

2956

2009-2010 Regular Sessions

I N   S E N A T E

March 6, 2009

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Introduced by Sen. ADAMS -- 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 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  
22 agreement, if any, or pursuant to the provisions of section seventy-  
23 five-a of the civil service law if no collective bargaining agreement  
24 exists. Any employee so transferred or otherwise penalized shall be

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

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1 restored to his OR HER previously assigned position of employment and  
2 shall be compensated by his OR HER employer for any loss of wages aris-  
3 ing out of such transfer or other penalty, and shall have any penalty  
4 imposed restored; provided, that if such employee shall cease to be  
5 qualified to perform the duties of his OR HER employment he OR SHE shall  
6 not be entitled to such restoration; and it shall be contrary to the  
7 public policy of this state for such employer to establish or hereafter  
8 maintain a quota policy of (I) tickets or summonses issued for traffic  
9 violations [including parking, standing, or stopping] WITHIN A SPECIFIED  
10 PERIOD OF TIME FOR VIOLATIONS OF PROVISIONS OF LAW FOR WHICH A TICKET OR  
11 SUMMONS IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW; OR (II)  
12 ARRESTS MADE WITHIN A SPECIFIED PERIOD OF TIME FOR VIOLATIONS OF  
13 PROVISIONS OF LAW FOR WHICH SUCH ARREST IS AUTHORIZED BY ANY GENERAL,  
14 SPECIAL OR LOCAL LAW; OR (III) STOPS OF INDIVIDUALS SUSPECTED OF CRIMI-  
15 NAL ACTIVITY WITHIN A SPECIFIED PERIOD OF TIME.

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

26 3. Nothing provided in this section shall prohibit an employer or his  
27 OR HER duly authorized agent from transferring or taking any other job  
28 action against such employee for failure to satisfactorily perform his  
29 OR HER job assignment of (A) issuing tickets or summonses for [traffic]  
30 violations [including parking, standing or stopping except that the  
31 employment productivity of such employee shall not be measured by such  
32 employee's failure to satisfactorily comply with the requirement of any  
33 quota, as that term is defined herein, which may be established] OF LAW  
34 FOR WHICH ISSUING A TICKET OR SUMMONS IS AUTHORIZED BY ANY GENERAL,  
35 SPECIAL OR LOCAL LAW; OR (B) MAKING ARRESTS FOR VIOLATIONS OF LAW FOR  
36 WHICH MAKING SUCH ARREST IS AUTHORIZED UNDER ANY GENERAL, SPECIAL OR  
37 LOCAL LAW; OR (C) STOPS OF INDIVIDUALS SUSPECTED OF CRIMINAL ACTIVITY  
38 WITHIN A SPECIFIED PERIOD OF TIME.

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

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

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

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

32 3. Nothing provided in this section shall prohibit an employer or his  
33 OR HER duly authorized agent from transferring or taking any other job  
34 action against such employee who is a police officer for failure to  
35 satisfactorily perform his OR HER job assignment of (A) issuing tickets  
36 or summonses for [traffic] violations [other than parking, standing or  
37 stopping except that the employment productivity of such police officer  
38 shall not be measured by such officer's failure to satisfactorily comply  
39 with the requirement of any quota, as that term is defined herein, which  
40 may be established] OF LAW FOR WHICH ISSUING A TICKET OR SUMMONS IS  
41 AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW; OR (B) MAKING ARRESTS  
42 FOR VIOLATIONS OF LAW FOR WHICH MAKING SUCH ARREST IS AUTHORIZED UNDER  
43 ANY GENERAL, SPECIAL OR LOCAL LAW; OR (C) STOPS OF INDIVIDUALS SUSPECTED  
44 OF CRIMINAL ACTIVITY WITHIN A SPECIFIED PERIOD OF TIME.

45 S 3. This act shall take effect immediately, provided that the amend-  
46 ments to section 215-a of the labor law made by section one of this act  
47 shall be subject to the expiration and reversion of such section pursu-  
48 ant to section 406 of chapter 166 of the laws of 1991, as amended, when  
49 upon such date the provisions of section two of this act shall take  
50 effect.