STATE OF NEW YORK

3062--C

2021-2022 Regular Sessions

IN SENATE

January 27, 2021

Introduced by Sens. RAMOS, BIAGGI, BRISPORT, CLEARE, GOUNARDES, JACKSON, KAVANAGH, KRUEGER, REICHLIN-MELNICK -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to raising the minimum wage annually by a percentage which is based on inflation; and to repeal subdivision 6 of section 652 of the labor law relating thereto

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

Section 1. Legislative findings. As New Yorkers struggle with the rapidly rising cost of living, their paychecks are not keeping up. The state minimum wage has been frozen at $15 in New York City since 2018. In the suburbs of New York City it reached $15 in 2021 and under current law will not increase further. And upstate, it is projected to reach $15 in a few years, but will not increase further after that until the legislature acts.

At the same time, record inflation is eroding the value of the minimum wage as workers face rapidly rising prices. For example, adjusted for consumer price inflation from the fourth quarter of 2018 through the first quarter of 2022, the purchasing power of New York City's $15 minimum wage has declined by 13.6% and is now just $12.96. As inflation has remained high since the second quarter of 2021 and is likely to be elevated for some time, the value of the minimum wage across New York is falling even lower as consumers struggle with the rising cost of necessities. And even in times of more stable price growth, workers still lose real wages as the minimum wage stays stagnant.

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

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Meanwhile, other high-cost cities and states are raising their minimum wages well above $15. Thirty-three cities and counties have wages above $15 an hour as of January 2022, and eleven more will pass $15 later in 2022. Seattle, San Francisco, and five other cities will have minimum wages of about $17 or higher in 2022. Similarly, California and Hawaii are considering raising their minimum wages to $18 statewide.

New York must restore the value of the eroded $15 minimum wage in New York City, while finally phasing the upstate minimum wage to $15, and providing for automatic annual minimum wage increases in all regions of the state.

"Catching up" New York City's minimum wage to its 2018 value (and adjusting it for the growth in labor productivity) would raise it to $20.45 by 2025, based on current projections.

For adjusting the minimum wage statewide each year, the Department of Labor should use the same formula that it and the Division of the Budget used to increase New York's upstate minimum wage in 2021. That formula was based on a combination of the past year's increase in the cost of living together with the past year's increase in labor productivity. This important approach ensures: (1) that workers' wages keep pace with rising consumer prices - a crucial concern right now as workers struggle with the highest inflation in four decades - and (2) that workers also share in the benefits of productivity gains that their labor helps produce.

New York's recent experiences raising the minimum wage show that increases have been manageable for employers and that higher paychecks have put money back into local communities, boosting consumer spending at neighborhood businesses. With inflation crushing New York's working families, we cannot afford to wait.

§ 2. Subdivision 1 of section 652 of the labor law, as amended by section 1 of part K of chapter 54 of the laws of 2016, is amended to read as follows:

1. Statutory. Every employer shall pay to each of its employees for each hour worked a wage of not less than:

$4.25 on and after April 1, 1991,

$5.15 on and after March 31, 2000,

$6.00 on and after January 1, 2005,

$6.75 on and after January 1, 2006,

$7.15 on and after January 1, 2007,

$8.00 on and after December 31, 2013,

$8.75 on and after December 31, 2014,

$9.00 on and after December 31, 2015, and until December 31, 2016, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors

or such other wage as may be established in accordance with the provisions of this article.

(a) New York City. (i) Large employers. Every employer of eleven or more employees shall pay to each of its employees for each hour worked in the city of New York a wage of not less than:

$11.00 per hour on and after December 31, 2016,

$13.00 per hour on and after December 31, 2017,

$15.00 per hour on and after December 31, 2018,

$17.00 on and after January 1, 2023,

$18.80 on and after January 1, 2024,

$20.45 on and after January 1, 2025, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(ii) Small employers. Every employer of ten or less employees shall pay to each of its employees for each hour worked in the city of New York a wage of not less than:

$10.50 per hour on and after December 31, 2016,
$12.00 per hour on and after December 31, 2017,
$13.50 per hour on and after December 31, 2018,
$15.00 per hour on and after December 31, 2019,
$17.00 on and after January 1, 2023,
$18.80 on and after January 1, 2024,
$20.45 on and after January 1, 2025, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(b) Remainder of downstate. Every employer shall pay to each of its employees for each hour worked in the counties of Nassau, Suffolk and Westchester a wage not less than:

$10.00 per hour on and after December 31, 2016,
$11.00 per hour on and after December 31, 2017,
$12.00 per hour on and after December 31, 2018,
$13.00 per hour on and after December 31, 2019,
$14.00 per hour on and after December 31, 2020,
$15.00 per hour on and after December 31, 2021,
$16.00 on and after January 1, 2023,
$17.20 on and after January 1, 2024,
$17.95 on and after January 1, 2025,

or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(c) Remainder of state. Every employer shall pay to each of its employees for each hour worked outside of the city of New York and the counties of Nassau, Suffolk, and Westchester, a wage of not less than:

$9.70 on and after December 31, 2016,
$10.40 on and after December 31, 2017,
$11.10 on and after December 31, 2018,
$11.80 on and after December 31, 2019,
$12.50 on and after December 31, 2020,
[~~and on each following December thirty-first, a wage published by the commissioner on or before October first, based on the then current minimum wage increased by a percentage determined by the director of the budget in consultation with the commissioner, with the result rounded to the nearest five cents, totaling no more than fifteen dollars, where the percentage increase shall be based on indices including, but not limited to, (i) the rate of inflation for the most recent twelve month period ending June of that year based on the consumer price index for all urban consumers on a national and seasonally unadjusted basis (CPI-U), or a successor index as calculated by the United States department of labor, (ii) the rate of state personal income growth for the prior calendar year, or a successor index, published by the bureau of economic analysis of the United States department of commerce, or (iii) wage growth;~~]
$13.20 on and after December 31, 2021,
$14.20 on and after January 1, 2023,
$15.10 on and after January 1, 2024,
$15.75 on and after January 1, 2025, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206

or its successors or such other wage as may be established in accordance with the provisions of this article.

(d) Annual increases. On January first, two thousand twenty-six, and on each following January first, the wages set forth in paragraphs (a), (b) and (c) of this subdivision and any other wages established in accordance with the provisions of this chapter and set forth in any minimum wage order, shall be the wages published by the commissioner pursuant to this paragraph. The commissioner shall publish such wages on or before November first, two thousand twenty-five, and on each following November first. The commissioner shall base each such published wage on each then current wage increased by the sum of: (i) the rate of inflation, if greater than zero, as measured by the change from the third quarter of the prior year through the third quarter of the current year in the consumer price index for all urban wage earners and clerical workers on a national and seasonally unadjusted basis (CPI-W), or a successor index, as calculated by the United States department of labor; and (ii) labor productivity growth, if greater than zero, as measured by the change in the average quarterly index for the four quarters through the second quarter of the current year divided by the average quarterly index for the four quarters through the second quarter of the preceding year in national labor productivity (output per hour) of all employed persons in the nonfarm business sector, or a successor index, as calculated by the United States department of labor, with the sum rounded to the nearest multiple of five cents. For purposes of subdivision two of this section, each published wage that increases each then current minimum wage shall be deemed to be an increase in hourly minimum wage as provided in this subdivision.

(e) The rates and schedules established in paragraphs (a) and (b) of this subdivision shall not be deemed to be the minimum wage under this subdivision for purposes of the calculations specified in subdivisions one and two of section five hundred twenty-seven of this chapter.

§ 3. Subdivision 6 of section 652 of the labor law is REPEALED.

§ 4. This act shall take effect immediately.