STATE OF NEW YORK

10430--A

IN ASSEMBLY

May 11, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Cruz) -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to establishing tiers of essential employees during a state of emergency

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The executive law is amended by adding a new section 29-l to read as follows:

§ 29-l. Tiers of essential workers. During periods when a federal, state, or local state of emergency has been declared, the persons employed in the following positions and fields, including any for-profit or non-profit, shall be deemed essential personnel in the following manner and shall be entitled to federal, state and local mandated assistance, benefits and protections that maintain such employees positions including, but not limited to, child care, job protection where workers cannot be fired when not attending work due to the lack of safety precautions provided or other circumstances related to the emergency declaration, medical supplies and/or personal protective equipment:

1. Tier I. Emergency health and safety responders, including:

(a) health care personnel needed for direct care, research and laboratory services and critical administrative staff of the personnel needed for direct care, including:

(i) full-time and part-time long-term facility personnel, including, but not limited to, personnel working in group homes and supportive housing settings, residential homes, nursing homes, and residential mental health, substance use disorder, pediatric and adolescent residential treatment facilities;

(ii) full-time and part-time post-acute care personnel, including, but not limited to, personnel working in long-term hospitals, in-patient rehabilitation, home health care, and skilled nurses;

(iii) home health and personal care attendants;

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

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(iv) personnel working in adult, adolescent and pediatric residential mental health, behavioral health or substance use disorder treatment facilities, intensive residential treatment services, emergency shelters, health care for the homeless providers, and homeless drop-in centers;

(v) county and tribal financial/eligibility workers for public programs;

(vi) state, tribal and county staff in emergency management or health and human services, including case managers and direct service delivery;

(vii) personnel working in county and tribal child welfare;

(viii) pharmacy, drug store and medical distribution employees necessary for filling prescriptions, cultivating and processing medical supplies;

(b) full-time emergency medical services personnel, including:

(i) paramedics;

(ii) emergency medical technicians;

(iii) immediate supervisory staff;

(iv) emergency medical services operators and dispatchers;

(v) emergency medical services region medical directors necessary to make override decisions to direct ambulances to other emergency rooms based on medical needs;

(vi) medical examiners;

(c) law enforcement personnel, including:

(i) full-time police officers, auxillary police and their supervisory staff;

(ii) full-time sheriffs and their supervisory staff;

(iii) full-time department of environmental conservation sworn officers and their supervisory staff;

(iv) full-time state police officers and their supervisory staff;

(v) 911 operators and dispatchers and their supervisory staff;

(vi) full-time investigators, at the discretion of their agency chief;

(d) firefighter personnel, including:

(i) full-time firefighters;

(ii) paid on call duty crew;

(e) correctional services personnel, including:

(i) corrections officers;

(ii) correctional lieutenants;

(iii) correctional captains;

(iv) correctional sergeants;

(v) physical plant personnel;

(vi) correctional facility case managers;

(vii) correctional facility educators and educational paraprofessionals;

(viii) wardens;

(ix) associate wardens;

(x) correctional facility office assistants;

(xi) correctional facility nurses and supervisors;

(xii) correctional program therapists;

(xiii) correctional facility personnel;

(xiv) informational technology staff;

(xv) correctional facility human resources staff;

(xvi) correctional facility financial services personnel;

(xvii) correctional facility records personnel;

(xviii) correctional facility safety officers;

(f) centralized correctional operations personnel, including:

(i) medical directors;

(ii) directors of health services;
(iii) reentry services personnel;
(iv) policy and legal services personnel;
(v) offender transportation personnel;
(vi) centralized records personnel;
(vii) centralized human resources personnel;
(viii) investigators, including special investigations and professional accountability;
(ix) personnel assigned to the disaster preparedness commission;
(x) government and community relations personnel;
(xi) hearings and release personnel;
(xii) behavioral health personnel;
(xiii) communications personnel;
(xiv) personnel in the office of the commissioner of corrections and community supervision;
(g) correctional, transitional and supervision services personnel, including:
(i) state probation officers and supervisors;
(ii) state probation agents and supervisors;
(iii) state supervised release agents and supervisors;
(iv) county probation officers and supervisors;
(v) county probation agents and supervisors;
(vi) county supervised release agents and supervisors;
(h) public health personnel, including:
(i) state, tribal and local public health employees directly supporting the response of a state of emergency or other infectious disease operations;
(ii) state, tribal and local public health officials responding to imminent public health threats;
(iii) newborn health screeners;
(iv) state, tribal and local public health lab priority services;
(v) state, city, county and tribal emergency management essential personnel;
(i) court personnel and contractors, including, but not limited to, full-time court personnel, court officers, interpreters and clerks;
(j) national guard members (if activated).
2. Tier II. Essential employees, including:
(a) educators;
(b) child care workers, including foster care staff;
(c) department of transportation employees;
(d) state and local essential information technology personnel;
(e) substance disorder treatment workers;
(f) maintenance, janitorial, custodial and cleaning staff;
(g) delivery and warehouse workers;
(h) water treatment/wastewater personnel, including:
(i) water treatment plant operators;
(ii) drinking water distribution system maintenance workers;
(iii) safe drinking water delivery personnel;
(iv) wastewater treatment plant operators;
(v) storm and sanitary sewer system maintenance workers;
(i) day-to-day operations personnel for gas and electric critical infrastructure, including:
(i) electric utility lineworkers, substation technicians, meter technicians, dispatchers, power plant operators including those at energy storage and electric vehicle infrastructure;

(ii) operations managers and supervisors, including those ensuring safe and reliable service to customers;
(iii) fleet and maintenance technicians;
(iv) transmission and distribution engineers and operators including those for maintenance, resilience, reliability and demand response;
(v) fuel supply providers and pipeline infrastructure operators;
(vi) construction coordinators and technicians;
(vii) fuel technicians;
(viii) relay coordinators;
(ix) control room/center operators;
(x) cybersecurity related information technology personnel;
(xi) gas safety personnel;
(xii) gas operations personnel;
(xiii) water system operators, water treatment plant operators;
(xiv) wastewater system operators and wastewater treatment plant operators;
(xv) managers with key responsibility for customer and community communications and response;
(j) emergency response for gas and electric personnel, including:
(i) damage assessment personnel;
(ii) engineers;
(iii) safety personnel;
(iv) communications personnel;
(v) mutual aid crews from other utilities or facilities;
(k) restaurant workers, including:
(i) management;
(ii) front of house staff;
(iii) back of house staff;
(iv) food delivery workers, including app delivery workers;
(l) food distribution workers, including street vendors and food bank staff;
(m) food distribution centers personnel, including:
(i) drivers;
(ii) order selectors;
(iii) forklift loaders;
(iv) information technology personnel;
(v) mechanics;
(vi) sanitation workers;
(n) in-store supermarket and grocery food personnel, including:
(i) store clerks;
(ii) stockers;
(iii) food preparation personnel;
(iv) cleaning staff;
(v) deli and produce staff;
(o) public works personnel, including:
(i) city fleet (emergency equipment, fire trucks, police vehicles, etc.) maintenance workers;
(ii) traffic signal system maintenance workers;
(iii) emergency repair workers for bridges, water and sewer main breaks, and other emergent issues;
(iv) administrative support personnel that ensure federal OSHA safety requirements and field support for operations;
(v) snowplow drivers;
(p) solid waste management (waste, recyclable/organics) personnel, including:

(i) collection, transfer trailer truck drivers and fleet maintenance crews;
(ii) transfer stations, landfills, resource recovery, recycling and organics facility operations staff;
(iii) heavy equipment operators, facility operators (e.g. scale house operator, loader operator, line operators, boiler operator);
(iv) environmental systems personnel (e.g. gas and leachate management, pollution control equipment);
(q) infectious and hazardous waste management personnel, including:
(i) infectious and hazardous waste collection personnel;
(ii) infectious facilities operations personnel (e.g. autoclave and incineration operators);
(iii) hazardous waste treatment, storage, and disposal facilities operations personnel;
(r) commercial public sanitation personnel;
(s) shelter staff and homeless outreach workers, including:
(i) shelter drop-in staff;
(ii) shelter and free meal program food preparation staff;
(iii) domestic violence and victims services shelter staff;
(t) telecommunication network operations personnel, including:
(i) outside plant technicians for infrastructure restoration;
(ii) install/repair technicians for customer premise restoration as needed;
(iii) customer service representatives that interface with customers on service troubles;
(iv) dispatchers involved with service repair and restoration;
(u) bank personnel and community financial institutions;
(v) community violence interrupters, including:
(i) gang violence prevention staff;
(ii) trauma informed personnel.
3. Enforcement. (a) All federal, state and local essential worker mandated assistance required pursuant to this section, including, but not limited to, child care, job protections, medical supplies and/or personal protective equipment must be made available to the essential worker within seven calendar days of the declaration of a state of emergency.
(b) An essential worker, who within seven calendar days has not received the benefits required under the law, may obtain an action in any court of competent jurisdiction for:
(i) declaratory relief directing the state agency to provide the required services; and
(ii) a civil penalty in an amount not to exceed five hundred dollars per day of violation.
4. Reporting. (a) Every two years the state division of homeland security and emergency services shall present the governor and the legislature with a detailed report describing at a minimum affirmative steps taken by the executive and state agencies to comply with this law, the number of tier I and tier II workers in the state of New York, and recommendations on types of essential workers that should be added or removed from the existing tier I and tier II lists.
(b) The legislature shall review the report provided by the state division of homeland security and emergency services and seek to amend any relevant section of this section to ensure essential workers are added and/or removed from the existing list, as well as any other provision that would strengthen the purpose of this section.

§ 2. This act shall take effect immediately.