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2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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Introduced by Sen. PERALTA -- 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 allowing farm workers and domestic workers one day of rest each week

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

1     Section 1. Section 161 of the labor law is amended by adding two new  
2     subdivisions 7 and 8 to read as follows:  
3     7. EVERY FARMER EMPLOYING FARM LABORERS SHALL OFFER THOSE FARM LABOR-  
4     ERS TWENTY-FOUR CONSECUTIVE HOURS OF REST IN EACH AND EVERY CALENDAR  
5     WEEK. THIS REQUIREMENT SHALL NOT APPLY TO THE PARENT, CHILD, SPOUSE OR  
6     OTHER MEMBER OF THE EMPLOYER'S IMMEDIATE FAMILY. TWENTY-FOUR CONSECUTIVE  
7     HOURS SPENT AT REST BECAUSE OF CIRCUMSTANCES, SUCH AS WEATHER OR CROP  
8     CONDITIONS, SHALL BE DEEMED TO CONSTITUTE THE REST REQUIRED BY THIS  
9     SUBDIVISION. NO PROVISION OF THIS SUBDIVISION SHALL PROHIBIT A FARM  
10    LABORER FROM VOLUNTARILY REFUSING THE REST REQUIRED BY THIS SUBDIVISION.  
11    THE TERM "FARM LABOR" SHALL INCLUDE ALL SERVICES PERFORMED BY AN EMPLOY-  
12    EE ON A FARM IN CONNECTION WITH CULTIVATING THE SOIL, OR IN CONNECTION  
13    WITH RAISING OR HARVESTING OF AGRICULTURAL COMMODITIES, INCLUDING THE  
14    RAISING, SHEARING, CARING FOR AND MANAGEMENT OF LIVESTOCK, POULTRY OR  
15    DAIRY.  
16    8. EVERY EMPLOYER EMPLOYING DOMESTIC WORKERS IN PERSONAL OR DOMESTIC  
17    SERVICE IN PRIVATE HOMES SHALL OFFER THOSE EMPLOYEES TWENTY-FOUR CONSEC-  
18    UTIVE HOURS OF REST IN EACH AND EVERY CALENDAR WEEK. NO PROVISION OF  
19    THIS SUBDIVISION SHALL PROHIBIT A DOMESTIC WORKER FROM VOLUNTARILY  
20    REFUSING THE REST REQUIRED BY THIS SUBDIVISION. THE TERM "DOMESTIC WORK-  
21    ER" SHALL INCLUDE ALL SERVICES PERFORMED BY AN EMPLOYEE IN A PRIVATE  
22    HOME IN CONNECTION WITH CHILD CARE, CLEANING, COOKING, DRIVING, GARDEN-  
23    ING AND PERSONAL ASSISTANCE.

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

LBD03076-01-1

1 S 2. Paragraphs b and d of subdivision 2 of section 161 of the labor  
2 law, as amended by chapter 281 of the laws of 1941, are amended to read  
3 as follows:

4 b. Employees in [dairies, creameries,] milk condenseries, milk powder  
5 factories, milk sugar factories, milk shipping stations, butter and  
6 cheese factories, ice cream manufacturing plants and milk bottling  
7 plants, where not more than seven persons are employed;

8 d. Employees whose duties include not more than three hours' work on  
9 Sunday in setting sponges in bakeries, [caring for live animals,] main-  
10 taining fires, or making necessary repairs to boilers or machinery.

11 S 3. The labor law is amended by adding two new sections 163-a and  
12 163-b to read as follows:

13 S 163-A. HOURS OF LABOR ON FARMS. ANY PERSON OR CORPORATION OPERATING  
14 A FARM EMPLOYING FARM LABORERS SHALL OFFER THOSE FARM LABORERS  
15 TWENTY-FOUR CONSECUTIVE HOURS OF REST IN EACH AND EVERY CALENDAR WEEK;  
16 PROVIDED, HOWEVER, THAT THE FARM LABORER MAY VOLUNTARILY REFUSE TWENTY-  
17 FOUR CONSECUTIVE HOURS OF REST IN EACH AND EVERY CALENDAR WEEK. ANY FARM  
18 LABORER WHO REFUSES TWENTY-FOUR CONSECUTIVE HOURS OF REST SHALL BE  
19 COMPENSATED AT A RATE WHICH IS AT LEAST ONE AND ONE-HALF TIMES THE WORK-  
20 ER'S NORMAL WAGE RATE.

21 S 163-B. HOURS OF LABOR FOR DOMESTIC WORK. ANY PERSON OR CORPORATION  
22 EMPLOYING DOMESTIC WORKERS IN PERSONAL OR DOMESTIC SERVICE IN PRIVATE  
23 HOMES SHALL OFFER THOSE EMPLOYEES TWENTY-FOUR CONSECUTIVE HOURS OF REST  
24 IN EACH AND EVERY CALENDAR WEEK; PROVIDED, HOWEVER, THAT THE DOMESTIC  
25 WORKER MAY VOLUNTARILY REFUSE TWENTY-FOUR CONSECUTIVE HOURS OF REST IN  
26 EACH AND EVERY CALENDAR WEEK. ANY DOMESTIC WORKER WHO REFUSES  
27 TWENTY-FOUR CONSECUTIVE HOURS OF REST SHALL BE COMPENSATED AT A RATE  
28 WHICH IS AT LEAST ONE AND ONE-HALF TIMES THE WORKER'S NORMAL WAGE RATE.

29 S 4. This act shall take effect immediately.