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2011-2012 Regular Sessions

I N A S S E M B L Y

January 20, 2011

Introduced by M. of A. PRETLOW, GLICK, GALEF, LENTOL -- Multi-Sponsored
by -- M. of A. DINOWITZ -- read once and referred to the Committee on
Labor

AN ACT to amend the workers' compensation law, in relation to providing
for the implementation of domestic violence employee awareness and
assistance policies by employers and providing a disability benefits
insurance premium credit for the implementation thereof

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

1 Section 1. The workers' compensation law is amended by adding a new
2 section 210-a to read as follows:
3 S 210-A. DOMESTIC VIOLENCE EMPLOYEE AWARENESS AND ASSISTANCE POLICY;
4 CERTIFICATION OF DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALISTS. 1.
5 EMPLOYERS INSURED THROUGH THE STATE FUND OR ANY OTHER INSURER THAT
6 ISSUES POLICIES PROVIDING DISABILITY BENEFITS PURSUANT TO THIS ARTICLE,
7 SHALL BE ELIGIBLE FOR A CREDIT IN DISABILITY BENEFITS PREMIUMS IF THEY
8 IMPLEMENT A DOMESTIC VIOLENCE EMPLOYEE AWARENESS AND ASSISTANCE POLICY
9 THAT HAS BEEN ESTABLISHED BY THE OFFICE FOR THE PREVENTION OF DOMESTIC
10 VIOLENCE, RECOMMENDED BY A DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALIST
11 AND CERTIFIED BY THE DOMESTIC VIOLENCE WORKPLACE POLICY PANEL ESTAB-
12 LISHED PURSUANT TO THIS SECTION. THE CREDIT, WHICH SHALL BE FIVE PERCENT
13 OF THE DISABILITY BENEFITS INSURANCE PREMIUM FOR THE IMPLEMENTATION OF A
14 DOMESTIC VIOLENCE EMPLOYEE AWARENESS AND ASSISTANCE POLICY, SHALL BE
15 PROVIDED TO THE EMPLOYER AT THE END OF THE POLICY YEAR. THE CREDIT SHALL
16 BE AVAILABLE FOR TWO CONSECUTIVE YEARS, PROVIDED THAT SUCH A POLICY
17 SHALL HAVE BEEN IMPLEMENTED FOR A MINIMUM OF SIX MONTHS DURING THE FIRST
18 YEAR FOR WHICH THE CREDIT IS SOUGHT, AND THAT THE POLICY SHALL HAVE BEEN
19 IMPLEMENTED FOR A FULL TWELVE MONTHS DURING THE SECOND YEAR FOR WHICH
20 THE CREDIT IS SOUGHT.
21 2. A SELF-INSURED EMPLOYER SHALL BE ELIGIBLE FOR A REDUCTION IN THE
22 SECURITY DEPOSIT PROVIDED FOR IN SUBDIVISION THREE OF SECTION TWO

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

LBD02595-01-1

1 HUNDRED ELEVEN OF THIS ARTICLE IF SUCH EMPLOYER HAS IMPLEMENTED A DOMES-
2 TIC VIOLENCE EMPLOYEE AWARENESS AND ASSISTANCE POLICY THAT HAS BEEN
3 ESTABLISHED BY THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE,
4 RECOMMENDED BY A DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALIST AND
5 CERTIFIED BY THE DOMESTIC VIOLENCE WORKPLACE POLICY PANEL ESTABLISHED
6 PURSUANT TO THIS SECTION. THE AMOUNT OF THE REDUCTION IN THE REQUIRED
7 SECURITY DEPOSIT SHALL BE NO GREATER THAN FIVE PERCENT FOR THE IMPLEMEN-
8 TATION OF A DOMESTIC VIOLENCE EMPLOYEE AWARENESS AND ASSISTANCE POLICY,
9 OR SUCH AMOUNT AS DETERMINED BY THE CHAIR OF THE BOARD TO BE NECESSARY
10 TO ASSURE THAT THE DEPOSIT REMAIN SUFFICIENT TO SECURE THE EMPLOYER'S
11 LIABILITY TO PAY THE BENEFITS REQUIRED BY THIS ARTICLE. THE REDUCTION
12 SHALL BE AVAILABLE FOR TWO CONSECUTIVE YEARS, PROVIDED THAT SUCH POLICY
13 SHALL HAVE BEEN IMPLEMENTED FOR A MINIMUM OF SIX MONTHS DURING THE FIRST
14 YEAR FOR WHICH THE REDUCTION IS SOUGHT, AND THAT SUCH POLICY SHALL HAVE
15 BEEN IMPLEMENTED FOR A MINIMUM OF SIX MONTHS DURING THE FIRST YEAR FOR
16 WHICH THE REDUCTION IS SOUGHT, AND THAT SUCH POLICY SHALL HAVE BEEN
17 IMPLEMENTED FOR A FULL TWELVE MONTHS DURING THE SECOND YEAR FOR WHICH
18 THE REDUCTION IS SOUGHT.

19 3. A. THERE IS HEREBY ESTABLISHED A DOMESTIC VIOLENCE WORKPLACE POLICY
20 PANEL WHICH SHALL HAVE THE RESPONSIBILITY TO: (I) RECEIVE AND REVIEW
21 APPLICATIONS FROM APPLICANTS FOR CERTIFICATION AS DOMESTIC VIOLENCE
22 WORKPLACE POLICY SPECIALISTS, (II) CERTIFY PERSONS AS DOMESTIC VIOLENCE
23 WORKPLACE POLICY SPECIALISTS, AND (III) REVOKE CERTIFICATION OF DOMESTIC
24 VIOLENCE WORKPLACE POLICY SPECIALISTS FOR JUST CAUSE.

25 B. THE DOMESTIC VIOLENCE WORKPLACE POLICY PANEL SHALL CONSIST OF FIVE
26 VOTING MEMBERS AS FOLLOWS: THE SUPERINTENDENT OF INSURANCE, THE CHAIR OF
27 THE BOARD, THE EXECUTIVE DIRECTOR OF THE OFFICE FOR THE PREVENTION OF
28 DOMESTIC VIOLENCE, OR THEIR DESIGNEES, AND TWO MEMBERS APPOINTED BY THE
29 GOVERNOR. THE MEMBERS APPOINTED BY THE GOVERNOR SHALL BE AS FOLLOWS: ONE
30 SHALL BE A REPRESENTATIVE OF THE BUSINESS COMMUNITY APPOINTED UPON THE
31 RECOMMENDATION OF THE BUSINESS COUNCIL OF NEW YORK STATE, INCORPORATED
32 AND ONE SHALL BE A REPRESENTATIVE OF ORGANIZED LABOR UPON THE RECOMMEN-
33 DATION OF THE STATE AMERICAN FEDERATION OF LABOR-CONGRESS OF INDUSTRIAL
34 ORGANIZATIONS. SUCH APPOINTED MEMBERS SHALL SERVE UNTIL THEIR SUCCESSORS
35 ARE APPOINTED BY THE GOVERNOR. THE COMMISSIONER OF LABOR, OR HIS OR HER
36 DESIGNEE, SHALL SERVE AS AN EX-OFFICIO NON-VOTING MEMBER OF THE DOMESTIC
37 VIOLENCE WORKPLACE POLICY PANEL.

38 C. THE DOMESTIC VIOLENCE WORKPLACE POLICY PANEL SHALL MEET AT LEAST
39 QUARTERLY. THE EXECUTIVE DIRECTOR OF THE OFFICE FOR THE PREVENTION OF
40 DOMESTIC VIOLENCE SHALL SERVE AS CHAIR OF THE PANEL. THE MEMBERS OF SUCH
41 PANEL SHALL SERVE WITHOUT COMPENSATION, EXCEPT THAT THEY SHALL BE
42 ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE
43 OF THEIR DUTIES PURSUANT TO THIS SECTION.

44 4. THE BOARD SHALL MONITOR ALL DOMESTIC VIOLENCE EMPLOYEE AWARENESS
45 AND ASSISTANCE POLICIES IMPLEMENTED BY EMPLOYERS. AS PART OF THIS
46 RESPONSIBILITY, THE BOARD SHALL ENSURE THAT EMPLOYEE REPRESENTATIVES ARE
47 INVOLVED IN THE DEVELOPMENT OF SUCH POLICIES THROUGH MEETINGS AND
48 DISCUSSIONS WITH THE RESPECTIVE CERTIFIED DOMESTIC VIOLENCE WORKPLACE
49 POLICY SPECIALISTS.

50 5. AFTER CONSULTATION WITH THE DOMESTIC VIOLENCE WORKPLACE POLICY
51 PANEL, THE COMMISSIONER OF LABOR SHALL PROMULGATE RULES AND REGULATIONS
52 FOR THE CERTIFICATION OF DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALISTS.
53 SUCH RULES AND REGULATIONS SHALL INCLUDE PROVISIONS THAT OUTLINE THE
54 MINIMUM QUALIFICATION FOR DOMESTIC VIOLENCE WORKPLACE POLICY SPECIAL-
55 ISTS, PROCEDURES FOR CERTIFICATION, CAUSES FOR REVOCATION OR SUSPENSION
56 OF CERTIFICATION AND APPROPRIATE ADMINISTRATIVE AND JUDICIAL REVIEW

1 PROCEDURES, VIOLATIONS AND PENALTIES FOR MISUSE OF CERTIFICATION BY
2 CERTIFIED DOMESTIC VIOLENCE WORKPLACE POLICY SPECIALISTS, AND FEES FOR
3 CERTIFICATES AND CERTIFICATE RENEWALS.

4 S 2. This act shall take effect on the first of January next succeed-
5 ing the date on which it shall have become a law, except that subdivi-
6 sions 3 and 5 of section 210-a of the workers' compensation law, as
7 added by section one of this act, shall take effect immediately.