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

4128

2011-2012 Regular Sessions

I N A S S E M B L Y

February 1, 2011

Introduced by M. of A. ENGLEBRIGHT -- read once and referred 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:

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

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

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

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

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

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

(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.

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