

STATE OF NEW YORK

5126

2019-2020 Regular Sessions

IN ASSEMBLY

February 7, 2019

Introduced by M. of A. SCHIMMINGER, THIELE, LUPARDO, JONES, M. G. MILLER, QUART, WOERNER, KIM, PHEFFER AMATO, KOLB, BARRON, CUSICK, STIRPE, BRABENEC -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to directing the commissioner of labor to smooth existing wage orders to conform with statutory changes to the minimum wage, specifically the Wage Order issued September 10, 2015 relative to fast-food employees; and to repeal section 5 of part K of chapter 54 of the laws of 2016, amending the labor law relating to the rate of minimum wage

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph of subdivision 2 of section 652 of
2 the labor law, as amended by chapter 38 of the laws of 1990, is amended
3 to read as follows:

4 The minimum wage orders in effect on the effective date of this act
5 shall remain in full force and effect, except as modified in accordance
6 with the provisions of this article; provided further, that any future
7 wage increases pursuant to the September 10, 2015 wage order relative to
8 fast-food employees shall not be enacted. The wage for fast-food employ-
9 ees in effect on the effective date of this act shall remain in effect
10 until such time as the minimum wage as provided for in subdivision one
11 of this section shall exceed such wage at which time the wage for fast-
12 food employees shall be the wage provided for in subdivision one of this
13 section.

14 § 2. Subdivision 2 of section 657 of the labor law, as amended by
15 chapter 102 of the laws of 1968, is amended to read as follows:

16 2. Review by board of standards and appeals. Any person in interest,
17 including a labor organization or employer association, in any occupa-
18 tion for which a minimum wage order or regulation has been issued under
19 the provisions of this article who is aggrieved by such order or regu-
20 lation may obtain review before the board of standards and appeals by

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

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1 filing with said board, within forty-five days after the date of the
2 publication of the notice of such order or regulation, a written peti-
3 tion requesting that the order or regulation be modified or set aside. A
4 copy of such petition shall be served promptly upon the commissioner. On
5 such appeal, the commissioner shall certify and file with the board of
6 standards and appeals a transcript of the entire record, including the
7 testimony and evidence upon which such order or regulation was made and
8 the report of the wage board. The board of standards and appeals, upon
9 the record certified and filed by the commissioner, shall, after oral
10 argument, determine whether the order or regulation appealed from is
11 ~~contrary to law~~ invalid or unreasonable. Within forty-five days after
12 the expiration of the time for the filing of a petition, the board of
13 standards and appeals shall issue an order confirming, amending or
14 setting aside the order or regulation appealed from. The appellate
15 jurisdiction of the board of standards and appeals shall be exclusive
16 and its order final except that the same shall be subject to an appeal
17 taken directly to the appellate division of the supreme court, third
18 judicial department, within sixty days after its order is issued. The
19 commissioner shall be considered an aggrieved party entitled to take an
20 appeal from an order of the board of standards and appeals.

21 § 3. Section 5 of part K of chapter 54 of the laws of 2016, amending
22 the labor law, relating to the rate of minimum wage, is REPEALED.

23 § 4. Section 659 of the labor law is amended by adding a new subdivi-
24 sion 3 to read as follows:

25 3. By commissioner. The commissioner shall, within six months after
26 enactment of any change in the statutory minimum wage set forth in
27 subdivision one of section six hundred fifty-two of this article,
28 conform all wage orders in effect on the effective date of such legis-
29 lation to the statutory minimum wage, provided further that in no event
30 may a worker's wages be reduced by such conformity.

31 § 5. This act shall take effect immediately.