

6413

I N S E N A T E

February 6, 2012

Introduced by Sen. KLEIN -- 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 minimum wage and making technical corrections relating thereto

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

1 Section 1. Paragraph (n) of subdivision 5 of section 651 of the labor  
2 law, as amended by chapter 481 of the laws of 2010, is amended to read  
3 as follows:

4 (n) by [a] THE federal[, state or municipal] government [or political  
5 subdivision thereof]. The exclusions from the term "employee" contained  
6 in this subdivision shall be as defined by regulations of the commis-  
7 sioner; or

8 S 2. Subdivision 6 of section 651 of the labor law, as amended by  
9 chapter 281 of the laws of 2002, is amended to read as follows:

10 6. "Employer" includes any individual, partnership, association,  
11 corporation, limited liability company, business trust, legal represen-  
12 tative, STATE OR MUNICIPAL GOVERNMENT OR POLITICAL SUBDIVISION THEREOF,  
13 or any organized group of persons acting as employer.

14 S 3. Subdivisions 1, 4 and 5 of section 652 of the labor law, as  
15 amended by chapter 747 of the laws of 2004, are amended to read as  
16 follows:

17 1. Statutory. Every employer shall pay to each of its employees for  
18 each hour worked a wage of not less than:

19 \$4.25 on and after April 1, 1991,  
20 \$5.15 on and after March 31, 2000,  
21 \$6.00 on and after January 1, 2005,  
22 \$6.75 on and after January 1, 2006,  
23 \$7.15 on and after January 1, 2007,  
24 \$8.50 ON AND AFTER JANUARY 1, 2013

25 AND ON AND AFTER JANUARY 1, 2014 AND ON EACH FOLLOWING JANUARY FIRST,  
26 THE COMMISSIONER SHALL CALCULATE AND ESTABLISH AN ADJUSTED MINIMUM WAGE  
27 RATE BY INCREASING THE THEN CURRENT MINIMUM WAGE RATE BY THE RATE OF  
28 INFLATION FOR THE MOST RECENT TWELVE MONTH PERIOD AVAILABLE PRIOR TO

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

LBD11388-05-2

1 EACH JANUARY FIRST USING THE CONSUMER PRICE INDEX-ALL URBAN CONSUMERS,  
2 CPI-U, OR A SUCCESSOR INDEX AS CALCULATED BY THE UNITED STATES DEPART-  
3 MENT OF LABOR, IF SUCH RATE OF INFLATION IS GREATER THAN ZERO PERCENT,  
4 or, if greater, such other wage as may be established by federal law  
5 pursuant to 29 U.S.C. section 206 or its successors or such other wage  
6 as may be established in accordance with the provisions of this article.

7 4. Notwithstanding subdivisions one and two of this section, the wage  
8 for an employee who is a food service worker receiving tips shall be a  
9 cash wage of at least three dollars and thirty cents per hour on or  
10 after March thirty-first, two thousand; three dollars and eighty-five  
11 cents on or after January first, two thousand five; at least four  
12 dollars and thirty-five cents on or after January first, two thousand  
13 six; [and] at least four dollars and sixty cents on or after January  
14 first, two thousand seven; AND AT LEAST FIVE DOLLARS AND EIGHTY-SIX  
15 CENTS ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN; AND ON OR AFTER  
16 JANUARY FIRST, TWO THOUSAND FOURTEEN AND ON EACH FOLLOWING JANUARY  
17 FIRST, THE COMMISSIONER SHALL CALCULATE AND ESTABLISH AN ADJUSTED MINI-  
18 MUM WAGE RATE BY INCREASING THE THEN CURRENT MINIMUM WAGE RATE BY THE  
19 RATE OF INFLATION FOR THE MOST RECENT TWELVE MONTH PERIOD AVAILABLE  
20 PRIOR TO EACH JANUARY FIRST USING THE CONSUMER PRICE INDEX-ALL URBAN  
21 CONSUMERS, CPI-U, OR A SUCCESSOR INDEX AS CALCULATED BY THE UNITED  
22 STATES DEPARTMENT OF LABOR, IF SUCH RATE OF INFLATION IS GREATER THAN  
23 ZERO PERCENT, provided that the tips of such an employee, when added to  
24 such cash wage, are equal to or exceed the minimum wage in effect pursu-  
25 ant to subdivision one of this section and provided further that no  
26 other cash wage is established pursuant to section six hundred fifty-  
27 three of this article. In the event the cash wage payable under the Fair  
28 Labor Standards Act (29 United States Code Sec. 203 (m), as amended), is  
29 increased after enactment of this subdivision, the cash wage payable  
30 under this subdivision shall automatically be increased by the propor-  
31 tionate increase in the cash wage payable under such federal law, and  
32 will be immediately enforceable as the cash wage payable to food service  
33 workers under this article.

34 5. Notwithstanding subdivisions one and two of this section, meal and  
35 lodging allowances for a food service worker receiving a cash wage  
36 amounting to three dollars and thirty cents per hour on or after March  
37 thirty-first, two thousand; three dollars and eighty-five cents on or  
38 after January first, two thousand five; four dollars and thirty-five  
39 cents on or after January first, two thousand six; [and] four dollars  
40 and sixty cents on or after January first, two thousand seven; FIVE  
41 DOLLARS AND EIGHTY-SIX CENTS ON OR AFTER MARCH THIRTY-FIRST, TWO THOU-  
42 SAND THIRTEEN; AND ON OR AFTER MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN  
43 AND ON EACH FOLLOWING MARCH THIRTY-FIRST, THE COMMISSIONER SHALL CALCU-  
44 LATE AND ESTABLISH AN ADJUSTED MINIMUM WAGE RATE BY INCREASING THE THEN  
45 CURRENT MINIMUM WAGE RATE BY THE RATE OF INFLATION FOR THE MOST RECENT  
46 TWELVE MONTH PERIOD AVAILABLE PRIOR TO EACH MARCH THIRTY-FIRST USING THE  
47 CONSUMER PRICE INDEX-ALL URBAN CONSUMERS, CPI-U, OR A SUCCESSOR INDEX AS  
48 CALCULATED BY THE UNITED STATES DEPARTMENT OF LABOR, IF SUCH RATE OF  
49 INFLATION IS GREATER THAN ZERO PERCENT, shall not increase more than  
50 two-thirds of the increase required by subdivision two of this section  
51 as applied to state wage orders in effect pursuant to subdivision one of  
52 this section.

53 S 4. This act shall take effect immediately.