

4693

2011-2012 Regular Sessions

I N S E N A T E

April 14, 2011

Introduced by Sen. FLANAGAN -- 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 the protection of owner-drivers

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

1 Section 1. The labor law is amended by adding a new section 220-i to
2 read as follows:
3 S 220-I. PROTECTION OF OWNER-DRIVERS. 1. FOR THE PURPOSES OF THIS
4 SECTION, OWNER-DRIVER SHALL MEAN A PERSON WHO IS ENGAGED BY A CONTRACTOR
5 OR SUBCONTRACTOR TO WORK ON-SITE ON A STATE OR LOCAL PUBLIC WORKS
6 PROJECT, OR TO DELIVER AND/OR REMOVE MATERIAL TO OR FROM ANY SUCH
7 PROJECT, AND WHO UTILIZES A VEHICLE THAT HE OR SHE OWNS OR LEASES FOR
8 THE PURPOSE OF PERFORMING THIS WORK.
9 2. THE GENERAL CONTRACTOR ON ANY STATE OR LOCAL PUBLIC WORKS PROJECT
10 SHALL BE RESPONSIBLE AS FOLLOWS WITH RESPECT TO AN OWNER-DRIVER UTILIZED
11 ON ANY SUCH PROJECT BY THE GENERAL CONTRACTOR DIRECTLY OR INDIRECTLY BY
12 ANY SUBCONTRACTOR ENGAGED TO PERFORM SERVICES AS SET FORTH HEREIN IN
13 CONNECTION WITH ANY SUCH PROJECT:
14 A. THE GENERAL CONTRACTOR SHALL CERTIFY ON A WEEKLY BASIS TO THE
15 APPLICABLE CONTRACTING STATE OR LOCAL AUTHORITY THAT EACH OWNER-DRIVER
16 HAS RECEIVED A SEPARATE CHECK FOR:
17 (I) WAGES;
18 (II) TRUCK RENTAL; AND
19 (III) FOR ANY REQUIRED FRINGE BENEFITS PAYABLE DIRECTLY TO THE OWNER-
20 DRIVER.
21 B. THE GENERAL CONTRACTOR SHALL CERTIFY ON A WEEKLY BASIS TO THE
22 APPLICABLE STATE OR LOCAL AUTHORITY THAT ANY FRINGE BENEFIT PAYMENTS
23 REQUIRED TO BE MADE ON BEHALF OF EACH OWNER-DRIVER TO ANY FRINGE BENEFIT
24 TRUST FUND OR SIMILAR ENTITY HAVE BEEN MADE IN THE TIME AND MANNER
25 REQUIRED BY CONTRACT OR OTHERWISE.

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

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1 C. THE GENERAL CONTRACTOR SHALL CERTIFY ON A WEEKLY BASIS TO THE
2 APPLICABLE STATE OR LOCAL AUTHORITY THAT EACH OWNER-DRIVER IS COVERED BY
3 WORKERS' COMPENSATION AND DISABILITY INSURANCE.

4 D. THE GENERAL CONTRACTOR SHALL BE REQUIRED TO MAINTAIN ALL APPROPRI-
5 ATE RECORDS, INCLUDING BUT NOT LIMITED TO PAY STUBS, AND OTHER RECORDS
6 OF PAYMENT AND INSURANCE COVERAGE, THAT FORM THE BASIS FOR THE CERTIF-
7 ICATIONS REQUIRED HEREIN.

8 3. ANY GENERAL CONTRACTOR WHO FAILS TO COMPLY WITH THE CERTIFICATION
9 AND RECORDKEEPING REQUIREMENTS IN THIS SECTION SHALL BE BARRED FROM
10 BIDDING ON AND/OR WORKING ON ANY STATE OR LOCAL PUBLIC WORKS PROJECT, AS
11 EITHER A CONTRACTOR OR SUBCONTRACTOR, FOR A TWO-YEAR PERIOD.

12 4. IN ORDER TO ENSURE THAT APPROPRIATE WORKPLACE STANDARDS ARE MAIN-
13 TAINED ON PUBLIC WORKS PROJECTS, ALL DRIVERS UTILIZED ON PUBLIC WORKS
14 PROJECTS, WHETHER AN OWNER-DRIVER OR EMPLOYEE, SHALL BE COVERED BY AND
15 SHALL RECEIVE STATE OR LOCAL PREVAILING WAGES APPLICABLE TO ANY STATE OR
16 LOCAL PUBLIC WORKS PROJECT, IF THE OWNER-DRIVER IS UTILIZED ON-SITE,
17 AND/OR DELIVERS OR REMOVES MATERIAL FROM ANY SUCH SITE INCLUDING, BUT
18 NOT LIMITED TO, THE DELIVERY OF SAND, GRAVEL AND ASPHALT FROM THE SOURCE
19 FROM WHICH SUCH MATERIALS ARE OBTAINED.

20 S 2. This act shall take effect immediately.