

2956--A

2009-2010 Regular Sessions

I N S E N A T E

March 6, 2009

Introduced by Sens. ADAMS, HASSELL-THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Codes -- 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. 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 griev-

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

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

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

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

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

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

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

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

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

39 S 3. This act shall take effect immediately, provided that the amend-
40 ments to section 215-a of the labor law made by section one of this act
41 shall be subject to the expiration and reversion of such section pursu-
42 ant to section 406 of chapter 166 of the laws of 1991, as amended, when
43 upon such date the provisions of section two of this act shall take
44 effect.