

8016

2013-2014 Regular Sessions

I N A S S E M B L Y

June 14, 2013

Introduced by M. of A. HEASTIE -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to the number of hours employees may work in certain retail and service establishments

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 196-e to
2 read as follows:
3 S 196-E. WORKWEEK HOURS IN CERTAIN RETAIL OR SERVICE ESTABLISHMENTS.
4 NO EMPLOYER SHALL BE DEEMED TO HAVE VIOLATED ANY STATUTE, RULE, REGU-
5 LATION OR ORDER BY EMPLOYING ANY EMPLOYEE OF A RETAIL OR SERVICE ESTAB-
6 LISHMENT FOR A WORKWEEK IN EXCESS OF THE APPLICABLE WORKWEEK SPECIFIED
7 THEREIN IF:
8 (A) THE REGULAR RATE OF PAY OF SUCH EMPLOYEE IS IN EXCESS OF ONE AND
9 ONE-HALF TIMES THE MINIMUM HOURLY RATE APPLICABLE TO SUCH EMPLOYEE; AND
10 (B) MORE THAN HALF THE EMPLOYEE'S COMPENSATION FOR A REPRESENTATIVE
11 PERIOD, WHICH SHALL NOT BE LESS THAN ONE MONTH, REPRESENTS COMMISSIONS
12 ON GOODS OR SERVICES. IN DETERMINING THE PROPORTION OF COMPENSATION
13 REPRESENTING COMMISSIONS, ALL EARNINGS RESULTING FROM THE APPLICATION OF
14 A BONA FIDE COMMISSION RATE SHALL BE DEEMED COMMISSIONS ON GOODS OR
15 SERVICES WITHOUT REGARD TO WHETHER THE COMPUTED COMMISSIONS EXCEED THE
16 DRAW OR GUARANTEE.
17 S 2. This act shall take effect immediately, provided, however, that
18 this act shall be deemed to have been in full force and effect with
19 respect to any employers who paid overtime pursuant to a collective
20 bargaining agreement in existence prior to the date on which this act
21 shall have become a law.

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

LBD11508-02-3