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

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2009-2010 Regular Sessions

I N S E N A T E

February 9, 2009

Introduced by Sens. KLEIN, DIAZ, DILAN, KRUEGER, ONORATO, SAMPSON, SMITH, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to requiring certain employers offer a qualified transportation fringe benefit program for employees

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

Section 1. The labor law is amended by adding a new article 32 to read as follows:

ARTICLE 32

EMPLOYEE TRANSPORTATION EXPENSES ACT

SECTION 930. SHORT TITLE.
931. APPLICABILITY; DEFINITIONS.
932. QUALIFIED TRANSPORTATION FRINGE BENEFIT PROGRAM.

S 930. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "EMPLOYEE TRANSPORTATION EXPENSES ACT".

S 931. APPLICABILITY; DEFINITIONS. 1. THIS ARTICLE SHALL APPLY TO ANY EMPLOYEE OF A BUSINESS WITH FIFTY OR MORE EMPLOYEES.

2. FOR PURPOSES OF THIS ARTICLE: A. "EMPLOYER" SHALL MEAN ANY PERSON, PARTNERSHIP, FIRM, ASSOCIATION, DOMESTIC OR FOREIGN CORPORATION, PROVIDED, HOWEVER, SUCH TERM SHALL NOT INCLUDE PUBLIC EMPLOYERS, INCLUDING THE STATE OF NEW YORK.

B. "PROGRAM ADMINISTRATOR" SHALL MEAN THE AGENT, AS DETERMINED AND DESIGNATED BY THE EMPLOYER, RESPONSIBLE FOR THE MAINTENANCE AND MANAGEMENT OF THE QUALIFIED TRANSPORTATION FRINGE BENEFIT PROGRAM AS AUTHORIZED IN SUBDIVISION ONE OF SECTION NINE HUNDRED THIRTY-TWO OF THIS ARTICLE.

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

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S 932. QUALIFIED TRANSPORTATION FRINGE BENEFIT PROGRAM. 1. EVERY EMPLOYER SHALL ESTABLISH A QUALIFIED TRANSPORTATION FRINGE BENEFIT PROGRAM CONSISTENT WITH SECTION 132 OF THE INTERNAL REVENUE CODE AND REGULATIONS ADOPTED PURSUANT THERETO, AND IMPLEMENT SUCH PROGRAM. FOLLOWING THE ESTABLISHMENT OF A QUALIFIED TRANSPORTATION FRINGE BENEFIT PROGRAM AS AUTHORIZED BY THIS SUBDIVISION EMPLOYEES SHALL BE PERMITTED TO USE PRE-TAX EARNINGS TO PURCHASE QUALIFIED TRANSPORTATION BENEFITS, IN ACCORDANCE WITH FEDERAL LAW AND SHALL BE ENTITLED TO SUCH PERSONAL INCOME TAX BENEFITS AS MAY BE AUTHORIZED BY SUCH LAW.

2. AT THE REQUEST OF AN EMPLOYEE, AN EMPLOYER SHALL, BY PAYROLL DEDUCTION, REDUCE THE AMOUNT OF COMPENSATION ELECTED BY THE EMPLOYEE PURSUANT TO PROGRAM REGULATIONS AND SECTION 132(F) OF THE INTERNAL REVENUE CODE FOR THE PURPOSE OF PROVIDING THE EMPLOYEE WITH A QUALIFIED TRANSPORTATION FRINGE BENEFIT AS AUTHORIZED IN SUBDIVISION ONE OF THIS SECTION, AND SHALL TRANSFER THE AMOUNT SO REDUCED TO THE AUTHORIZED PROGRAM ADMINISTRATOR.

3. MONEYS DEDUCTED FROM THE SALARIES OF EMPLOYEES OF PARTICIPATING EMPLOYERS SHALL BE HELD BY THE PROGRAM ADMINISTRATOR AS AGENT FOR THE PARTICIPATING EMPLOYER AND SHALL BE ACCOUNTED FOR SEPARATELY. ALL PAYMENTS OF MONEYS BY THE PROGRAM ADMINISTRATOR SHALL BE MADE ONLY IN ACCORDANCE WITH THE QUALIFIED TRANSPORTATION FRINGE BENEFIT PROGRAM.

4. TO THE EXTENT PERMITTED BY SECTION 132 OF THE INTERNAL REVENUE CODE AND REGULATIONS ADOPTED PURSUANT THERETO, ANY SALARY DEDUCTED FROM A PARTICIPATING EMPLOYEE'S ANNUAL COMPENSATION FOR THE PURPOSE OF PROVIDING SUCH EMPLOYEE WITH A QUALIFIED TRANSPORTATION FRINGE BENEFIT SHALL BE CONSIDERED PART OF ANNUAL COMPENSATION FOR THE PURPOSE OF COMPUTING RETIREMENT BENEFITS.

5. NOTWITHSTANDING ANY OTHER LAW, RULE, OR REGULATION TO THE CONTRARY, WHERE, AND TO THE EXTENT THAT, AN AGREEMENT BETWEEN AN EMPLOYER AND A RECOGNIZED EMPLOYEE ORGANIZATION ENTERED INTO ON BEHALF OF EMPLOYEES IN A COLLECTIVE NEGOTIATING UNIT PROVIDES FOR A QUALIFIED TRANSPORTATION FRINGE BENEFIT AS PROVIDED BY THIS SECTION, SUCH QUALIFIED TRANSPORTATION FRINGE BENEFIT SHALL BE ESTABLISHED IN ACCORDANCE WITH SUCH AGREEMENT.

6. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE EMPLOYERS TO PROVIDE TRANSPORTATION FOR EMPLOYEES.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.