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

10410

I N A S S E M B L Y

May 26, 2016

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

AN ACT to amend the labor law, in relation to the payment of wages to 24 hour home care aides

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

Section 1. The labor law is amended by adding a new section 652-a to read as follows:

S 652-A. CALCULATION OF HOURS FOR 24-HOUR HOME CARE AIDES. 1. FOR THE PURPOSES OF THIS SECTION, "HOME CARE AIDE" MEANS A HOME HEALTH AIDE, PERSONAL CARE AIDE, HOME ATTENDANT OR OTHER CERTIFIED OR UNCERTIFIED PERSON WHOSE PRIMARY RESPONSIBILITY INCLUDES THE PROVISION OF IN-HOME ASSISTANCE WITH ACTIVITIES OF DAILY LIVING, INSTRUMENTAL ACTIVITIES OF DAILY LIVING OR HEALTH-RELATED TASKS FOR AN ELDERLY OR INFIRM PERSON WORKING IN THE HOME OF THE ELDERLY OR INFIRM PERSON. THIS EXEMPTION APPLIES IF THE HOME CARE AIDE IS EMPLOYED BY THE ELDERLY OR INFIRM PERSON DIRECTLY AND ALSO IF THE HOME CARE AIDE IS EMPLOYED BY A THIRD PARTY EMPLOYER TO WORK IN THE HOME OF THE ELDERLY OR INFIRM PERSON.

2. A HOME CARE AIDE WHO IS ON THE PREMISES FOR A PERIOD OF TWENTY-FOUR HOURS OR MORE SHALL BE SUBJECT TO THE PROVISIONS OF THIS SECTION FOR DETERMINING THE NUMBER OF HOURS WORKED BY THE EMPLOYEE PER TWENTY-FOUR HOUR PERIOD, NOTWITHSTANDING THE FACT THAT SUCH AN EMPLOYEE MAY MAINTAIN A PERMANENT RESIDENCE ELSEWHERE.

3. SUCH HOME CARE AIDES SHALL BE PAID FOR THIRTEEN HOURS PER TWENTY-FOUR HOUR PERIOD, PROVIDED THAT SUCH EMPLOYEE IS PROVIDED WITH: (A) ADEQUATE SLEEPING FACILITIES; (B) EIGHT HOURS FOR SLEEP; (C) AT LEAST FIVE HOURS OF UNINTERRUPTED SLEEP; AND (D) THREE HOURS FOR MEALS.

S 2. This act shall take effect immediately.

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

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