

5792--A

2013-2014 Regular Sessions

I N   S E N A T E

June 14, 2013

---

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to the number of hours employees may work in certain hospitality 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 HOSPITALITY ESTABLISHMENTS. NO  
4 EMPLOYER SHALL BE DEEMED TO HAVE VIOLATED ANY STATUTE, RULE, REGULATION  
5 OR ORDER BY EMPLOYING ANY EMPLOYEE OF A HOSPITALITY ESTABLISHMENT FOR A  
6 WORKWEEK IN EXCESS OF THE APPLICABLE WORKWEEK SPECIFIED THEREIN IF:  
7     (A) THE REGULAR RATE OF PAY OF SUCH EMPLOYEE IS IN EXCESS OF ONE AND  
8 ONE-HALF TIMES THE MINIMUM HOURLY RATE APPLICABLE TO SUCH EMPLOYEE; AND  
9     (B) MORE THAN HALF THE EMPLOYEE'S COMPENSATION FOR A REPRESENTATIVE  
10 PERIOD, WHICH SHALL NOT BE LESS THAN ONE MONTH, REPRESENTS COMMISSIONS  
11 ON GOODS OR SERVICES. IN DETERMINING THE PROPORTION OF COMPENSATION  
12 REPRESENTING COMMISSIONS, ALL EARNINGS RESULTING FROM THE APPLICATION OF  
13 A BONA FIDE COMMISSION RATE SHALL BE DEEMED COMMISSIONS ON GOODS OR  
14 SERVICES WITHOUT REGARD TO WHETHER THE COMPUTED COMMISSIONS EXCEED THE  
15 DRAW OR GUARANTEE.  
16     S 2. This act shall take effect immediately, provided, however, that  
17 this act shall be deemed to have been in full force and effect with  
18 respect to any employer who paid overtime prior to the effective date of  
19 this act.

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

LBD11508-05-3