

5200

2009-2010 Regular Sessions

I N   S E N A T E

April 27, 2009

---

Introduced by Sen. SAVINO -- 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 owner-drivers employed on public work projects

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "owner-driver protection act".

3     S 2. Legislative findings. The legislature hereby finds that there has  
4     been increased utilization of owner-drivers in connection with on-site  
5     work on state and local public work projects and the delivery and/or  
6     removal of materials from such projects. Such utilization of owner-dri-  
7     vers has had the effect, in many cases, of undermining prevailing wage  
8     and overall workplace standards applicable to such public work projects.  
9     This legislation is being enacted to ensure that appropriate prevailing  
10    wage and overall workplace standards are maintained on public work  
11    projects for both owner-drivers and all other drivers employed by  
12    contractors and subcontractors on state and local public work projects.

13    S 3. Section 220 of the labor law is amended by adding a new subdivi-  
14    sion 3-f to read as follows:

15    3-F. A.     FOR THE PURPOSES OF THIS SUBDIVISION, "OWNER-DRIVER" SHALL  
16    MEAN ANY DRIVER WHO IS ENGAGED BY A CONTRACTOR OR SUBCONTRACTOR TO  
17    PERFORM ON-SITE WORK ON A PUBLIC WORK PROJECT OR TO DELIVER AND/OR  
18    REMOVE MATERIAL TO OR FROM ANY SUCH PROJECT, AND WHO UTILIZES MOTOR  
19    VEHICLES THAT SUCH DRIVER OWNS AND/OR LEASES FOR THE PURPOSE OF PERFORM-  
20    ING THE PUBLIC WORK.

21    B.     EVERY CONTRACTOR PERFORMING A PUBLIC WORK PROJECT, WHICH DIRECTLY  
22    OR THROUGH A SUBCONTRACTOR EMPLOYS ANY OWNER-DRIVER ON SUCH PROJECT,  
23    SHALL:

24    (I) CERTIFY, ON A WEEKLY BASIS, TO THE DEPARTMENT OF JURISDICTION:

25    (A) THAT EACH OWNER-DRIVER HAS RECEIVED A SEPARATE CHECK FOR:

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

LBD05473-01-9

1 (1) WAGES,  
2 (2) MOTOR VEHICLE RENTAL, AND  
3 (3) ANY REQUIRED FRINGE BENEFITS AND SUPPLEMENTS, PAID DIRECTLY TO THE  
4 OWNER-DRIVER OR TO ANY TRUST FUND OR OTHER ACCOUNT FOR THE BENEFIT OF  
5 THE OWNER-DRIVER; AND  
6 (B) THAT EACH OWNER-DRIVER IS COVERED BY WORKERS' COMPENSATION AND  
7 DISABILITY INSURANCE;  
8 (II) MAINTAIN ALL RECORDS RELATING TO OWNER-DRIVERS INCLUDING, BUT NOT  
9 LIMITED TO, PAY STUBS, OTHER RECORDS OF PAYMENT AND INSURANCE COVERAGE.  
10 C. EVERY OWNER-DRIVER SHALL BE PAID THE PREVAILING RATE OF WAGE FOR  
11 THE PUBLIC WORK PROJECT.  
12 D. ANY CONTRACTOR OR SUBCONTRACTOR WHO VIOLATES THE PROVISIONS OF THIS  
13 SUBDIVISION SHALL BE PROHIBITED FROM BIDDING UPON OR BEING AWARDED ANY  
14 CONTRACT FOR OR BEING EMPLOYED AT ANY PUBLIC WORK PROJECT.  
15 S 4. This act shall take effect on the thirtieth day after it shall  
16 have become a law.