation, or a commission appointed pursuant
48 to law that shall require:

49 (A) more than [eight] TEN hours work for a day's labor; OR

50 (B) MORE THAN EIGHT HOURS WORK FOR A DAY'S LABOR AND MORE THAN FOUR
51 DAYS OF LABOR IN ANY WEEK, unless otherwise permitted by law, is guilty
52 of a misdemeanor, and upon conviction thereof shall be punished in
53 accordance with the penal law for each offense.

54 S 2. This act shall take effect immediately.