

S T A T E   O F   N E W   Y O R K

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5872--A

2009-2010 Regular Sessions

I N   A S S E M B L Y

February 20, 2009

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Introduced by M. of A. NOLAN, GLICK, JOHN, WRIGHT -- Multi-Sponsored by -- M. of A. COLTON, DINOWITZ, HEASTIE, KOON, MCENENY -- 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. Subdivisions 1 and 2 of section 215-a of the labor law, as  
2 amended by chapter 166 of the laws of 1991, are amended to read as  
3 follows:  
4     1. No employer or his OR HER duly authorized agent shall transfer or  
5 in any other manner penalize OR THREATEN, EXPRESSLY OR IMPLIEDLY, an  
6 employee as to his OR HER employment [solely because] IN A MANNER,  
7 INCLUDING, BUT NOT LIMITED TO, A REASSIGNMENT, A SCHEDULING CHANGE, AN  
8 ADVERSE EVALUATION, A CONSTRUCTIVE DISMISSAL, THE DENIAL OF A PROMOTION,  
9 OR THE DENIAL OF OVERTIME, BASED IN WHOLE OR IN PART ON such [employee  
10 has failed] EMPLOYEE'S FAILURE to meet a quota, established by his OR  
11 HER employer or his OR HER duly authorized agent, of (A) tickets or  
12 summonses issued within a specified period of time for [traffic]  
13 violations [including parking, standing or stopping] OF PROVISIONS OF  
14 LAW FOR WHICH A TICKET OR SUMMONS IS AUTHORIZED BY ANY GENERAL, SPECIAL  
15 OR LOCAL LAW; OR (B) ARRESTS MADE WITHIN A SPECIFIED PERIOD OF TIME FOR  
16 VIOLATIONS OF PROVISIONS OF LAW FOR WHICH SUCH ARREST IS AUTHORIZED BY  
17 ANY GENERAL, SPECIAL OR LOCAL LAW; OR (C) STOPS OF INDIVIDUALS SUSPECTED  
18 OF CRIMINAL ACTIVITY WITHIN A SPECIFIED PERIOD OF TIME. Any employee so  
19 transferred or otherwise penalized may cause to be instituted a grievance  
20 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 S 2. Subdivisions 1 and 2 of section 215-a of the labor law, as added  
30 by chapter 633 of the laws of 1978, are amended to read as follows:

31 1. No employer or his OR HER duly authorized agent shall transfer or  
32 in any other manner penalize OR THREATEN, EXPRESSLY OR IMPLIEDLY, an  
33 employee who is a police officer as to his OR HER employment [solely  
34 because] IN A MANNER, INCLUDING, BUT NOT LIMITED TO, A REASSIGNMENT, A  
35 SCHEDULING CHANGE, AN ADVERSE EVALUATION, A CONSTRUCTIVE DISMISSAL, THE  
36 DENIAL OF A PROMOTION, OR THE DENIAL OF OVERTIME BASED IN WHOLE OR IN  
37 PART ON such [employee has failed] EMPLOYEE'S FAILURE to meet a quota,  
38 established by his OR HER employer or his OR HER duly authorized agent,  
39 of (A) tickets or summonses issued within a specified period of time for  
40 [traffic] violations [other than parking, standing or stopping] OF  
41 PROVISIONS OF LAW FOR WHICH A TICKET OR SUMMONS IS AUTHORIZED BY ANY  
42 GENERAL, SPECIAL OR LOCAL LAW; OR (B) ARRESTS MADE WITHIN A SPECIFIED  
43 PERIOD OF TIME FOR VIOLATIONS OF PROVISIONS OF LAW FOR WHICH SUCH ARREST  
44 IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW; OR (C) STOPS OF  
45 INDIVIDUALS SUSPECTED OF CRIMINAL ACTIVITY WITHIN A SPECIFIED PERIOD OF  
46 TIME. Any employee so transferred or otherwise penalized may cause to be  
47 instituted a grievance proceeding pursuant to the provisions of a  
48 collective bargaining agreement, if any, or pursuant to the provisions  
49 of section seventy-five-a of the civil service law if no collective  
50 bargaining agreement exists. Any employee so transferred or otherwise  
51 penalized shall be restored to his OR HER previously assigned position  
52 of employment and shall be compensated by his OR HER employer for any  
53 loss of wages arising out of such transfer or other penalty, and shall  
54 have any penalty imposed restored; provided, that if such employee shall  
55 cease to be qualified to perform the duties of his OR HER employment he  
56 OR SHE shall not be entitled to such restoration; and it shall be

1 contrary to the public policy of this state for such employer to estab-  
2 lish or hereafter maintain a quota policy of (I) tickets or summonses  
3 issued [for traffic violations other than parking, standing, or stop-  
4 ping] WITHIN A SPECIFIED PERIOD OF TIME FOR VIOLATIONS OF PROVISIONS OF  
5 LAW FOR WHICH A TICKET OR SUMMONS IS AUTHORIZED BY ANY GENERAL, SPECIAL  
6 OR LOCAL LAW; OR (II) ARRESTS MADE WITHIN A SPECIFIED PERIOD OF TIME FOR  
7 VIOLATIONS OF PROVISIONS OF LAW FOR WHICH SUCH ARREST IS AUTHORIZED BY  
8 ANY GENERAL, SPECIAL OR LOCAL LAW; OR (III) STOPS OF INDIVIDUALS  
9 SUSPECTED OF CRIMINAL ACTIVITY WITHIN A SPECIFIED PERIOD OF TIME.

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12 [other than parking, standing or stopping which are required to be  
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14 AL, SPECIAL OR LOCAL LAW, WHICH ARE REQUIRED TO BE MADE WITHIN A SPECI-  
15 FIED PERIOD OF TIME; OR (B) ARRESTS MADE FOR VIOLATIONS OF PROVISIONS OF  
16 LAW FOR WHICH SUCH ARREST IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL  
17 LAW, WHICH ARE REQUIRED TO BE MADE within a specified period of time; OR  
18 (C) STOPS OF INDIVIDUALS SUSPECTED OF CRIMINAL ACTIVITY WITHIN A SPECI-  
19 FIED PERIOD OF TIME.

20 S 3. This act shall take effect immediately, provided that the amend-  
21 ments to section 215-a of the labor law made by section one of this act  
22 shall be subject to the expiration and reversion of such section pursu-  
23 ant to section 406 of chapter 166 of the laws of 1991, as amended, when  
24 upon such date the provisions of section two of this act shall take  
25 effect.