

3559

2015-2016 Regular Sessions

I N S E N A T E

February 12, 2015

Introduced by Sens. ESPAILLAT, AVELLA, BRESLIN, DILAN, HASSELL-THOMPSON, HOYLMAN, KENNEDY, KRUEGER, MONTGOMERY, PARKER, PERALTA, PERKINS, SAMPSON, SERRANO, SQUADRON, STAVISKY, STEWART-COUSINS -- 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 raising the statutory minimum wage

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

1 Section 1. Paragraph (n) of subdivision 5 of section 651 of the labor
2 law, as amended by chapter 481 of the laws of 2010, is amended to read
3 as follows:

4 (n) by [a] THE federal[, state or municipal] government [or political
5 subdivision thereof]. The exclusions from the term "employee" contained
6 in this subdivision shall be as defined by regulations of the commis-
7 sioner; or

8 S 2. Subdivision 6 of section 651 of the labor law, as amended by
9 chapter 281 of the laws of 2002, is amended to read as follows:

10 6. "Employer" includes any individual, partnership, association,
11 corporation, limited liability company, business trust, legal represen-
12 tative, STATE OR MUNICIPAL GOVERNMENT OR POLITICAL SUBDIVISION THEREOF,
13 or any organized group of persons acting as employer.

14 S 3. Subdivisions 1, 4 and 5 of section 652 of the labor law, subdivi-
15 sion 1 as amended by section 1 of part P of chapter 57 of the laws of
16 2013 and subdivisions 4 and 5 as amended by chapter 747 of the laws of
17 2004, are amended to read as follows:

18 1. Statutory. Every employer shall pay to each of its employees for
19 each hour worked a wage of not less than:

20 \$4.25 on and after April 1, 1991,
21 \$5.15 on and after March 31, 2000,
22 \$6.00 on and after January 1, 2005,

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

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1 \$6.75 on and after January 1, 2006,
2 \$7.15 on and after January 1, 2007,
3 \$8.00 on and after December 31, 2013,
4 \$8.75 on and after December 31, 2014,
5 [\$9.00] \$9.50 on and after December 31, 2015, AND ON AND AFTER JANUARY
6 1, 2016 AND ON EACH FOLLOWING JANUARY FIRST, AN ADJUSTED MINIMUM WAGE
7 RATE THAT THE COMMISSIONER SHALL CALCULATE AND ESTABLISH BY INCREASING
8 THE THEN CURRENT MINIMUM WAGE RATE BY THE RATE OF INFLATION FOR THE MOST
9 RECENT TWELVE MONTH PERIOD THAT IS AVAILABLE AT THE TIME THE ADJUSTED
10 MINIMUM WAGE RATE IS CALCULATED AND ANNOUNCED USING THE CONSUMER PRICE
11 INDEX (URBAN WAGE EARNERS AND CLERICAL WORKERS, ALL ITEMS, NY-NJ-CT-PA,
12 NOT SEASONALLY ADJUSTED), OR A SUCCESSOR INDEX AS CALCULATED BY THE
13 UNITED STATES DEPARTMENT OF LABOR, IF SUCH RATE OF INFLATION IS GREATER
14 THAN ZERO PERCENT, ROUNDED TO THE NEAREST MULTIPLE OF FIVE CENTS, or, if
15 greater, such other wage as may be established by federal law pursuant
16 to 29 U.S.C. section 206 or its successors
17 or such other wage as may be established in accordance with the
18 provisions of this article.

19 4. Notwithstanding subdivisions one and two of this section, the wage
20 for an employee who is a food service worker receiving tips shall be a
21 cash wage of at least three dollars and thirty cents per hour on or
22 after March thirty-first, two thousand; three dollars and eighty-five
23 cents on or after January first, two thousand five; at least four
24 dollars and thirty-five cents on or after January first, two thousand
25 six; [and] at least four dollars and sixty cents on or after January
26 first, two thousand seven; AND ON OR AFTER JANUARY FIRST, TWO THOUSAND
27 SIXTEEN AND ON EACH FOLLOWING JANUARY FIRST, AN ADJUSTED MINIMUM WAGE
28 RATE THAT THE COMMISSIONER SHALL CALCULATE AND ESTABLISH BY INCREASING
29 THE THEN CURRENT MINIMUM WAGE RATE BY THE RATE OF INFLATION FOR THE MOST
30 RECENT TWELVE MONTH PERIOD AVAILABLE AT THE TIME THE ADJUSTED MINIMUM
31 WAGE RATE IS CALCULATED AND ANNOUNCED USING THE CONSUMER PRICE INDEX
32 (URBAN WAGE EARNERS AND CLERICAL WORKERS, ALL ITEMS, NY-NJ-CT-PA, NOT
33 SEASONALLY ADJUSTED), OR A SUCCESSOR INDEX AS CALCULATED BY THE UNITED
34 STATES DEPARTMENT OF LABOR, IF SUCH RATE OF INFLATION IS GREATER THAN
35 ZERO PERCENT, ROUNDED TO THE NEAREST MULTIPLE OF FIVE CENTS, provided
36 that the tips of such an employee, when added to such cash wage, are
37 equal to or exceed the minimum wage in effect pursuant to subdivision
38 one of this section and provided further that no other cash wage is
39 established pursuant to section six hundred fifty-three of this article.
40 In the event the cash wage payable under the Fair Labor Standards Act
41 (29 United States Code Sec. 203 (m), as amended), is increased after
42 enactment of this subdivision, the cash wage payable under this subdivi-
43 sion shall automatically be increased by the proportionate increase in
44 the cash wage payable under such federal law, and will be immediately
45 enforceable as the cash wage payable to food service workers under this
46 article.

47 5. Notwithstanding subdivisions one and two of this section, meal and
48 lodging allowances for a food service worker receiving a cash wage
49 amounting to three dollars and thirty cents per hour on or after March
50 thirty-first, two thousand; three dollars and eighty-five cents on or
51 after January first, two thousand five; four dollars and thirty-five
52 cents on or after January first, two thousand six; [and] four dollars
53 and sixty cents on or after January first, two thousand seven; AND ON OR
54 AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN AND ON EACH FOLLOWING JANUARY
55 FIRST, AN ADJUSTED MINIMUM WAGE RATE THAT THE COMMISSIONER SHALL CALCU-
56 LATE AND ESTABLISH BY INCREASING THE THEN CURRENT MINIMUM WAGE RATE BY

1 THE RATE OF INFLATION FOR THE MOST RECENT TWELVE MONTH PERIOD AVAILABLE
2 AT THE TIME THE ADJUSTED MINIMUM WAGE RATE IS CALCULATED AND ANNOUNCED
3 USING THE CONSUMER PRICE INDEX (URBAN WAGE EARNERS AND CLERICAL WORKERS,
4 ALL ITEMS, NY-NJ-CT-PA, NOT SEASONALLY ADJUSTED), OR A SUCCESSOR INDEX
5 AS CALCULATED BY THE UNITED STATES DEPARTMENT OF LABOR, IF SUCH RATE OF
6 INFLATION IS GREATER THAN ZERO PERCENT, ROUNDED TO THE NEAREST MULTIPLE
7 OF FIVE CENTS, shall not increase more than two-thirds of the increase
8 required by subdivision two of this section as applied to state wage
9 orders in effect pursuant to subdivision one of this section.

10 S 4. Section 665 of the labor law, as added by chapter 619 of the laws
11 of 1960, is amended to read as follows:

12 S 665. Savings AND NON-PREEMPTION clause. 1. If any provision of this
13 article or the application thereof to any person, employer, occupation
14 or circumstance is held invalid, the remainder of the article and the
15 application of such provision to other persons, employees, occupations,
16 or circumstances shall not be affected thereby.

17 2. NOTHING IN THIS ARTICLE OR ANY OTHER PROVISION OF LAW SHALL BE
18 DEEMED TO RESTRICT LOCAL GOVERNMENTS FROM REQUIRING PAYMENT OF HIGHER
19 WAGES OR BENEFITS WITHIN THEIR GEOGRAPHIC BOUNDARIES.

20 S 5. This act shall take effect immediately.