

442

2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

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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:

- 1     Section 1. Subdivisions 1, 2 and 2-a of section 220 of the labor law,  
2     subdivision 2 as amended by chapter 678 of the laws of 2007, and subdi-  
3     vision 2-a as amended by chapter 8 of the laws of 2008, are amended to  
4     read as follows:  
5     1. Eight hours shall constitute a legal day's work for all classes of  
6     employees in this state except those engaged in farm and domestic  
7     service unless otherwise provided by law OR UNLESS A PERSON IS EMPLOYED  
8     FOR LESS THAN FIVE DAYS IN ANY WEEK IN WHICH CASE TEN HOURS MAY CONSTI-  
9     TUTE A LEGAL DAY'S WORK.  
10    2. Each contract to which the state or a public benefit corporation or  
11    a municipal corporation or a commission appointed pursuant to law is a  
12    party, and any contract for public work entered into by a third party  
13    acting in place of, on behalf of and for the benefit of such public  
14    entity pursuant to any lease, permit or other agreement between such  
15    third party and the public entity, and which may involve the employment  
16    of laborers, workers or mechanics shall contain a stipulation that no  
17    laborer, worker or mechanic in the employ of the contractor, subcontrac-  
18    tor or other person doing or contracting to do the whole or a part of  
19    the work contemplated by the contract shall be permitted or required to  
20    work:  
21    (A) more than eight hours in any one calendar day or more than five  
22    days in any one week; OR  
23    (B) MORE THAN TEN HOURS IN ANY ONE CALENDAR DAY OR MORE THAN FOUR DAYS  
24    IN ANY ONE WEEK, except in cases of extraordinary emergency including  
25    fire, flood or danger to life or property. No such person shall be so  
26    employed:  
27    (C) more than eight hours in any day or more than five days in any one  
28    week; OR

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

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

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

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

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

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

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

34 (J) TEN HOURS PER DAY AND FOUR DAYS PER WEEK, shall be considered  
35 overtime work, and the laborers, workers and mechanics performing such  
36 work shall be paid a premium wage commensurate with the premium wages  
37 prevailing in the area in which the work is performed. No such dispensa-  
38 tion shall be effective with respect to any public work unless and until  
39 the department of jurisdiction, as defined in this section, certifies to  
40 the commissioner that such public work is of an important nature and  
41 that a delay in carrying it to completion would result in serious disad-  
42 vantage to the public. Time lost in any week because of inclement weath-  
43 er by employees engaged in the construction, reconstruction and mainte-  
44 nance of highways outside of the limits of cities and villages may be  
45 made up during that week and/or the succeeding three weeks.

46 2-a. Any person contracting with the state or a public benefit corpo-  
47 ration, or a municipal corporation, or a commission appointed pursuant  
48 to law that shall require:

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

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

54 S 2. This act shall take effect immediately.