

6729--A

2009-2010 Regular Sessions

I N   A S S E M B L Y

March 11, 2009

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Introduced by M. of A. JOHN, PERRY, ESPAILLAT, AUBRY -- read once and referred to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to prohibiting quotas for a ticket, summons or arrest authorized by any general, special or local law

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

1     Section 1. Section 215-a of the labor law, as amended by chapter 166  
2     of the laws of 1991, subdivision 3 as amended by chapter 526 of the laws  
3     of 1991, is amended to read as follows:  
4     S 215-a. Discrimination against employees for failure to meet certain  
5     ticket quotas. 1. No employer or his OR HER duly authorized agent shall  
6     transfer or in any other manner penalize OR THREATEN, EXPRESSLY OR  
7     IMPLIEDLY, an employee as to his OR HER employment [solely because] IN A  
8     MANNER, INCLUDING, BUT NOT LIMITED TO, A REASSIGNMENT, A SCHEDULING  
9     CHANGE, AN ADVERSE EVALUATION, A CONSTRUCTIVE DISMISSAL, THE DENIAL OF A  
10    PROMOTION, OR THE DENIAL OF OVERTIME, BASED IN WHOLE OR IN PART ON such  
11    [employee has failed] EMPLOYEE'S FAILURE to meet a quota, established by  
12    his OR HER employer or his OR HER duly authorized agent, of (A) tickets  
13    or summonses issued within a specified period of time for [traffic]  
14    violations [including parking, standing or stopping] OF PROVISIONS OF  
15    LAW FOR WHICH A TICKET OR SUMMONS IS AUTHORIZED BY ANY GENERAL, SPECIAL  
16    OR LOCAL LAW; OR (B) ARRESTS MADE WITHIN A SPECIFIED PERIOD OF TIME FOR  
17    VIOLATIONS OF PROVISIONS OF LAW FOR WHICH SUCH ARREST IS AUTHORIZED BY  
18    ANY GENERAL, SPECIAL OR LOCAL LAW; OR (C) STOPS OF INDIVIDUALS SUSPECTED  
19    OF CRIMINAL ACTIVITY WITHIN A SPECIFIED PERIOD OF TIME. Any employee so  
20    transferred or otherwise penalized may cause to be instituted a grievance  
21    proceeding pursuant to the provisions of a collective bargaining

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

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1 agreement, if any, or pursuant to the provisions of section seventy-  
2 five-a of the civil service law if no collective bargaining agreement  
3 exists. Any employee so transferred or otherwise penalized shall be  
4 restored to his OR HER previously assigned position of employment and  
5 shall be compensated by his OR HER employer for any loss of wages aris-  
6 ing out of such transfer or other penalty, and shall have any penalty  
7 imposed restored; provided, that if such employee shall cease to be  
8 qualified to perform the duties of his OR HER employment he OR SHE shall  
9 not be entitled to such restoration; and it shall be contrary to the  
10 public policy of this state for such employer to establish or hereafter  
11 maintain a quota policy of (I) tickets or summonses issued [for traffic  
12 violations including parking, standing, or stopping] WITHIN A SPECIFIED  
13 PERIOD OF TIME FOR VIOLATIONS OF PROVISIONS OF LAW FOR WHICH A TICKET OR  
14 SUMMONS IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW; OR (II)  
15 ARRESTS MADE WITHIN A SPECIFIED PERIOD OF TIME FOR VIOLATIONS OF  
16 PROVISIONS OF LAW FOR WHICH SUCH ARREST IS AUTHORIZED BY ANY GENERAL,  
17 SPECIAL OR LOCAL LAW; OR (III) STOPS OF INDIVIDUALS SUSPECTED OF CRIMI-  
18 NAL ACTIVITY WITHIN A SPECIFIED PERIOD OF TIME.

19 2. For the purpose of this section a quota shall mean a specific  
20 number of (A) tickets or summonses [issued] for [traffic] violations  
21 [including parking, standing or stopping which are required to be  
22 issued] OF LAW FOR WHICH A TICKET OR SUMMONS IS AUTHORIZED BY ANY GENER-  
23 AL, SPECIAL OR LOCAL LAW, WHICH ARE REQUIRED TO BE MADE WITHIN A SPECI-  
24 FIED PERIOD OF TIME; OR (B) ARRESTS MADE FOR VIOLATIONS OF PROVISIONS OF  
25 LAW FOR WHICH SUCH ARREST IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL  
26 LAW, WHICH ARE REQUIRED TO BE MADE within a specified period of time; OR  
27 (C) STOPS OF INDIVIDUALS SUSPECTED OF CRIMINAL ACTIVITY WITHIN A SPECI-  
28 FIED PERIOD OF TIME.

29 [3. Nothing provided in this section shall prohibit an employer or his  
30 duly authorized agent from transferring or taking any other job action  
31 against such employee for failure to satisfactorily perform his job  
32 assignment of issuing tickets or summonses for traffic violations  
33 including parking, standing or stopping except that the employment  
34 productivity of such employee shall not be measured by such employee's  
35 failure to satisfactorily comply with the requirement of any quota, as  
36 that term is defined herein, which may be established.]

37 S 2. Section 215-a of the labor law, as added by chapter 633 of the  
38 laws of 1978, is amended to read as follows:

39 S 215-a. Discrimination against employees for failure to meet certain  
40 ticket quotas. 1. No employer or his OR HER duly authorized agent shall  
41 transfer or in any other manner penalize OR THREATEN, EXPRESSLY OR  
42 IMPLIEDLY, an employee who is a police officer as to his OR HER employ-  
43 ment [solely because] IN A MANNER, INCLUDING, BUT NOT LIMITED TO, A  
44 REASSIGNMENT, A SCHEDULING CHANGE, AN ADVERSE EVALUATION, A CONSTRUCTIVE  
45 DISMISSAL, THE DENIAL OF A PROMOTION, OR THE DENIAL OF OVERTIME BASED IN  
46 WHOLE OR IN PART ON such [employee has failed] EMPLOYEE'S FAILURE to  
47 meet a quota, established by his OR HER employer or his OR HER duly  
48 authorized agent, of (A) tickets or summonses issued within a specified  
49 period of time [for traffic violations other than parking, standing or  
50 stopping] OF PROVISIONS OF LAW FOR WHICH A TICKET OR SUMMONS IS AUTHOR-  
51 IZED BY ANY GENERAL, SPECIAL OR LOCAL LAW; OR (B) ARRESTS MADE WITHIN A  
52 SPECIFIED PERIOD OF TIME FOR VIOLATIONS OF PROVISIONS OF LAW FOR WHICH  
53 SUCH ARREST IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW; OR (C)  
54 STOPS OF INDIVIDUALS SUSPECTED OF CRIMINAL ACTIVITY WITHIN A SPECIFIED  
55 PERIOD OF TIME. Any employee so transferred or otherwise penalized may  
56 cause to be instituted a grievance proceeding pursuant to the provisions

1 of a collective bargaining agreement, if any, or pursuant to the  
2 provisions of section seventy-five-a of the civil service law if no  
3 collective bargaining agreement exists. Any employee so transferred or  
4 otherwise penalized shall be restored to his OR HER previously assigned  
5 position of employment and shall be compensated by his OR HER employer  
6 for any loss of wages arising out of such transfer or other penalty, and  
7 shall have any penalty imposed restored; provided, that if such employee  
8 shall cease to be qualified to perform the duties of his OR HER employ-  
9 ment he OR SHE shall not be entitled to such restoration; and it shall  
10 be contrary to the public policy of this state for such employer to  
11 establish or hereafter maintain a quota policy of (I) tickets or  
12 summonses issued [for traffic violations other than parking, standing,  
13 or stopping] WITHIN A SPECIFIED PERIOD OF TIME FOR VIOLATIONS OF  
14 PROVISIONS OF LAW FOR WHICH A TICKET OR SUMMONS IS AUTHORIZED BY ANY  
15 GENERAL, SPECIAL OR LOCAL LAW; OR (II) ARRESTS MADE WITHIN A SPECIFIED  
16 PERIOD OF TIME FOR VIOLATIONS OF PROVISIONS OF LAW FOR WHICH SUCH ARREST  
17 IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW; OR (III) STOPS OF  
18 INDIVIDUALS SUSPECTED OF CRIMINAL ACTIVITY WITHIN A SPECIFIED PERIOD OF  
19 TIME.

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21 number of (A) tickets or summonses [issued] for [traffic] violations  
22 [other than parking, standing or stopping which are required to be  
23 issued] OF LAW FOR WHICH A TICKET OR SUMMONS IS AUTHORIZED BY ANY GENER-  
24 AL, SPECIAL OR LOCAL LAW, WHICH ARE REQUIRED TO BE MADE WITHIN A SPECI-  
25 FIED PERIOD OF TIME; OR (B) ARRESTS MADE FOR VIOLATIONS OF PROVISIONS OF  
26 LAW FOR WHICH SUCH ARREST IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL  
27 LAW, WHICH ARE REQUIRED TO BE MADE within a specified period of time; OR  
28 (C) STOPS OF INDIVIDUALS SUSPECTED OF CRIMINAL ACTIVITY WITHIN A SPECI-  
29 FIED PERIOD OF TIME.

30 [3. Nothing provided in this section shall prohibit an employer or his  
31 duly authorized agent from transferring or taking any other job action  
32 against such employee who is a police officer for failure to satisfac-  
33 torily perform his job assignment of issuing tickets or summonses for  
34 traffic violations other than parking, standing or stopping except that  
35 the employment productivity of such police officer shall not be measured  
36 by such officer's failure to satisfactorily comply with the requirement  
37 of any quota, as that term is defined herein, which may be established.]

38 S 3. This act shall take effect immediately, provided that the amend-  
39 ments to section 215-a of the labor law made by section one of this act  
40 shall be subject to the expiration and reversion of such section pursu-  
41 ant to section 406 of chapter 166 of the laws of 1991, as amended, when  
42 upon such date the provisions of section two of this act shall take  
43 effect.