S T A T E O F N E W Y O R K

496

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. GALLIVAN -- 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 hours of work

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

Section 1. Subdivisions 1, 2 and 2-a of section 220 of the labor law, subdivision 2 as amended by chapter 678 of the laws of 2007, and subdivision 2-a as amended by chapter 8 of the laws of 2008, are amended to read as follows:

1. Eight hours shall constitute a legal day's work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law OR UNLESS A PERSON IS EMPLOYED FOR LESS THAN FIVE DAYS IN ANY WEEK IN WHICH CASE TEN HOURS MAY CONSTITUTE A LEGAL DAY'S WORK.

2. Each contract to which the state or a public benefit corporation or a municipal corporation or a commission appointed pursuant to law is a party, and any contract for public work entered into by a third party acting in place of, on behalf of and for the benefit of such public entity pursuant to any lease, permit or other agreement between such third party and the public entity, and which may involve the employment of laborers, workers or mechanics shall contain a stipulation that no laborer, worker or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work:

(A) more than eight hours in any one calendar day or more than five days in any one week; OR

(B) MORE THAN TEN HOURS IN ANY ONE CALENDAR DAY OR MORE THAN FOUR DAYS IN ANY ONE WEEK, except in cases of extraordinary emergency including fire, flood or danger to life or property. No such person shall be so employed:

(C) more than eight hours in any day or more than five days in any one week; OR

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

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(D) MORE THAN TEN HOURS IN ANY ONE CALENDAR DAY OR MORE THEN FOUR DAYS IN ANY ONE WEEK, except in such emergency. Extraordinary emergency within the meaning of this section shall be deemed to include situations in which sufficient laborers, workers and mechanics cannot be employed to carry on public work expeditiously as a result of such restrictions upon the number of hours and days of labor and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the commissioner for the preservation of the contract site and for the protection of the life and limb of the persons using the same. Upon the application of any person interested, the commissioner shall make a determination as to whether or not on any public project or on all public projects in any area of this state, sufficient laborers, workers and mechanics of any or all classifications can be employed to carry on work expeditiously if their labor is restricted:

(E) to eight hours per day and five days per week; OR

(F) TO TEN HOURS PER DAY AND FOUR DAYS PER WEEK, and in the event that the commissioner determines that there are not sufficient workers, laborers and mechanics of any or all classifications which may be employed to carry on such work expeditiously if their labor is restricted to;

(G) to eight hours per day and five days per week; OR

(H) TO TEN HOURS PER DAY AND FOUR DAYS PER WEEK, and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the commissioner for the preservation of the contract site and for the protection of the life and limb of the persons using the same, the commissioner shall grant a dispensation permitting all laborers, workers and mechanics, or any classification of such laborers, workers and mechanics, to work such additional hours or days per week on such public project or in such areas the commissioner shall determine. Whenever such a dispensation is granted, all work in excess of:

(I) eight hours per day and five days per week; OR

(J) TEN HOURS PER DAY AND FOUR DAYS PER WEEK, shall be considered overtime work, and the laborers, workers and mechanics performing such work shall be paid a premium wage commensurate with the premium wages prevailing in the area in which the work is performed. No such dispensation shall be effective with respect to any public work unless and until the department of jurisdiction, as defined in this section, certifies to the commissioner that such public work is of an important nature and that a delay in carrying it to completion would result in serious disadvantage to the public. Time lost in any week because of inclement weather by employees engaged in the construction, reconstruction and maintenance of highways outside of the limits of cities and villages may be made up during that week and/or the succeeding three weeks.

2-a. Any person contracting with the state or a public benefit corporation, or a municipal corporation, or a commission appointed pursuant to law that shall require:

(A) more than [eight] TEN hours work for a day's labor; OR

(B) MORE THAN EIGHT HOURS WORK FOR A DAY'S LABOR AND MORE THAN FOUR DAYS OF LABOR IN ANY WEEK, unless otherwise permitted by law, is guilty of a misdemeanor, and upon conviction thereof shall be punished in accordance with the penal law for each offense.

S 2. This act shall take effect immediately.