

5792

2013-2014 Regular Sessions

I N   S E N A T E

June 14, 2013

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Introduced by Sen. SAVINO -- 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 the number of hours employees may work in certain retail and service establishments

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

1     Section 1. The labor law is amended by adding a new section 196-e to  
2     read as follows:

3     S 196-E. WORKWEEK HOURS IN CERTAIN RETAIL OR SERVICE ESTABLISHMENTS.  
4     NO EMPLOYER SHALL BE DEEMED TO HAVE VIOLATED ANY STATUTE, RULE, REGU-  
5     LATION OR ORDER BY EMPLOYING ANY EMPLOYEE OF A RETAIL OR SERVICE ESTAB-  
6     LISHMENT FOR A WORKWEEK IN EXCESS OF THE APPLICABLE WORKWEEK SPECIFIED  
7     THEREIN IF:

8     (A) THE REGULAR RATE OF PAY OF SUCH EMPLOYEE IS IN EXCESS OF ONE AND  
9     ONE-HALF TIMES THE MINIMUM HOURLY RATE APPLICABLE TO SUCH EMPLOYEE; AND

10    (B) MORE THAN HALF THE EMPLOYEE'S COMPENSATION FOR A REPRESENTATIVE  
11    PERIOD, WHICH SHALL NOT BE LESS THAN ONE MONTH, REPRESENTS COMMISSIONS  
12    ON GOODS OR SERVICES. IN DETERMINING THE PROPORTION OF COMPENSATION  
13    REPRESENTING COMMISSIONS, ALL EARNINGS RESULTING FROM THE APPLICATION OF  
14    A BONA FIDE COMMISSION RATE SHALL BE DEEMED COMMISSIONS ON GOODS OR  
15    SERVICES WITHOUT REGARD TO WHETHER THE COMPUTED COMMISSIONS EXCEED THE  
16    DRAW OR GUARANTEE.

17    S 2. This act shall take effect immediately, provided, however, that  
18    this act shall be deemed to have been in full force and effect with  
19    respect to any employers who paid overtime pursuant to a collective  
20    bargaining agreement in existence prior to the date on which this act  
21    shall have become a law.

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

LBD11508-02-3