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

2246

2009-2010 Regular Sessions

I N S E N A T E

February 13, 2009

Introduced by Sens. ONORATO, ADDABBO, SAVINO -- 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 allowing farm workers and domestic workers one day of rest each week

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

Section 1. Section 161 of the labor law is amended by adding two new subdivisions 7 and 8 to read as follows:

7. EVERY FARMER EMPLOYING FARM LABORERS SHALL OFFER THOSE FARM LABORERS TWENTY-FOUR CONSECUTIVE HOURS OF REST IN EACH AND EVERY CALENDAR WEEK. THIS REQUIREMENT SHALL NOT APPLY TO THE PARENT, CHILD, SPOUSE OR OTHER MEMBER OF THE EMPLOYER'S IMMEDIATE FAMILY. TWENTY-FOUR CONSECUTIVE HOURS SPENT AT REST BECAUSE OF CIRCUMSTANCES, SUCH AS WEATHER OR CROP CONDITIONS, SHALL BE DEEMED TO CONSTITUTE THE REST REQUIRED BY THIS SUBDIVISION. NO PROVISION OF THIS SUBDIVISION SHALL PROHIBIT A FARM LABORER FROM VOLUNTARILY REFUSING THE REST REQUIRED BY THIS SUBDIVISION. THE TERM "FARM LABOR" SHALL INCLUDE ALL SERVICES PERFORMED BY AN EMPLOYEE ON A FARM IN CONNECTION WITH CULTIVATING THE SOIL, OR IN CONNECTION WITH RAISING OR HARVESTING OF AGRICULTURAL COMMODITIES, INCLUDING THE RAISING, SHEARING, CARING FOR AND MANAGEMENT OF LIVESTOCK, POULTRY OR DAIRY.

8. EVERY EMPLOYER EMPLOYING DOMESTIC WORKERS IN PERSONAL OR DOMESTIC SERVICE IN PRIVATE HOMES SHALL OFFER THOSE EMPLOYEES TWENTY-FOUR CONSECUTIVE HOURS OF REST IN EACH AND EVERY CALENDAR WEEK. NO PROVISION OF THIS SUBDIVISION SHALL PROHIBIT A DOMESTIC WORKER FROM VOLUNTARILY REFUSING THE REST REQUIRED BY THIS SUBDIVISION. THE TERM "DOMESTIC WORKER" SHALL INCLUDE ALL SERVICES PERFORMED BY AN EMPLOYEE IN A PRIVATE HOME IN CONNECTION WITH CHILD CARE, CLEANING, COOKING, DRIVING, GARDENING AND PERSONAL ASSISTANCE.

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

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S 2. Paragraphs b and d of subdivision 2 of section 161 of the labor law, as amended by chapter 281 of the laws of 1941, are amended to read as follows:

b. Employees in [dairies, creameries,] milk condenseries, milk powder factories, milk sugar factories, milk shipping stations, butter and cheese factories, ice cream manufacturing plants and milk bottling plants, where not more than seven persons are employed;

d. Employees whose duties include not more than three hours' work on Sunday in setting sponges in bakeries, [caring for live animals,] maintaining fires, or making necessary repairs to boilers or machinery.

S 3. The labor law is amended by adding two new sections 163-a and 163-b to read as follows:

S 163-A. HOURS OF LABOR ON FARMS. ANY PERSON OR CORPORATION OPERATING A FARM EMPLOYING FARM LABORERS SHALL OFFER THOSE FARM LABORERS TWENTY-FOUR CONSECUTIVE HOURS OF REST IN EACH AND EVERY CALENDAR WEEK; PROVIDED, HOWEVER, THAT THE FARM LABORER MAY VOLUNTARILY REFUSE TWENTY-FOUR CONSECUTIVE HOURS OF REST IN EACH AND EVERY CALENDAR WEEK. ANY FARM LABORER WHO REFUSES TWENTY-FOUR CONSECUTIVE HOURS OF REST SHALL BE COMPENSATED AT A RATE WHICH IS AT LEAST ONE AND ONE-HALF TIMES THE WORKER'S NORMAL WAGE RATE.

S 163-B. HOURS OF LABOR FOR DOMESTIC WORK. ANY PERSON OR CORPORATION EMPLOYING DOMESTIC WORKERS IN PERSONAL OR DOMESTIC SERVICE IN PRIVATE HOMES SHALL OFFER THOSE EMPLOYEES TWENTY-FOUR CONSECUTIVE HOURS OF REST IN EACH AND EVERY CALENDAR WEEK; PROVIDED, HOWEVER, THAT THE DOMESTIC WORKER MAY VOLUNTARILY REFUSE TWENTY-FOUR CONSECUTIVE HOURS OF REST IN EACH AND EVERY CALENDAR WEEK. ANY DOMESTIC WORKER WHO REFUSES TWENTY-FOUR CONSECUTIVE HOURS OF REST SHALL BE COMPENSATED AT A RATE WHICH IS AT LEAST ONE AND ONE-HALF TIMES THE WORKER'S NORMAL WAGE RATE.

S 4. This act shall take effect immediately.