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

6729--A

2009-2010 Regular Sessions

I N A S S E M B L Y

March 11, 2009

Introduced by M. of A. JOHN, PERRY, ESPAILLAT, AUBRY -- 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:

Section 1. Section 215-a of the labor law, as amended by chapter 166 of the laws of 1991, subdivision 3 as amended by chapter 526 of the laws of 1991, is amended to read as follows:

S 215-a. Discrimination against employees for failure to meet certain ticket quotas. 1. No employer or his OR HER duly authorized agent shall transfer or in any other manner penalize OR THREATEN, EXPRESSLY OR IMPLIEDLY, an employee as to his OR HER employment [solely because] IN A MANNER, INCLUDING, BUT NOT LIMITED TO, A REASSIGNMENT, A SCHEDULING CHANGE, AN ADVERSE EVALUATION, A CONSTRUCTIVE DISMISSAL, THE DENIAL OF A PROMOTION, OR THE DENIAL OF OVERTIME, BASED IN WHOLE OR IN PART ON such [employee has failed] EMPLOYEE'S FAILURE to meet a quota, established by his OR HER employer or his OR HER duly authorized agent, of (A) tickets or summonses issued within a specified period of time for [traffic] violations [including parking, standing or stopping] OF PROVISIONS OF LAW FOR WHICH A TICKET OR SUMMONS IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW; OR (B) ARRESTS MADE WITHIN A SPECIFIED PERIOD OF TIME FOR VIOLATIONS OF PROVISIONS OF LAW FOR WHICH SUCH ARREST IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW; OR (C) STOPS OF INDIVIDUALS SUSPECTED OF CRIMINAL ACTIVITY WITHIN A SPECIFIED PERIOD OF TIME. Any employee so transferred or otherwise penalized may cause to be instituted a grievance 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.

LBD05684-04-0

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

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

[3. Nothing provided in this section shall prohibit an employer or his duly authorized agent from transferring or taking any other job action against such employee for failure to satisfactorily perform his job assignment of issuing tickets or summonses for traffic violations including parking, standing or stopping except that the employment productivity of such employee shall not be measured by such employee's failure to satisfactorily comply with the requirement of any quota, as that term is defined herein, which may be established.]

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

S 215-a. Discrimination against employees for failure to meet certain ticket quotas. 1. No employer or his OR HER duly authorized agent shall transfer or in any other manner penalize OR THREATEN, EXPRESSLY OR IMPLIEDLY, an employee who is a police officer as to his OR HER employment [solely because] IN A MANNER, INCLUDING, BUT NOT LIMITED TO, A REASSIGNMENT, A SCHEDULING CHANGE, AN ADVERSE EVALUATION, A CONSTRUCTIVE DISMISSAL, THE DENIAL OF A PROMOTION, OR THE DENIAL OF OVERTIME BASED IN WHOLE OR IN PART ON such [employee has failed] EMPLOYEE'S FAILURE to meet a quota, established by his OR HER employer or his OR HER duly authorized agent, of (A) tickets or summonses issued within a specified period of time [for traffic violations other than parking, standing or stopping] OF PROVISIONS OF LAW FOR WHICH A TICKET OR SUMMONS IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW; OR (B) ARRESTS MADE WITHIN A SPECIFIED PERIOD OF TIME FOR VIOLATIONS OF PROVISIONS OF LAW FOR WHICH SUCH ARREST IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW; OR (C) STOPS OF INDIVIDUALS SUSPECTED OF CRIMINAL ACTIVITY WITHIN A SPECIFIED PERIOD OF TIME. Any employee so transferred or otherwise penalized may cause to be instituted a grievance proceeding pursuant to the provisions

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

2. For the purpose of this section a quota shall mean a specific number of (A) tickets or summonses [issued] for [traffic] violations [other than parking, standing or stopping which are required to be issued] OF LAW FOR WHICH A TICKET OR SUMMONS IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW, WHICH ARE REQUIRED TO BE MADE WITHIN A SPECIFIED PERIOD OF TIME; OR (B) ARRESTS MADE FOR VIOLATIONS OF PROVISIONS OF LAW FOR WHICH SUCH ARREST IS AUTHORIZED BY ANY GENERAL, SPECIAL OR LOCAL LAW, WHICH ARE REQUIRED TO BE MADE within a specified period of time; OR (C) STOPS OF INDIVIDUALS SUSPECTED OF CRIMINAL ACTIVITY WITHIN A SPECIFIED PERIOD OF TIME.

[3. Nothing provided in this section shall prohibit an employer or his duly authorized agent from transferring or taking any other job action against such employee who is a police officer for failure to satisfactorily perform his job assignment of issuing tickets or summonses for traffic violations other than parking, standing or stopping except that the employment productivity of such police officer shall not be measured by such officer's failure to satisfactorily comply with the requirement of any quota, as that term is defined herein, which may be established.]

S 3. This act shall take effect immediately, provided that the amendments to section 215-a of the labor law made by section one of this act shall be subject to the expiration and reversion of such section pursuant to section 406 of chapter 166 of the laws of 1991, as amended, when upon such date the provisions of section two of this act shall take effect.