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

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I N S E N A T E

July 23, 2014

Introduced by Sens. STAVISKY, KRUEGER, O'BRIEN, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the labor law, in relation to employee notification of contraceptive coverage

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

Section 1. Subdivision 2 of section 217 of the labor law is amended by adding a new paragraph (c) to read as follows:

(C) "CONTRACEPTIVE COVERAGE" SHALL MEAN THAT PORTION OF A POLICY OR CONTRACT OF GROUP ACCIDENT, GROUP HEALTH OR GROUP ACCIDENT AND HEALTH INSURANCE THAT PROVIDES COVERAGE FOR THE COST OF CONTRACEPTIVE DRUGS OR DEVICES APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION OR GENERIC EQUIVALENTS APPROVED AS SUBSTITUTES BY SUCH FOOD AND DRUG ADMINISTRATION UNDER THE PRESCRIPTION OF A HEALTH CARE PROVIDER LEGALLY AUTHORIZED TO PRESCRIBE UNDER TITLE EIGHT OF THE EDUCATION LAW.

S 2. Section 217 of the labor law is amended by adding a new subdivision 3-a to read as follows:

3-A. CONTRACEPTIVE COVERAGE NOTIFICATION. A POLICYHOLDER SHALL PROVIDE WRITTEN NOTICE TO CERTIFICATE HOLDERS PRIOR TO SUBSTITUTING A POLICY OR CONTRACT OF GROUP ACCIDENT, GROUP HEALTH OR GROUP ACCIDENT AND HEALTH INSURANCE WITH ANOTHER SUCH POLICY OR CONTRACT THAT ALTERS, RESTRICTS, OR TERMINATES CONTRACEPTIVE COVERAGE. SUCH NOTICE SHALL BE PROVIDED NOT LESS THAN NINETY DAYS PRIOR TO ANY SUCH SUBSTITUTION. WHERE THE CERTIFICATE HOLDERS ARE EMPLOYEES REPRESENTED BY A LABOR ORGANIZATION, SUCH NOTICE SHALL ALSO BE PROMPTLY PROVIDED TO THE REPRESENTATIVE OF SUCH LABOR ORGANIZATION. A COPY OF SUCH NOTICE ALSO SHALL BE PROMPTLY PROVIDED TO THE COMMISSIONER AND THE DEPARTMENTS OF LAW AND FINANCIAL SERVICES. SUCH WRITTEN NOTICE SHALL BE IN ACCORDANCE WITH APPLICABLE RULES AND REGULATIONS OF THE COMMISSIONER.

S 3. The labor law is amended by adding a new section 217-a to read as follows:

S 217-A. PROSPECTIVE EMPLOYEE NOTIFICATION OF CONTRACEPTIVE COVERAGE. 1. AN EMPLOYER WHO IS ISSUED A POLICY OR CONTRACT FOR GROUP ACCIDENT,

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

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GROUP HEALTH OR GROUP ACCIDENT AND HEALTH INSURANCE THAT COVERS SOME OR ALL OF ITS EMPLOYEES SHALL PROVIDE NOTICE TO ALL PERSONS WHO SEEK EMPLOYMENT WITH SUCH EMPLOYER AS TO WHETHER SUCH POLICY OR CONTRACT INCLUDES CONTRACEPTIVE COVERAGE, AS SUCH TERM IS DEFINED IN PARAGRAPH (C) OF SUBDIVISION TWO OF SECTION TWO HUNDRED SEVENTEEN OF THIS ARTICLE. WHERE SUCH POLICY OR CONTRACT INCLUDES SOME, BUT NOT ALL, CONTRACEPTIVE DRUGS AND DEVICES OR THEIR GENERIC EQUIVALENTS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION, SUCH NOTICE SHALL ALSO SPECIFY WHICH SUCH DRUGS OR DEVICES ARE NOT INCLUDED IN SUCH INSURANCE COVERAGE. SUCH NOTICE SHALL BE PROMINENTLY DISPLAYED ON THE FACE OF ANY WRITTEN APPLICATION FOR EMPLOYMENT UTILIZED BY AN EMPLOYER OR INCLUDED ON A SEPARATE WRITTEN NOTICE FORM TO BE PROVIDED TO EACH PERSON WHO RECEIVES SUCH WRITTEN APPLICATION. WHERE SUCH EMPLOYER MAINTAINS A PUBLICLY ACCESSIBLE WEBPAGE THAT PROVIDES INFORMATION ON PROSPECTIVE EMPLOYMENT OPPORTUNITIES, SUCH EMPLOYER SHALL PROVIDE CLEAR AND CONSPICUOUS NOTICE ON SUCH WEBPAGE AS TO WHETHER SUCH EMPLOYER PROVIDES CONTRACEPTIVE COVERAGE AND, IF SO, WHETHER SUCH COVERAGE INCLUDES SOME, BUT NOT ALL, CONTRACEPTIVE DRUGS AND DEVICES OR THEIR GENERIC EQUIVALENT APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION. THE COMMISSIONER, IN CONSULTATION WITH THE DEPARTMENT OF FINANCIAL SERVICES, IS AUTHORIZED TO PROMULGATE SUCH RULES AND REGULATIONS AS HE OR SHE DEEMS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

2. AN EMPLOYER THAT FAILS TO COMPLY WITH ANY PROVISION OF SUBDIVISION ONE OF THIS SECTION, SHALL, FOR EACH SUCH VIOLATION, FORFEIT TO THE PEOPLE OF THE STATE A SUM UP TO FIVE THOUSAND DOLLARS TO BE RECOVERED BY THE COMMISSIONER IN A CIVIL ACTION. WHERE SUCH EMPLOYER IS A CORPORATION, TRADE ASSOCIATION, JOINT STOCK ASSOCIATION, INCORPORATED OR UNINCORPORATED ASSOCIATION, THE PRESIDENT, SECRETARY AND TREASURER THEREOF SHALL BE LIABLE FOR ANY SUCH FORFEITURE.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.