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

2497

2009-2010 Regular Sessions

I N A S S E M B L Y

January 16, 2009

Introduced by M. of A. PRETLOW, JOHN, GLICK, CARROZZA, GALEF, LENTOL -- Multi-Sponsored by -- M. of A. DINOWITZ -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to providing for the implementation of domestic violence employee awareness and assistance policies by employers and providing a disability benefits insurance premium credit for the implementation thereof

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

Section 1. The workers' compensation law is amended by adding a new section 210-a to read as follows:

S 210-A. DOMESTIC VIOLENCE EMPLOYEE AWARENESS AND ASSISTANCE POLICY; CERTIFICATION OF DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALISTS. 1. EMPLOYERS INSURED THROUGH THE STATE FUND OR ANY OTHER INSURER THAT ISSUES POLICIES PROVIDING DISABILITY BENEFITS PURSUANT TO THIS ARTICLE, SHALL BE ELIGIBLE FOR A CREDIT IN DISABILITY BENEFITS PREMIUMS IF THEY IMPLEMENT A DOMESTIC VIOLENCE EMPLOYEE AWARENESS AND ASSISTANCE POLICY THAT HAS BEEN ESTABLISHED BY THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, RECOMMENDED BY A DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALIST AND CERTIFIED BY THE DOMESTIC VIOLENCE WORKPLACE POLICY PANEL ESTABLISHED PURSUANT TO THIS SECTION. THE CREDIT, WHICH SHALL BE FIVE PERCENT OF THE DISABILITY BENEFITS INSURANCE PREMIUM FOR THE IMPLEMENTATION OF A DOMESTIC VIOLENCE EMPLOYEE AWARENESS AND ASSISTANCE POLICY, SHALL BE PROVIDED TO THE EMPLOYER AT THE END OF THE POLICY YEAR. THE CREDIT SHALL BE AVAILABLE FOR TWO CONSECUTIVE YEARS, PROVIDED THAT SUCH A POLICY SHALL HAVE BEEN IMPLEMENTED FOR A MINIMUM OF SIX MONTHS DURING THE FIRST YEAR FOR WHICH THE CREDIT IS SOUGHT, AND THAT THE POLICY SHALL HAVE BEEN IMPLEMENTED FOR A FULL TWELVE MONTHS DURING THE SECOND YEAR FOR WHICH THE CREDIT IS SOUGHT.

2. A SELF-INSURED EMPLOYER SHALL BE ELIGIBLE FOR A REDUCTION IN THE SECURITY DEPOSIT PROVIDED FOR IN SUBDIVISION THREE OF SECTION TWO

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

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HUNDRED ELEVEN OF THIS ARTICLE IF SUCH EMPLOYER HAS IMPLEMENTED A DOMESTIC VIOLENCE EMPLOYEE AWARENESS AND ASSISTANCE POLICY THAT HAS BEEN ESTABLISHED BY THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, RECOMMENDED BY A DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALIST AND CERTIFIED BY THE DOMESTIC VIOLENCE WORKPLACE POLICY PANEL ESTABLISHED PURSUANT TO THIS SECTION. THE AMOUNT OF THE REDUCTION IN THE REQUIRED SECURITY DEPOSIT SHALL BE NO GREATER THAN FIVE PERCENT FOR THE IMPLEMENTATION OF A DOMESTIC VIOLENCE EMPLOYEE AWARENESS AND ASSISTANCE POLICY, OR SUCH AMOUNT AS DETERMINED BY THE CHAIR OF THE BOARD TO BE NECESSARY TO ASSURE THAT THE DEPOSIT REMAIN SUFFICIENT TO SECURE THE EMPLOYER'S LIABILITY TO PAY THE BENEFITS REQUIRED BY THIS ARTICLE. THE REDUCTION SHALL BE AVAILABLE FOR TWO CONSECUTIVE YEARS, PROVIDED THAT SUCH POLICY SHALL HAVE BEEN IMPLEMENTED FOR A MINIMUM OF SIX MONTHS DURING THE FIRST YEAR FOR WHICH THE REDUCTION IS SOUGHT, AND THAT SUCH POLICY SHALL HAVE BEEN IMPLEMENTED FOR A MINIMUM OF SIX MONTHS DURING THE FIRST YEAR FOR WHICH THE REDUCTION IS SOUGHT, AND THAT SUCH POLICY SHALL HAVE BEEN IMPLEMENTED FOR A FULL TWELVE MONTHS DURING THE SECOND YEAR FOR WHICH THE REDUCTION IS SOUGHT.

3. A. THERE IS HEREBY ESTABLISHED A DOMESTIC VIOLENCE WORKPLACE POLICY PANEL WHICH SHALL HAVE THE RESPONSIBILITY TO: (I) RECEIVE AND REVIEW APPLICATIONS FROM APPLICANTS FOR CERTIFICATION AS DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALISTS, (II) CERTIFY PERSONS AS DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALISTS, AND (III) REVOKE CERTIFICATION OF DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALISTS FOR JUST CAUSE.

B. THE DOMESTIC VIOLENCE WORKPLACE POLICY PANEL SHALL CONSIST OF FIVE VOTING MEMBERS AS FOLLOWS: THE SUPERINTENDENT OF INSURANCE, THE CHAIR OF THE BOARD, THE EXECUTIVE DIRECTOR OF THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, OR THEIR DESIGNEES, AND TWO MEMBERS APPOINTED BY THE GOVERNOR. THE MEMBERS APPOINTED BY THE GOVERNOR SHALL BE AS FOLLOWS: ONE SHALL BE A REPRESENTATIVE OF THE BUSINESS COMMUNITY APPOINTED UPON THE RECOMMENDATION OF THE BUSINESS COUNCIL OF NEW YORK STATE, INCORPORATED AND ONE SHALL BE A REPRESENTATIVE OF ORGANIZED LABOR UPON THE RECOMMENDATION OF THE STATE AMERICAN FEDERATION OF LABOR-CONGRESS OF INDUSTRIAL ORGANIZATIONS. SUCH APPOINTED MEMBERS SHALL SERVE UNTIL THEIR SUCCESSORS ARE APPOINTED BY THE GOVERNOR. THE COMMISSIONER OF LABOR, OR HIS OR HER DESIGNEE, SHALL SERVE AS AN EX-OFFICIO NON-VOTING MEMBER OF THE DOMESTIC VIOLENCE WORKPLACE POLICY PANEL.

C. THE DOMESTIC VIOLENCE WORKPLACE POLICY PANEL SHALL MEET AT LEAST QUARTERLY. THE EXECUTIVE DIRECTOR OF THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE SHALL SERVE AS CHAIR OF THE PANEL. THE MEMBERS OF SUCH PANEL SHALL SERVE WITHOUT COMPENSATION, EXCEPT THAT THEY SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

4. THE BOARD SHALL MONITOR ALL DOMESTIC VIOLENCE EMPLOYEE AWARENESS AND ASSISTANCE POLICIES IMPLEMENTED BY EMPLOYERS. AS PART OF THIS RESPONSIBILITY, THE BOARD SHALL ENSURE THAT EMPLOYEE REPRESENTATIVES ARE INVOLVED IN THE DEVELOPMENT OF SUCH POLICIES THROUGH MEETINGS AND DISCUSSIONS WITH THE RESPECTIVE CERTIFIED DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALISTS.

5. AFTER CONSULTATION WITH THE DOMESTIC VIOLENCE WORKPLACE POLICY PANEL, THE COMMISSIONER OF LABOR SHALL PROMULGATE RULES AND REGULATIONS FOR THE CERTIFICATION OF DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALISTS. SUCH RULES AND REGULATIONS SHALL INCLUDE PROVISIONS THAT OUTLINE THE MINIMUM QUALIFICATION FOR DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALISTS, PROCEDURES FOR CERTIFICATION, CAUSES FOR REVOCATION OR SUSPENSION OF CERTIFICATION AND APPROPRIATE ADMINISTRATIVE AND JUDICIAL REVIEW

PROCEDURES, VIOLATIONS AND PENALTIES FOR MISUSE OF CERTIFICATION BY CERTIFIED DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALISTS, AND FEES FOR CERTIFICATES AND CERTIFICATE RENEWALS.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, except that subdivisions 3 and 5 of section 210-a of the workers' compensation law, as added by section one of this act, shall take effect immediately.