

STATE OF NEW YORK

757

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. ROZIC, GALEF, SEAWRIGHT, HEVESI, REYES, L. ROSENTHAL, EPSTEIN, FRONTUS, THIELE, J. M. GIGLIO, McDONOUGH, BARNWELL, CRUZ, SIMON -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to providing hazard payments to essential workers during a state disaster emergency

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-c to
2 read as follows:

3 § 196-c. Essential worker hazard payments. 1. For the purposes of this
4 section:

5 (a) "essential worker" means any employee of an employer providing
6 essential services or functions during any state disaster emergency
7 declared pursuant to article two-B of the executive law and designated
8 as an essential worker pursuant to any law, rule, regulation or execu-
9 tive order including but not limited to essential health care operations
10 including research and laboratory services; essential infrastructure
11 including utilities, telecommunication, airports and transportation
12 infrastructure; essential retail including grocery stores and pharma-
13 cies; essential services including trash collection, mail, and shipping
14 services; news media; banks and related financial institutions; provid-
15 ers of basic necessities to economically disadvantaged populations;
16 construction; vendors of essential services necessary to maintain the
17 safety, sanitation and essential operations of residences or other
18 essential businesses; vendors that provide essential services or
19 products, including logistics and technology support, child care and
20 services needed to ensure the continuing operation of government agen-
21 cies and provide for the health, safety and welfare of the public;

22 (b) "employer" means a formula retail store, large employer, transpor-
23 tation business, or franchisee or subcontractor, and includes any indi-

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

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1 vidual, partnership, association, corporation, limited liability compa-
2 ny, business trust, legal representative, or any organized group of
3 persons acting as such an employer;

4 (c) "formula retail store" means any employer that operates a retail
5 sales or restaurant establishment either directly or through franchisees
6 and that, along with eleven or more other retail sales or restaurant
7 establishments located in the United States, maintains two or more of
8 the following features: (i) a standardized array of merchandise, a
9 standardized facade, a standardized decor and color scheme, a uniform
10 apparel, standardized signage, a trademark; or (ii) a servicemark;

11 (d) "large employer" means any employer that has annual gross revenue
12 of fifty million dollars or more, but shall not include: (i) an employer
13 whose principal industry is manufacturing; or (ii) a not-for-profit
14 organization. An employer shall be deemed to have annual gross revenue
15 of fifty million dollars or more if it had revenue at or exceeding that
16 level in any of the past three fiscal or calendar years;

17 (e) "manufacturing" means the process of working raw materials into
18 products suitable for use or which gives new shapes, new quality or new
19 combinations to matter which has already gone through some artificial
20 process by the use of machinery, tools, appliances, or other similar
21 equipment;

22 (f) "not-for-profit organization" means an entity exempt from taxation
23 under section 501(c)(3) of the federal internal revenue code;

24 (g) "transportation business" means any industry, business, or estab-
25 lishment operated for the purpose of conveying persons or property from
26 one place to another whether by rail, highway, air, or water, and all
27 operations and services in connection therewith; and

28 (h) "franchisee or subcontractor" means any employer that operates
29 under a franchise agreement with a formula retail store or large employ-
30 er, or that provides services, including but not limited to janitorial,
31 maintenance, security, staffing, passenger services, food services, or
32 temporary services to a formula retail store, large employer, or trans-
33 portation business.

34 2. During a state disaster emergency, when essential workers are
35 exposed as a result of their work assignments to an unavoidable, clear
36 and direct risk and hazard to safety and health, the commissioner shall
37 direct all employers of essential workers to make hazard payments to
38 such essential workers. Such payment shall be a percentage or a fixed
39 dollar amount, as prescribed by the commissioner, provided, however, no
40 hazard payment shall exceed twenty-five thousand dollars in any year for
41 any essential worker earning less than two hundred thousand dollars per
42 year or five thousand dollars for any essential worker earning more than
43 two hundred thousand dollars. Such payments shall be in addition to and
44 shall not be part of an essential worker's basic annual salary, and
45 shall not affect or impair any performance advancement payments,
46 performance awards, longevity payments or other rights or benefits to
47 which an essential worker may be entitled. A hazard payment shall be
48 terminated upon the cessation of the state disaster emergency.

49 3. The commissioner shall adopt regulations necessary to carry out the
50 provisions of this section.

51 § 2. This act shall take effect immediately.