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

396

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. JOHN -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to rights of certain workers to receive overtime pay

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

Section 1. This act shall be known and may be cited as the "Overtime protection act".

S 2. The legislature finds that federal regulations that took effect on August 23, 2004, make it easier for employers to classify their employees as exempt from the right to earn overtime pay. Many workers in a wide variety of jobs may lose their right to overtime pay as a result of these regulations. The portions of the new regulations that deny overtime rights are detrimental to workers in New York state and must be preserved.

S 3. The labor law is amended by adding a new section 160-a to read as follows:

S 160-A. OVERTIME PROTECTION ACT. 1. THE REGULATIONS PROMULGATED BY THE UNITED STATES DEPARTMENT OF LABOR (29 CFR PART 541), WHICH BECAME EFFECTIVE ON AUGUST TWENTY-THIRD, TWO THOUSAND FOUR, AND WHICH REVISED REGULATIONS GOVERNING THE EXEMPTION FROM OVERTIME PAY FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, OUTSIDE SALES, AND CERTAIN COMPUTER EMPLOYEES IN EFFECT PRIOR TO SUCH EFFECTIVE DATE, SHALL APPLY TO EMPLOYEES EMPLOYED IN THIS STATE AS FOLLOWS:

A. ANY EMPLOYEE WHO WOULD HAVE HAD THE RIGHT TO EARN OVERTIME PAY UNDER THE FEDERAL REGULATIONS IN EFFECT ON AUGUST TWENTY-SECOND, TWO THOUSAND FOUR, BUT WHO WOULD LOSE THE RIGHT TO EARN OVERTIME PAY UNDER THE FEDERAL REGULATIONS IN EFFECT AS OF AUGUST TWENTY-THIRD, TWO THOUSAND FOUR, SHALL CONTINUE TO HAVE HIS OR HER ELIGIBILITY FOR OVERTIME

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

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PAY DETERMINED UNDER THE REGULATIONS AS THEY EXISTED ON AUGUST TWENTY-SECOND, TWO THOUSAND FOUR.

B. THE MINIMUM SALARY AN EMPLOYER MUST PAY AN EMPLOYEE BEFORE THAT EMPLOYEE CAN LOSE THE RIGHT TO OVERTIME SHALL BE THE SALARY SET FORTH IN 29 CFR 541.600, AS THAT REGULATION WAS IN EFFECT ON AUGUST TWENTY-THIRD, TWO THOUSAND FOUR, OR AS IT MAY BE AMENDED AT ANY TIME THEREAFTER.

2. THE COMMISSIONER SHALL PROMULGATE ANY RULE OR REGULATION NECESSARY FOR THE ENFORCEMENT OF THIS SECTION.

S 4. This act shall take effect immediately.