

535

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KLEIN, DIAZ, DILAN, KRUEGER, SAMPSON, SMITH, STAVISKY -- 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 requiring certain employers offer a qualified transportation fringe benefit program for employees

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 article 32 to read
2 as follows:

3 ARTICLE 32
4 EMPLOYEE TRANSPORTATION EXPENSES ACT

5 SECTION 930. SHORT TITLE.
6 931. APPLICABILITY; DEFINITIONS.
7 932. QUALIFIED TRANSPORTATION FRINGE BENEFIT PROGRAM.

8 S 930. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
9 THE "EMPLOYEE TRANSPORTATION EXPENSES ACT".

10 S 931. APPLICABILITY; DEFINITIONS. 1. THIS ARTICLE SHALL APPLY TO ANY
11 EMPLOYEE OF A BUSINESS WITH FIFTY OR MORE EMPLOYEES.

12 2. FOR PURPOSES OF THIS ARTICLE: A. "EMPLOYER" SHALL MEAN ANY PERSON,
13 PARTNERSHIP, FIRM, ASSOCIATION, LIMITED LIABILITY COMPANY, OR DOMESTIC
14 OR FOREIGN CORPORATION; PROVIDED, HOWEVER, SUCH TERM SHALL NOT INCLUDE
15 PUBLIC EMPLOYERS, INCLUDING THE STATE.

16 B. "PROGRAM ADMINISTRATOR" SHALL MEAN THE AGENT, AS DETERMINED AND
17 DESIGNATED BY THE EMPLOYER, RESPONSIBLE FOR THE MAINTENANCE AND MANAGE-
18 MENT OF THE QUALIFIED TRANSPORTATION FRINGE BENEFIT PROGRAM AS AUTHOR-
19 IZED IN SUBDIVISION ONE OF SECTION NINE HUNDRED THIRTY-TWO OF THIS ARTI-
20 CLE.

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

LBD04418-01-1

1 S 932. QUALIFIED TRANSPORTATION FRINGE BENEFIT PROGRAM. 1. EVERY
2 EMPLOYER SHALL ESTABLISH A QUALIFIED TRANSPORTATION FRINGE BENEFIT
3 PROGRAM CONSISTENT WITH SECTION 132 OF THE INTERNAL REVENUE CODE AND
4 REGULATIONS ADOPTED PURSUANT THERETO, AND IMPLEMENT SUCH PROGRAM.
5 FOLLOWING THE ESTABLISHMENT OF A QUALIFIED TRANSPORTATION FRINGE BENEFIT
6 PROGRAM AS REQUIRED BY THIS SUBDIVISION EMPLOYEES SHALL BE PERMITTED TO
7 USE PRE-TAX EARNINGS TO PURCHASE QUALIFIED TRANSPORTATION BENEFITS, IN
8 ACCORDANCE WITH FEDERAL LAW AND SHALL BE ENTITLED TO SUCH PERSONAL
9 INCOME TAX BENEFITS AS MAY BE AUTHORIZED BY SUCH LAW.

10 2. AT THE REQUEST OF AN EMPLOYEE, AN EMPLOYER SHALL, BY PAYROLL
11 DEDUCTION, REDUCE THE AMOUNT OF COMPENSATION ELECTED BY THE EMPLOYEE
12 PURSUANT TO PROGRAM REGULATIONS AND SECTION 132(F) OF THE INTERNAL
13 REVENUE CODE FOR THE PURPOSE OF PROVIDING THE EMPLOYEE WITH A QUALIFIED
14 TRANSPORTATION FRINGE BENEFIT AS AUTHORIZED IN SUBDIVISION ONE OF THIS
15 SECTION, AND SHALL TRANSFER THE AMOUNT SO REDUCED TO THE AUTHORIZED
16 PROGRAM ADMINISTRATOR.

17 3. MONEYS DEDUCTED FROM THE SALARIES OF EMPLOYEES OF EMPLOYERS SHALL
18 BE HELD BY THE PROGRAM ADMINISTRATOR AS AGENT FOR THE EMPLOYER AND SHALL
19 BE ACCOUNTED FOR SEPARATELY. ALL PAYMENTS OF MONEYS BY THE PROGRAM
20 ADMINISTRATOR SHALL BE MADE ONLY IN ACCORDANCE WITH THE QUALIFIED TRANS-
21 PORTATION FRINGE BENEFIT PROGRAM.

22 4. TO THE EXTENT PERMITTED BY SECTION 132 OF THE INTERNAL REVENUE CODE
23 AND REGULATIONS ADOPTED PURSUANT THERETO, ANY SALARY DEDUCTED FROM A
24 PARTICIPATING EMPLOYEE'S ANNUAL COMPENSATION FOR THE PURPOSE OF PROVID-
25 ING SUCH EMPLOYEE WITH A QUALIFIED TRANSPORTATION FRINGE BENEFIT SHALL
26 BE CONSIDERED PART OF ANNUAL COMPENSATION FOR THE PURPOSE OF COMPUTING
27 RETIREMENT BENEFITS.

28 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHERE
29 AND TO THE EXTENT THAT, AN AGREEMENT BETWEEN AN EMPLOYER AND A RECOG-
30 NIZED EMPLOYEE ORGANIZATION ENTERED INTO ON BEHALF OF EMPLOYEES IN A
31 COLLECTIVE NEGOTIATING UNIT PROVIDES FOR A QUALIFIED TRANSPORTATION
32 FRINGE BENEFIT AS PROVIDED BY THIS SECTION, SUCH QUALIFIED TRANSPORTA-
33 TION FRINGE BENEFIT SHALL BE ESTABLISHED IN ACCORDANCE WITH SUCH AGREE-
34 MENT.

35 6. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE EMPLOYERS TO PROVIDE
36 TRANSPORTATION FOR EMPLOYEES.

37 S 2. This act shall take effect on the one hundred eightieth day after
38 it shall have become a law.