S T A T E O F N E W Y O R K

2128

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. JOHN, NOLAN, GLICK, MILLMAN, BRENNAN, EDDINGTON, HOYT -- Multi-Sponsored by -- M. of A. GOTTFRIED, V. LOPEZ, PAULIN, PERRY, PHEFFER -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to making certain provisions of the disability benefits law applicable to domestic partner and defining the term "domestic partner"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 201 of the workers' compensation law is amended by adding a new subdivision 15 to read as follows:

15. "DOMESTIC PARTNER" MEANS A PERSON AT LEAST EIGHTEEN YEARS OF AGE WHO:

(A) IS DEPENDENT UPON THE EMPLOYEE FOR SUPPORT, AS SHOWN BY EITHER UNILATERAL DEPENDENCE OR MUTUAL INTERDEPENDENCE, AS EVIDENCED BY A NEXUS OF FACTORS INCLUDING, BUT NOT LIMITED TO, COMMON OWNERSHIP OF REAL OR PERSONAL PROPERTY, COMMON HOUSEHOLDING, SHARED BUDGETING, AND THE LENGTH OF THE PERSONAL RELATIONSHIP WITH THE EMPLOYEE OR, IF THE EMPLOYEE IS DECEASED, WAS SO DEPENDENT UPON THE EMPLOYEE IMMEDIATELY PRIOR TO THE EMPLOYEE'S DEATH; OR

(B) HAS REGISTERED AS THE DOMESTIC PARTNER OF THE EMPLOYEE WITH ANY REGISTRY OF DOMESTIC PARTNERSHIPS MAINTAINED BY THE STATE OR BY ANY COUNTY, CITY, TOWN, OR VILLAGE OR, IF THE EMPLOYEE IS DECEASED, DID SO REGISTER PRIOR TO THE EMPLOYEE'S DEATH.

"DOMESTIC PARTNER" SHALL NOT, HOWEVER, INCLUDE ANY PERSON WHO IS RELATED BY BLOOD TO THE EMPLOYEE IN A MANNER THAT WOULD BAR MARRIAGE TO THE EMPLOYEE IN NEW YORK STATE.

S 2. Subdivision 5 of section 212 of the workers' compensation law, as added by chapter 593 of the laws of 1992, is amended to read as follows:

5. A spouse OR DOMESTIC PARTNER who is an employee of a covered employer shall be deemed to be included in the employer's disability benefits insurance contract or covered by a certificate of self-insu-

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

LBD04145-01-9

rance or a plan under section two hundred eleven of this article, unless the employer elects to exclude such spouse OR DOMESTIC PARTNER from the coverage of this article. Such election shall be made by any such [employer] EMPLOYER'S filing with the insurance carrier, or the [chair] CHAIRPERSON of the workers' compensation board in the case of self-insurance, upon a form prescribed by the [chair] CHAIRPERSON, a notice that the employer elects to exclude such spouse OR DOMESTIC PARTNER named in the notice from the coverage of this article. Such election shall be effective with respect to all policies issued to such employer by such insurance carrier as long as it shall continuously insure the employer. Such election shall be final and binding upon the spouse OR DOMESTIC PARTNER named in the notice until revoked by the employer.

S 3. Section 236 of the workers' compensation law, as amended by chapter 108 of the laws of 1954, is amended to read as follows:

S 236. Disposition of accrued benefits upon death. If any benefits due under this article to an employee are unpaid at the time of his OR HER death, such benefits shall be payable to the estate of the individual or, at the option of the carrier, may be paid to the surviving spouse, DOMESTIC PARTNER, parent, child, or children of the deceased employee. Benefits that are not paid as above provided shall, after the expiration of one year after such death, be paid into the special fund for disability benefits created under section two hundred fourteen of this article.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after September 11, 2001; provided however, that nothing contained in this act shall operate to impair any existing contract, including, but not limited to, any disability benefits insurance contracts.