

1746

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sens. ESPAILLAT, KRUEGER, 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 one  
day of rest each week, and including farm laborers within the  
provisions pertaining to overtime compensation and unemployment insur-  
ance, and regulating the farm employment of certain employees whose  
earning capacity is affected or impaired by youth or age, and granting  
collective bargaining rights to certain farm laborers and establishing  
an advisory committee on collective bargaining; and to amend the work-  
ers' compensation law, in relation to the eligibility of farm laborers  
for disability benefits and the provision of claim forms to farm  
laborers injured in the course of employment and in relation to  
service as farm laborers

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

1     Section 1. This act shall be known and may be cited as the "farmwork-  
2     ers' fair labor practices act".  
3     S 2. Subdivision 16 of section 2 of the labor law, as added by chapter  
4     564 of the laws of 2010, is renumbered subdivision 18 and a new subdivi-  
5     sion 17 is added to read as follows:  
6     17. "FARM LABOR" SHALL INCLUDE ALL SERVICES PERFORMED IN AGRICULTURAL  
7     EMPLOYMENT IN CONNECTION WITH CULTIVATING THE SOIL, OR IN CONNECTION  
8     WITH RAISING OR HARVESTING OF AGRICULTURAL COMMODITIES, INCLUDING  
9     SERVICES PERFORMED ON ORCHARDS, PLANTATIONS, NURSERIES AND GREENHOUSES,  
10    AND SHALL INCLUDE THE RAISING, HATCHING, SHEARING, CARING FOR AND  
11    MANAGEMENT OF LIVESTOCK, POULTRY, DAIRY, BEES AND FUR-BEARING ANIMALS,  
12    AND SHALL INCLUDE THE HARVESTING OR PRODUCTION OF MAPLE SYRUP OR MAPLE  
13    SUGAR, AND SHALL INCLUDE THE OPERATION AND MAINTENANCE OF FARM EQUIPMENT  
14    AND IMPROVEMENT OR MAINTENANCE OF FARM WATER USE AREAS, AND SHALL

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

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1 INCLUDE THE PLANTING, DRYING, PACKAGING OR OTHER PROCESSING OF ANY AGRI-  
2 CULTURAL OR HORTICULTURAL COMMODITY RAISED ON THE EMPLOYER'S FARM. THE  
3 TERM "FARM LABOR" SHALL NOT INCLUDE SERVICES PERFORMED IN CONNECTION  
4 WITH COMMERCIAL CANNING, FREEZING, GRADING OR OTHER PROCESSING OF ANY  
5 AGRICULTURAL OR HORTICULTURAL COMMODITY NOT RAISED ON THE EMPLOYER'S  
6 FARM. THIS SUBDIVISION SHALL NOT APPLY TO THE PARENT, CHILD, SPOUSE OR  
7 OTHER MEMBER OF THE EMPLOYER'S FAMILY RELATED BY THE THIRD DEGREE OF  
8 CONSANGUINITY OR AFFINITY.

9 S 3. Subdivision 1 of section 161 of the labor law is amended by  
10 adding a new undesignated paragraph to read as follows:

11 EVERY PERSON EMPLOYED AS A FARM LABORER SHALL BE ALLOWED AT LEAST  
12 TWENTY-FOUR CONSECUTIVE HOURS OF REST IN EACH AND EVERY CALENDAR WEEK. A  
13 FARM LABORER MAY CONSENT IN WRITING TO WAIVE THIS RIGHT AND WORK ON THE  
14 DAY OF REST, PROVIDED THAT HE OR SHE SHALL BE PAID AS PROVIDED UNDER  
15 SECTION ONE HUNDRED SIXTY-THREE-A OF THIS TITLE. THIS PARAGRAPH SHALL  
16 NOT APPLY TO THE PARENT, CHILD, SPOUSE OR OTHER MEMBER OF THE EMPLOYER'S  
17 FAMILY RELATED BY THE THIRD DEGREE OF CONSANGUINITY OR AFFINITY. TWEN-  
18 TY-FOUR CONSECUTIVE HOURS SPENT AT REST BECAUSE OF CIRCUMSTANCES, SUCH  
19 AS WEATHER OR CROP CONDITIONS, SHALL BE DEEMED TO CONSTITUTE THE REST  
20 REQUIRED BY THIS PARAGRAPH. THE DAY OF REST SHOULD BE THE SAME AS THE  
21 TRADITIONAL DAY RESERVED BY THE FARM LABORER FOR RELIGIOUS WORSHIP,  
22 WHENEVER POSSIBLE.

23 S 4. Paragraphs b and d of subdivision 2 of section 161 of the labor  
24 law, as amended by chapter 281 of the laws of 1941, are amended to read  
25 as follows:

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

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

33 S 5. The labor law is amended by adding a new section 163-a to read as  
34 follows:

35 S 163-A. HOURS OF AGRICULTURAL EMPLOYMENT. NO PERSON OR CORPORATION  
36 OPERATING A FARM SHALL REQUIRE ANY FARM LABORER TO WORK MORE THAN TEN  
37 HOURS IN ANY DAY, FIFTY-FIVE HOURS IN ANY CALENDAR WEEK, OR SIX DAYS IN  
38 ANY CALENDAR WEEK, UNLESS SUCH FARM LABORER IS PAID AS FOLLOWS:

39 1. HOURLY RATE. A. ANY FARM LABORER WHO IS PAID ON AN HOURLY BASIS AND  
40 WHO IS EIGHTEEN YEARS OF AGE OR OVER, OR WHO IS SIXTEEN OR SEVENTEEN  
41 YEARS OF AGE AND NOT REQUIRED BY LAW TO ATTEND SCHOOL SHALL NOT BE  
42 EMPLOYED MORE THAN TEN HOURS IN ANY DAY, OR MORE THAN FIFTY-FIVE HOURS  
43 IN ANY CALENDAR WEEK, OR MORE THAN SIX DAYS IN ANY CALENDAR WEEK UNLESS  
44 THE FARM LABORER RECEIVES ONE AND ONE-HALF TIMES THE REGULAR RATE AT  
45 WHICH HE IS EMPLOYED FOR ALL HOURS WORKED IN EXCESS OF TEN HOURS IN ANY  
46 DAY OR FIFTY-FIVE HOURS IN ANY CALENDAR WEEK. ANY FARM LABORER WHO WORKS  
47 ON THE SEVENTH DAY IN ANY CALENDAR WEEK SHALL RECEIVE ONE AND ONE-HALF  
48 TIMES THE REGULAR RATE AT WHICH HE IS EMPLOYED FOR THE FIRST EIGHT HOURS  
49 WORKED, AND TWO TIMES THE REGULAR RATE AT WHICH HE IS EMPLOYED FOR ALL  
50 HOURS WORKED IN EXCESS OF EIGHT HOURS THAT DAY.

51 B. ANY FARM LABORER WHO IS PAID AN HOURLY WAGE RATE SHALL NOT BE  
52 EMPLOYED MORE THAN TEN HOURS IN ANY DAY OR MORE THAN FIFTY-FIVE HOURS IN  
53 ANY CALENDAR WEEK UNLESS THE FARM LABORER RECEIVES ONE AND ONE-HALF  
54 TIMES THE REGULAR RATE AT WHICH HE IS EMPLOYED FOR ALL HOURS WORKED IN  
55 EXCESS OF TEN HOURS IN ANY DAY OR FIFTY-FIVE HOURS IN ANY CALENDAR WEEK.  
56 ANY FARM LABORER WHO WORKS ON THE SEVENTH DAY IN ANY CALENDAR WEEK SHALL

1 RECEIVE ONE AND ONE-HALF TIMES THE REGULAR RATE AT WHICH HE IS EMPLOYED  
2 FOR THE FIRST EIGHT HOURS WORKED, AND TWO TIMES THE REGULAR RATE AT  
3 WHICH HE IS EMPLOYED FOR ALL HOURS WORKED IN EXCESS OF EIGHT HOURS THAT  
4 DAY.

5 2. PIECE WORK RATE. A. ANY FARM LABORER WHO IS PAID ON A PIECE RATE  
6 BASIS SHALL BE PAID AT A RATE WHICH SHALL BE NO LESS THAN ONE HUNDRED  
7 FIFTY PERCENT OF THE MINIMUM WAGE RATE ESTABLISHED BY REGULATIONS OF THE  
8 DEPARTMENT FOR HOURS WORKED IN EXCESS OF TEN HOURS IN ANY DAY OR FIFTY-  
9 FIVE HOURS IN ANY CALENDAR WEEK.

10 B. ANY FARM LABORER WHO IS PAID A PIECE WORK RATE WHO WORKS ON THE  
11 SEVENTH DAY IN ANY CALENDAR WEEK SHALL BE PAID AT A RATE NO LESS THAN  
12 ONE HUNDRED FIFTY PERCENT OF THE MINIMUM WAGE RATE ESTABLISHED BY REGU-  
13 LATIONS OF THE DEPARTMENT FOR THE FIRST EIGHT HOURS AND TWO HUNDRED  
14 PERCENT OF THAT MINIMUM WAGE RATE FOR ANY HOURS WORKED IN EXCESS OF  
15 EIGHT ON THAT DAY. NOTHING IN THIS SECTION SHALL PROHIBIT A FARM EMPLOY-  
16 ER FROM PAYING A PIECE WORK RATE IN EXCESS OF THE RATES REQUIRED BY THIS  
17 SECTION.

18 S 6. Section 564 of the labor law, as added by chapter 675 of the laws  
19 of 1977, is amended to read as follows:

20 S 564. Agricultural labor. 1. Coverage. (a) Notwithstanding the  
21 provisions of section five hundred sixty of this article, an employer of  
22 persons engaged in agricultural labor shall become liable for contrib-  
23 utions under this article if the employer:

24 (1) has paid cash remuneration of [twenty] SIX thousand TWO HUNDRED  
25 FIFTY dollars or more in any calendar quarter to persons employed in  
26 agricultural labor, and such liability shall commence on the first day  
27 of such quarter, or

28 (2) has employed in agricultural labor ten or more persons on each of  
29 twenty days during a calendar year or the preceding calendar year, each  
30 day being in a different calendar week, and the liability shall in such  
31 event commence on the first day of the calendar year, or

32 (3) is liable for the tax imposed under the federal unemployment tax  
33 act as an employer of agricultural labor and the liability shall in such  
34 event commence on the first day of the calendar quarter in such calendar  
35 year when he first paid remuneration for agricultural labor in this  
36 state.

37 (b) An employer who becomes liable for contributions under paragraph  
38 (a) of this subdivision shall cease to be liable as of the first day of  
39 a calendar quarter next following the filing of a written application  
40 provided the commissioner finds that the employer:

41 (1) has not paid to persons employed in agricultural labor cash remun-  
42 eration of [twenty] SIX thousand TWO HUNDRED FIFTY dollars or more in  
43 any of the eight calendar quarters preceding such day, and

44 (2) has not employed in agricultural labor ten or more persons on each  
45 of twenty days during the current or the preceding calendar year, each  
46 day being in a different week, and

47 (3) is not liable for the tax imposed under the federal unemployment  
48 tax act as an employer of agricultural labor.

49 2. Crew leader. Whenever a person renders services as a member of a  
50 crew which is paid and furnished by the crew leader to perform services  
51 in agricultural labor for another employer, such other employer shall,  
52 for the purpose of this article, be deemed to be the employer of such  
53 person, unless:

54 (a) the crew leader holds a valid certificate of registration under  
55 the federal farm labor contractor registration act of nineteen hundred  
56 sixty-three or substantially all the members of the crew operate or

1 maintain tractors, mechanized harvesting or cropdusting machinery or any  
2 other mechanized equipment which is provided by the crew leader, and

3 (b) the crew leader is not an employee of such other employer and has  
4 not entered into a written agreement with such employer under which he  
5 is designated as an employee.

6 S 7. Subdivision 1 of section 674 of the labor law, as added by chap-  
7 ter 552 of the laws of 1969, is amended to read as follows:

8 1. The commissioner may promulgate such regulations as he deems appro-  
9 priate to carry out the purposes of this article and to safeguard mini-  
10 mum wage standards. Such regulations may include, but are not limited  
11 to, the defining of the circumstances or conditions for the acceptance  
12 of non-hourly rates and piece rates as equivalent to the minimum hourly  
13 rates established by this article. Such regulations also may include,  
14 but are not limited to, waiting time and call-in pay rates; wage  
15 provisions governing guaranteed earnings during specified periods of  
16 work; AND allowances for meals, lodging, and other items, services and  
17 facilities when furnished by the employer[; and the employment of indi-  
18 viduals whose earning capacity is affected or impaired by youth or age,  
19 or by physical or mental deficiency or injury, under special certif-  
20 icates issued by the commissioner, at such wages lower than the minimum  
21 wage established by this article and for such period as shall be  
22 prescribed in such regulations].

23 S 8. Paragraph (a) of subdivision 3 of section 701 of the labor law,  
24 as amended by chapter 43 of the laws of 1989, is amended to read as  
25 follows:

26 (a) The term "employees" includes but is not restricted to any indi-  
27 vidual employed by a labor organization; any individual whose employment  
28 has ceased as a consequence of, or in connection with, any current labor  
29 dispute or because of any unfair labor practice, and who has not  
30 obtained any other regular and substantially equivalent employment; and  
31 shall not be limited to the employees of a particular employer, unless  
32 the article explicitly states otherwise, but shall not include any indi-  
33 vidual employed by his parent or spouse or in the domestic service of  
34 and directly employed, controlled and paid by any person in his home,  
35 any individual whose primary responsibility is the care of a minor child  
36 or children and/or someone who lives in the home of a person for the  
37 purpose of serving as a companion to a sick, convalescing or elderly  
38 person or any individuals employed only for the duration of a labor  
39 dispute, or any individuals employed as farm laborers BY A FARM EMPLOYER  
40 WITH SALES OF UNDER SIX HUNDRED FIFTY THOUSAND DOLLARS DURING THE PREVI-  
41 OUS CALENDAR YEAR ACCORDING TO THE UNITED STATES DEPARTMENT OF AGRICUL-  
42 TURE NATIONAL AGRICULTURAL STATISTICS SERVICE, or, any individual who  
43 participates in and receives rehabilitative or therapeutic services in a  
44 charitable non-profit rehabilitation facility or sheltered workshop or  
45 any individual employed in a charitable non-profit rehabilitation facil-  
46 ity or sheltered workshop who has received rehabilitative or therapeutic  
47 services and whose capacity to perform the work for which he is engaged  
48 is substantially impaired by physical or mental deficiency or injury.

49 S 9. The labor law is amended by adding a new section 704-b to read as  
50 follows:

51 S 704-B. UNFAIR LABOR PRACTICES; AGRICULTURE. 1. IT IS THE POLICY OF  
52 THE STATE TO PROTECT THE RIGHTS OF FARM LABORERS WITHOUT CAUSING IMMEDI-  
53 ATE AND IRREPARABLE HARM TO EMPLOYERS. IN RECOGNITION OF THE NEED TO  
54 AVOID INTERRUPTION OF THE AGRICULTURAL PRODUCTION OF CROPS WITH A SHORT  
55 PEAK HARVEST SEASON, THIS POLICY IS BEST ACHIEVED BY PROVIDING FARM  
56 EMPLOYERS AND THEIR EMPLOYEES WITH A SHORT TEMPORARY PERIOD TO SETTLE

1 THEIR LABOR DISPUTE WITHOUT CAUSING IMMEDIATE OR IRREPARABLE HARM TO THE  
2 EMPLOYER.

3 2. DEFINITIONS. WHEN USED IN THIS SECTION THE TERMS:

4 (A) "SHORT PEAK HARVEST SEASON" MEANS THE PERIOD FOR FRUITS AND VEGE-  
5 TABLES THAT HAVE A MAXIMUM HARVEST PERIOD OF NO MORE THAN SIX WEEKS  
6 DURING WHICH SUCH AGRICULTURAL PRODUCT IS HARVESTED FOR SALE, AS DETER-  
7 MINED BY THE DEPARTMENT OF AGRICULTURE AND MARKETS.

8 (B) "WORK STOPPAGE" MEANS ANY STRIKE, OR CONCERTED CESSATION OR SLOW-  
9 DOWN OF WORK BY EMPLOYEES.

10 (C) "LOCKOUT" MEANS A WORK STOPPAGE DURING WHICH AN EMPLOYER PREVENTS  
11 EMPLOYEES FROM WORKING.

12 3. IN THE EVENT THAT THE BOARD AND ITS EMPLOYEES RECEIVE NOTICE THAT A  
13 LABOR DISPUTE HAS ARISEN BETWEEN A FARM EMPLOYER THAT WILL OR MAY RESULT  
14 IN A WORK STOPPAGE OR LOCKOUT, THE BOARD SHALL IMMEDIATELY INITIATE  
15 SETTLEMENT PROCEEDINGS UNDER SECTION SEVEN HUNDRED TWO-A OF THIS ARTI-  
16 CLE.

17 (A) AFTER THE INITIATION OF SETTLEMENT PROCEEDINGS, ANY WORK STOPPAGE  
18 OR LOCKOUT SHALL CEASE FOR A PERIOD OF NOT MORE THAN TWENTY-ONE DAYS IF  
19 BOTH OF THE FOLLOWING CIRCUMSTANCES EXIST:

20 (I) THE WORK STOPPAGE OR LOCKOUT OCCURS DURING A SHORT PEAK HARVEST  
21 SEASON; AND

22 (II) THE WORK STOPPAGE OR LOCKOUT WILL CAUSE IMMEDIATE AND IRREPARABLE  
23 INJURY, LOSS OR DAMAGE TO THE EMPLOYER.

24 (B) DURING SUCH TWENTY-ONE DAY PERIOD, BOTH PARTIES SHALL ENTER INTO  
25 GOOD FAITH NEGOTIATIONS TO SETTLE THE LABOR DISPUTE, WHICH PERIOD SHALL  
26 BE REFERRED TO AS A COOLING OFF PERIOD.

27 (C) THE BOARD SHALL CONDUCT AN IMMEDIATE AND EXPEDITED FACT-FINDING  
28 HEARING TO DETERMINE WHETHER THE CIRCUMSTANCES UNDER PARAGRAPH (A) OF  
29 THIS SUBDIVISION EXIST. EACH PARTY SHALL HAVE THE OPPORTUNITY TO SUBMIT  
30 WRITTEN AND ORAL TESTIMONY AT THE HEARING. THE BOARD SHALL NOT BE BOUND  
31 BY TECHNICAL RULES OF EVIDENCE PREVAILING IN COURTS OF LAW OR EQUITY.

32 (D) THE BOARD SHALL ISSUE ITS DETERMINATION IN WRITING WITHIN  
33 FORTY-EIGHT HOURS OF THE CONCLUSION OF THE HEARING, WHICH SHALL INCLUDE  
34 FINDINGS OF FACT AND A RATIONALE FOR ITS DETERMINATION. A COPY OF THE  
35 BOARD'S DETERMINATION SHALL BE PROVIDED TO EACH PARTY WITHIN TWENTY-FOUR  
36 HOURS.

37 (E) FOR PURPOSES OF THIS SECTION, AN EMPLOYEE WHO IS ABSENT FROM WORK  
38 WITHOUT PERMISSION, OR WHO ABSTAINS WHOLLY OR IN PART FROM THE FULL  
39 PERFORMANCE OF HIS OR HER EMPLOYMENT DUTIES WITHOUT PERMISSION ON THE  
40 DATE WHEN A WORK STOPPAGE OR LOCKOUT OCCURS SHALL BE PRESUMED TO HAVE  
41 ENGAGED IN SUCH WORK STOPPAGE OR LOCKOUT.

42 4. IF EITHER PARTY IS FOUND TO BE IN VIOLATION OF THE BOARD'S DETERMI-  
43 NATION, THE BOARD MAY FILE A PETITION WITH THE SUPREME COURT IN ALBANY  
44 COUNTY UPON NOTICE TO ALL PARTIES FOR TEMPORARY INJUNCTIVE RELIEF. THE  
45 BOARD SHALL NOT BE REQUIRED TO PROVIDE ANY UNDERTAKINGS OR BOND AND  
46 SHALL NOT BE LIABLE FOR ANY DAMAGES OR COSTS WHICH MAY HAVE BEEN  
47 SUSTAINED BY REASON OF ANY TEMPORARY INJUNCTIVE RELIEF ORDERED. IF THE  
48 BOARD FAILS TO ACT WITHIN TEN DAYS, THE BOARD SHALL BE DEEMED TO HAVE  
49 MADE A FINAL DETERMINATION NOT TO SEEK TEMPORARY INJUNCTIVE RELIEF.

50 S 10. The labor law is amended by adding a new section 719 to read as  
51 follows:

52 S 719. ADVISORY COMMITTEE ON AGRICULTURAL COLLECTIVE BARGAINING. 1.  
53 THERE IS HEREBY ESTABLISHED AN ADVISORY COMMITTEE ON COLLECTIVE BARGAIN-  
54 ING BETWEEN FARM EMPLOYERS AND FARM LABORERS WHOSE MEMBERS SHALL BE  
55 APPOINTED BY THE GOVERNOR ON OR BEFORE APRIL FIRST, TWO THOUSAND FOUR-  
56 TEEN. THE ADVISORY COMMITTEE SHALL CONSIST OF SIX MEMBERS, INCLUDING THE

1 COMMISSIONER OR HIS OR HER DESIGNEE, ONE UPON THE NOMINATION OF THE  
2 SPEAKER OF THE ASSEMBLY, ONE UPON NOMINATION OF THE TEMPORARY PRESIDENT  
3 OF THE SENATE, ONE UPON NOMINATION BY THE PRESIDENT OF THE NEW YORK  
4 STATE AMERICAN FEDERATION OF LABOR-CONGRESS OF INDUSTRIAL ORGANIZATIONS,  
5 ONE UPON THE NOMINATION OF THE NEW YORK STATE FARM BUREAU, AND ONE  
6 MEMBER WITH EXPERIENCE AND EXPERTISE IN COLLECTIVE BARGAINING AND LABOR  
7 RELATIONS WHO SHALL BE APPOINTED TO CHAIR THE ADVISORY COMMITTEE.

8 2. THE ADVISORY COMMITTEE SHALL MAKE RECOMMENDATIONS FOR LEGISLATION  
9 TO IMPLEMENT COLLECTIVE BARGAINING STRUCTURES AND PROCEDURES WHERE  
10 APPROPRIATE, AND TO FOSTER LABOR-MANAGEMENT COOPERATION AND DISPUTE  
11 RESOLUTION BETWEEN FARM EMPLOYERS AND FARM LABORERS. IN MAKING ITS  
12 RECOMMENDATIONS, THE ADVISORY COMMITTEE SHALL CONSIDER THE PROVISIONS OF  
13 THE STATE LABOR RELATIONS ACT, THE LAWS OF OTHER STATES RELATING TO  
14 COLLECTIVE BARGAINING AND LABOR RELATIONS IN FARM EMPLOYMENT, AND THE  
15 UNIQUE CHARACTERISTICS OF THE AGRICULTURE INDUSTRY INCLUDING BUT NOT  
16 LIMITED TO LENGTH OF HARVEST AND GROWING SEASONS, SEASONAL FLUCTUATIONS  
17 IN EMPLOYMENT, ANNUAL SALES, AND IMPORT AND EXPORT CONDITIONS AFFECTING  
18 NEW YORK AGRICULTURE. THE ADVISORY COMMITTEE SHALL REPORT TO THE GOVER-  
19 NOR, THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE  
20 SENATE ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

21 3. THE MEMBERS OF THE ADVISORY COMMITTEE SHALL RECEIVE NO COMPENSATION  
22 FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY  
23 EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

24 S 11. Section 51 of the workers' compensation law, as amended by chap-  
25 ter 561 of the laws of 2003, is amended to read as follows:

26 S 51. Posting of notice regarding compensation. Every employer who has  
27 complied with section fifty of this article shall post and maintain in a  
28 conspicuous place or places in and about his place or places of business  
29 typewritten or printed IN ENGLISH AND SPANISH notices in form prescribed  
30 by the chairman, stating the fact that he has complied with all the  
31 rules and regulations of the chairman and the board and that he has  
32 secured the payment of compensation to his employees and their depen-  
33 dents in accordance with the provisions of this chapter, but failure to  
34 post such notice as herein provided shall not in any way affect the  
35 exclusiveness of the remedy provided for by section eleven of this chap-  
36 ter. Every employer who owns or operates automotive or horse-drawn vehi-  
37 cles and has no minimum staff of regular employees required to report  
38 for work at an established place of business maintained by such employer  
39 and every employer who is engaged in the business of moving household  
40 goods or furniture shall post such notices in each and every vehicle  
41 owned or operated by him. Failure to post or maintain such notice in any  
42 of said vehicles shall constitute presumptive evidence that such employ-  
43 er has failed to secure the payment of compensation. The chairman may  
44 require any employer to furnish a written statement at any time showing  
45 the stock corporation, mutual corporation or reciprocal insurer in which  
46 such employer is insured or the manner in which such employer has  
47 complied with any provision of this chapter. Failure for a period of ten  
48 days to furnish such written statement shall constitute presumptive  
49 evidence that such employer has neglected or failed in respect of any of  
50 the matters so required. Any employer who fails to comply with the  
51 provisions of this section shall be required to pay to the board a fine  
52 of [up to two hundred fifty] FIVE HUNDRED dollars for each violation, in  
53 addition to any other penalties imposed by law to be deposited into the  
54 uninsured employers' fund.

55 S 12. The workers' compensation law is amended by adding a new section  
56 110-b to read as follows:

1 S 110-B. REPORTING OF INJURIES TO EMPLOYER. EVERY FARM LABOR CONTRAC-  
2 TOR, FOREMAN OR SUPERVISOR OF FARM LABORERS WHO HAS NOTICE OF ANY INJURY  
3 TO A FARM LABORER INCURRED DURING THE COURSE OF EMPLOYMENT SHALL BE  
4 REQUIRED TO INFORM THE EMPLOYER, OWNER OR OPERATOR OF A FARM OF ANY SUCH  
5 INJURY.

6 S 13. The first undesignated paragraph of section 120 of the workers'  
7 compensation law, as amended by chapter 61 of the laws of 1989, is  
8 amended to read as follows:

9 It shall be unlawful for any employer or his or her duly authorized  
10 agent to discharge or in any other manner discriminate against an  
11 employee as to his or her employment because such employee has claimed  
12 or attempted to claim compensation from such employer, REQUESTED A CLAIM  
13 FORM FOR INJURIES RECEIVED IN THE COURSE OF EMPLOYMENT, or because he or  
14 she has testified or is about to testify in a proceeding under this  
15 chapter and no other valid reason is shown to exist for such action by  
16 the employer.

17 S 14. The opening paragraph of paragraph A of subdivision 6 of section  
18 201 of the workers' compensation law, as amended by chapter 481 of the  
19 laws of 2010, is amended to read as follows:

20 "Employment" means employment in any trade, business or occupation  
21 carried on by an employer, except that the following shall not be deemed  
22 employment under this article: services performed for the state, a  
23 municipal corporation, local governmental agency, other political subdi-  
24 vision or public authority; employment subject to the federal railroad  
25 unemployment insurance act; service performed on or as an officer or  
26 member of the crew of a vessel on the navigable water of the United  
27 States or outside the United States; [service as farm laborers;] casual  
28 employment and the first forty-five days of extra employment of employ-  
29 ees not regularly in employment as otherwise defined herein; service as  
30 golf caddies; and service during all or any part of the school year or  
31 regular vacation periods as a part-time worker of any person actually in  
32 regular attendance during the day time as a student in an elementary or  
33 secondary school. The term "employment" shall include domestic or  
34 personal work in a private home. The term "employment" shall not include  
35 the services of a licensed real estate broker or sales associate if it  
36 be proven that (a) substantially all of the remuneration (whether or not  
37 paid in cash) for the services performed by such broker or sales associ-  
38 ate is directly related to sales or other output (including the perform-  
39 ance of services) rather than to the number of hours worked; (b) the  
40 services performed by the broker or sales associate are performed pursu-  
41 ant to a written contract executed between such broker or sales associ-  
42 ate and the person for whom the services are performed within the past  
43 twelve to fifteen months; and (c) the written contract provided for in  
44 subparagraph (b) of this paragraph was not executed under duress and  
45 contains the following provisions:

46 S 15. Nothing in this act shall be deemed to diminish the rights,  
47 privileges, or remedies of any farm laborer under any collective  
48 bargaining agreement entered into on or after the effective date of this  
49 act.

50 S 16. This act shall take effect immediately, provided that section  
51 fifteen of this act shall take effect on the one hundred eightieth day  
52 after it shall have become a law, and provided further, that sections  
53 five, eight, and nine of this act shall take effect January 1, 2014.