

542--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. KENNEDY, ADDABBO, AVELLA, HASSELL-THOMPSON, STAVISKY, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to enacting the "save New York call center jobs act of 2014"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "save New York call center jobs act of 2014".

3 S 2. The labor law is amended by adding a new article 21 to read as
4 follows:

5 ARTICLE 21

6 SAVE NEW YORK CALL CENTER JOBS ACT

7 SECTION 770. DEFINITIONS.

8 771. LIST OF RELOCATED CALL CENTERS.

9 772. GRANTS, GUARANTEED LOANS AND TAX BENEFITS.

10 773. PROCUREMENT CONTRACTS.

11 774. STATE BENEFITS FOR WORKERS.

12 775. NO PRIVATE RIGHT OF ACTION.

13 S 770. DEFINITIONS. AS USED IN THIS ARTICLE:

14 1. THE TERM "CALL CENTER" MEANS A FACILITY OR OTHER OPERATION WHEREBY
15 EMPLOYEES RECEIVE TELEPHONE CALLS OR OTHER ELECTRONIC COMMUNICATION FOR
16 THE PURPOSE OF PROVIDING CUSTOMER ASSISTANCE OR OTHER SERVICE.

17 2. (A) THE TERM "EMPLOYER" MEANS ANY BUSINESS ENTITY THAT EMPLOYS
18 FIFTY OR MORE EMPLOYEES, EXCLUDING PART-TIME EMPLOYEES; OR FIFTY OR MORE
19 EMPLOYEES THAT IN THE AGGREGATE WORK AT LEAST FIFTEEN HUNDRED HOURS PER

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

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1 WEEK, EXCLUDING OVERTIME HOURS, FOR THE PURPOSE OF STAFFING A CALL
2 CENTER.

3 (B) THE TERM "PART-TIME EMPLOYEE" MEANS AN EMPLOYEE WHO IS EMPLOYED
4 FOR AN AVERAGE OF FEWER THAN TWENTY HOURS PER WEEK OR WHO HAS BEEN
5 EMPLOYED FOR FEWER THAN SIX OF THE TWELVE MONTHS PRECEDING THE DATE ON
6 WHICH NOTICE IS REQUIRED UNDER THIS ARTICLE.

7 S 771. LIST OF RELOCATED CALL CENTERS. 1. A CALL CENTER EMPLOYER THAT
8 INTENDS TO RELOCATE A CALL CENTER, OR ONE OR MORE FACILITIES OR OPERAT-
9 ING UNITS WITHIN A CALL CENTER COMPRISING AT LEAST THIRTY PERCENT OF THE
10 CALL CENTER'S, OR OPERATING UNIT'S, TOTAL VOLUME WHEN MEASURED AGAINST
11 THE PREVIOUS TWELVE MONTH AVERAGE CALL VOLUME OF OPERATIONS OR SUBSTAN-
12 Tially SIMILAR OPERATIONS, FROM NEW YORK STATE TO A FOREIGN COUNTRY
13 SHALL NOTIFY THE COMMISSIONER AT LEAST ONE HUNDRED DAYS BEFORE SUCH
14 RELOCATION.

15 2. A CALL CENTER EMPLOYER THAT VIOLATES SUBDIVISION ONE OF THIS
16 SECTION SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED TEN THOUSAND
17 DOLLARS FOR EACH DAY OF SUCH VIOLATION, EXCEPT THAT THE COMMISSIONER MAY
18 REDUCE SUCH AMOUNT FOR JUST CAUSE SHOWN.

19 3. THE COMMISSIONER SHALL COMPILE A SEMIANNUAL LIST OF ALL CALL CENTER
20 EMPLOYERS THAT RELOCATE A CALL CENTER, OR ONE OR MORE FACILITIES OR
21 OPERATING UNITS WITHIN A CALL CENTER COMPRISING AT LEAST THIRTY PERCENT
22 OF THE CALL CENTER'S TOTAL VOLUME OF OPERATIONS, FROM NEW YORK STATE TO
23 A FOREIGN COUNTRY.

24 4. THE COMMISSIONER SHALL DISTRIBUTE THE LIST REQUIRED IN THIS SECTION
25 TO ALL AGENCIES IN THE STATE.

26 S 772. GRANTS, GUARANTEED LOANS AND TAX BENEFITS. 1. EXCEPT AS
27 PROVIDED IN SUBDIVISION THREE OF THIS SECTION AND NOTWITHSTANDING ANY
28 OTHER PROVISION OF LAW, A CALL CENTER EMPLOYER THAT APPEARS ON THE LIST
29 DESCRIBED IN SECTION SEVEN HUNDRED SEVENTY-ONE OF THIS ARTICLE SHALL BE
30 INELIGIBLE FOR ANY DIRECT OR INDIRECT STATE GRANTS, STATE GUARANTEED
31 LOANS, TAX BENEFITS OR OTHER FINANCIAL GOVERNMENTAL SUPPORT FOR A PERIOD
32 OF FIVE YEARS FROM THE DATE SUCH LIST IS PUBLISHED.

33 2. EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION AND
34 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CALL CENTER EMPLOYER THAT
35 APPEARS ON THE LIST DESCRIBED IN SECTION SEVEN HUNDRED SEVENTY-ONE OF
36 THIS ARTICLE SHALL REMIT THE UNAMORTIZED VALUE OF ANY GRANT OR GUARAN-
37 TEED LOANS, OR ANY TAX BENEFITS OR OTHER GOVERNMENTAL SUPPORT IT HAS
38 PREVIOUSLY RECEIVED TO THE COMMISSIONER. THE PROVISIONS OF THIS SUBDIVI-
39 SION SHALL APPLY TO GRANTS, LOANS, TAX BENEFITS AND FINANCIAL GOVERN-
40 MENTAL ASSISTANCE THAT IS RECEIVED ON OR AFTER THE EFFECTIVE DATE OF
41 THIS ARTICLE.

42 3. THE COMMISSIONER, IN CONSULTATION WITH THE APPROPRIATE AGENCY
43 PROVIDING A LOAN OR GRANT, MAY WAIVE THE REQUIREMENT PROVIDED UNDER
44 SUBDIVISION TWO OF THIS SECTION IF THE EMPLOYER DEMONSTRATES THAT SUCH
45 REQUIREMENT WOULD:

46 (A) THREATEN STATE OR NATIONAL SECURITY;

47 (B) RESULT IN SUBSTANTIAL JOB LOSS IN THE STATE OF NEW YORK; OR

48 (C) HARM THE ENVIRONMENT.

49 S 773. PROCUREMENT CONTRACTS. THE HEAD OF EACH STATE AGENCY SHALL
50 ENSURE THAT ALL STATE-BUSINESS-RELATED CALL CENTER AND CUSTOMER SERVICE
51 WORK BE PERFORMED BY STATE CONTRACTORS OR OTHER AGENTS OR SUBCONTRACTORS
52 ENTIRELY WITHIN THE STATE OF NEW YORK. STATE CONTRACTORS WHO CURRENTLY
53 PERFORM SUCH WORK OUTSIDE THE STATE OF NEW YORK SHALL HAVE TWO YEARS
54 FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE TO COMPLY WITH THIS
55 SECTION; PROVIDED, THAT IF ANY SUCH CONTRACTORS WHICH PERFORM WORK
56 OUTSIDE THIS STATE ADDS CUSTOMER SERVICE EMPLOYEES WHO WILL PERFORM WORK

1 ON SUCH CONTRACTS, THOSE NEW EMPLOYEES SHALL IMMEDIATELY BE EMPLOYED
2 WITHIN THE STATE OF NEW YORK.

3 S 774. STATE BENEFITS FOR WORKERS. NO PROVISION OF THIS ARTICLE SHALL
4 BE CONSTRUED TO PERMIT WITHHOLDING OR DENIAL OF PAYMENTS, COMPENSATION,
5 OR BENEFITS UNDER ANY OTHER STATE LAW, INCLUDING BUT NOT LIMITED TO
6 STATE UNEMPLOYMENT COMPENSATION, DISABILITY PAYMENTS OR WORKER RETRAIN-
7 ING OR READJUSTMENT FUNDS, TO WORKERS EMPLOYED BY EMPLOYERS THAT RELO-
8 CATE TO A FOREIGN COUNTRY.

9 S 775. NO PRIVATE RIGHT OF ACTION. NOTHING SET FORTH IN THIS ARTICLE
10 SHALL BE CONSTRUED AS CREATING, ESTABLISHING, OR AUTHORIZING A PRIVATE
11 CAUSE OF ACTION BY AN AGGRIEVED PERSON AGAINST AN EMPLOYER WHO HAS
12 VIOLATED, OR IS ALLEGED TO HAVE VIOLATED, ANY PROVISION OF THIS ARTICLE.

13 S 3. This act shall take effect on the one hundred eightieth day after
14 it shall have become a law.