

STATE OF NEW YORK

7264

2019-2020 Regular Sessions

IN ASSEMBLY

April 18, 2019

Introduced by M. of A. STERN -- read once and referred to the Committee on Labor

AN ACT to amend the labor law and the tax law, in relation to establishing a qualified transportation fringe benefits program

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 article 33 to read
2 as follows:

ARTICLE 33

TRANSPORTATION BENEFITS PROGRAM

Section 960. Definitions.

961. Transportation benefits program.

962. Administration and enforcement.

§ 960. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Qualified transportation fringe benefits" shall mean any of the following provided by an employer to an employee:

a. Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment;

b. Any transit pass;

c. Qualified parking; or

d. Qualified bicycle commuting reimbursement.

2. "Covered employee" shall mean any person who performed an average of at least ten hours of work per week for compensation for the same employer within the previous calendar month.

3. "Covered employer" shall mean an employer for which an average of twenty or more persons per week perform work for compensation. In determining the number of persons performing work for an employer during a given week, all persons performing work for compensation on a full-time, part-time or temporary basis shall be counted, including persons made

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

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1 available to work through the services of a temporary services or staff-
2 ing agency or similar entity. A covered employer shall not include any
3 governmental entity.

4 4. "Transit pass" shall mean any pass, token, fare card, voucher or
5 similar item entitling a person to transportation, or transportation at
6 a reduced price, if such transportation is (i) on mass transit facili-
7 ties, whether or not publicly owned, or (ii) provided by any person in
8 the business of transporting persons for compensation or hire if such
9 transportation is provided in a vehicle meeting the requirements of
10 paragraph a of subdivision five of this section.

11 5. "Commuter highway vehicle" shall mean any highway vehicle where:

12 a. the seating capacity is at least six adults, not including the
13 driver; and

14 b. at least eighty percent of the mileage use can reasonably be
15 expected to be (i) for purposes of transporting employees in connection
16 with travel between their residences and their place of employment; and
17 (ii) on trips during which the number of employees transported for such
18 purposes is at least one-half of the adult seating capacity of such
19 vehicle, not including the driver.

20 6. "Qualified parking" means parking provided to an employee on or
21 near the business premises of the employer or on or near a location from
22 which the employee commutes to work by transportation described in
23 subdivision four of this section, in a commuter highway vehicle, or by
24 carpool. Such term shall not include any parking on or near property
25 used by the employee for residential purposes.

26 7. "Qualified bicycle commuting reimbursement" shall mean, with
27 respect to any calendar year, any employer reimbursement during the
28 fifteen month period beginning with the first day of such calendar year
29 for reasonable expenses incurred by the employee during such calendar
30 year for the purchase of a bicycle and bicycle improvements, repair, and
31 storage, if such bicycle is regularly used for travel between the
32 employee's residence and place of employment. There shall be an annual
33 limitation with respect to any employee for any calendar year, the prod-
34 uct of twenty dollars multiplied by the number of qualified bicycle
35 commuting months during such year.

36 8. "Qualified bicycle commuting months" shall mean, with respect to
37 any employee, any month during which such employee (i) regularly uses
38 the bicycle for a substantial portion of the travel between the employ-
39 ee's residence and place of employment, and (ii) does not receive any
40 benefit described in paragraph a, b, or c of subdivision one of this
41 section.

42 § 961. Transportation benefits program. Covered employers may provide
43 the following transportation benefit programs to covered employees:

44 1. a pre-tax election program allowing employees to elect to exclude
45 from taxable wages and compensation, employee commuting costs incurred
46 for transit passes, commuter highway vehicle charges, qualified parking,
47 and qualified bicycle commuting. The amount of qualified transportation
48 fringe benefits shall not exceed:

49 a. one hundred seventy-five dollars per month in case of the aggregate
50 of the benefits described in paragraphs a and b of subdivision one of
51 section nine hundred sixty of this article;

52 b. one hundred seventy-five dollars per month in the case of qualified
53 parking; and

54 c. the applicable annual limitation in the case of any qualified bicy-
55 cle commuting reimbursement.

1 2. an employer paid benefit program whereby the employer supplies a
2 transit pass for a public transit system of the employer's choosing upon
3 request by each covered employee or reimbursement for equivalent commu-
4 ter highway vehicle charges equal in value to the purchase price of the
5 appropriate benefit; or

6 3. employer provided transit furnished by the employer at no cost to
7 the covered employee in a commuter highway vehicle or bus, or similar
8 multi-passenger vehicle operated by or for the employer.

9 § 962. Administration and enforcement. 1. The duly authorized officer
10 having predominant jurisdiction over transportation issues in the muni-
11 cipality in which a transportation benefits program is administered
12 shall promulgate such rules and regulations as necessary to implement
13 the provisions of this article.

14 2. Such officer shall maintain an education and advice program to
15 assist covered employers with meeting the requirements of section nine
16 hundred sixty-one of this article.

17 § 2. Subsection (d) of section 615 of the tax law is amended by adding
18 a new paragraph 6 to read as follows:

19 (6) the full amount of expenses for any qualified transportation
20 fringe benefit provided to an employee of the taxpayer in accordance
21 with article thirty-three of the labor law.

22 § 3. Paragraph (a) of subdivision 9 of section 208 of the tax law is
23 amended by adding a new subparagraph 20 to read as follows:

24 (20) The full amount of expenses for any qualified transportation
25 fringe benefit provided to an employee of the taxpayer in accordance
26 with article thirty-three of the labor law.

27 § 4. This act shall take effect immediately, provided, however, that
28 section one of this act shall take effect on the one hundred twentieth
29 day after it shall have become a law; provided, further, that sections
30 two and three of this act shall apply to taxable years beginning on and
31 after January 1, 2020.