AN ACT to amend the labor law, in relation to dependent workers

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

Section 1. Short title. This act shall be known and may be cited as the "dependent worker act".

§ 2. Legislative findings and intent. 1. It is hereby declared to be the public policy of the state to ensure that laborers and other workers who depend for their livelihood on working for others, offering their time, labor and personal services in exchange for hourly wages or other compensation, are timely and fully paid and informed regarding their earnings, without the uncertainty, delay and denial that may result when their employment status is disputed by claims that they are independent contractors rather than employees.

2. It is further declared to be the public policy of the state to ensure that such dependent workers shall have the right to organize and bargain collectively through representatives of their own choosing based on the state's constitutional recognition that the labor of human beings is not a commodity or an article of commerce and shall never be so considered or construed.

3. The legislature finds that the ability of such dependent workers to find opportunities for work has been transformed by technology to expand day work to digital work, allowing workers to establish their availability by the minute and hour, rather than simply by the day. In light of this shift, the legislature finds that further examination is warranted to determine the extent to which various employment benefits and substantive protections that were historic bargains struck with input from labor and management, through bargaining, legislation, and administrative rate setting and rulemaking, should be extended to such digital work, regardless of employment status. The collective bargaining oppor-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [−] is old law to be omitted.
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tunities and public meetings provided through this legislation can
provide experience and input that is not currently available to the
legislature to inform determinations regarding such benefits and
substantive protections.

4. This chapter shall be deemed an exercise of the police power of the
state for the protection of the public welfare, prosperity, health, and
peace of the people of the state.

5. Nothing herein shall diminish the rights of any worker, including
those already or prospectively determined by a court or administrative
agency to be an employee.

§ 3. Subdivision 16 of section 2 of the labor law, as added by chapter
564 of the laws of 2010, is renumbered subdivision 16-a and a new subdi-
vision 17 is added to read as follows:

17. "Dependent worker" means an individual who provides personal
services to a consumer of such personal services through a private
sector third-party that: establishes the gross amounts earned by the
individual; establishes the amounts charged to the consumer; collects
payment from the consumer; pays the individual; or any combination of
the preceding. The term "dependent worker" applies without regard to
whether the individual provides such services in the name of the indi-
vidual or in the name of a business or as a separate business entity,
and without regard to whether the consumer of such personal services is
an individual, business, other entity, or any combination thereof. No
governmental entity shall be considered a third-party for purposes of
the definition of the term "dependent worker". Whenever the term employ-
ee is defined by law to include a dependent worker for certain purposes,
then for such statute and purposes a dependent worker shall be deemed to
be employed by the third-party referenced above, who shall be deemed to
be an employer engaged in an employment relationship with a dependent
worker, unless otherwise excluded from such statute or purposes. Work-
ers classified as employees by other means or who satisfy any other
legal test for employment, including those already or prospectively
determined by a court or administrative agency to be employees, shall
not have any rights or protections diminished by application of this
subdivision.

§ 4. Subdivision 2 of section 190 of the labor law, as added by chap-
ter 548 of the laws of 1966, is amended to read as follows:

2. "Employee" means any person employed for hire by an employer in any
employment and for purposes of sections one hundred ninety-one, one
hundred ninety-two, one hundred ninety-five and one hundred ninety-six-d
of this article, as well as any regulations adopted thereunder and any
provisions relating to the enforcement of such sections including
sections one hundred ninety-six, one hundred ninety-six-a, one hundred
ninety-seven, one hundred ninety-eight, one hundred ninety-eight-a, two
hundred eleven, two hundred thirteen, two hundred fifteen, two hundred
eighteen, two hundred nineteen, and two hundred nineteen-c of this chap-
ter, shall include a dependent worker, as defined by section two of this
chapter.

§ 5. Subdivision 3 of section 701 of the labor law is amended by
adding a new paragraph (c) to read as follows:

(c) The term "employee" shall also include a dependent worker, as
defined by section two of this chapter, for purposes of this article, of
article twenty-A, and of sections two hundred eight, two hundred nine,
two hundred nine-a, and two hundred eleven-a of this chapter, as well as
any regulations promulgated thereunder and any provisions relating to
the enforcement of such article and sections including sections one
hundred ninety-six, one hundred ninety-six-a, two hundred eleven, two
hundred thirteen, and two hundred fifteen of this chapter.

§ 6. The commissioner of labor shall hold public meetings with repre-
sentatives of businesses, employees and dependent workers to examine
various state labor and related laws that regulate employment rights and
benefits to identify which provisions could be extended to provide
dependent workers with the same, or similar, rights and benefits as
employees have, consistent with the underlying purposes of each statuto-
ry scheme without substantially curtailing opportunities for dependent
workers to earn income sufficient to provide adequate maintenance for
themselves and their families, and whether changes should be made to the
definition of dependent worker, as defined by section 2 of the labor
law.

§ 7. The commissioner of labor may hold separate meetings, or convene
committees, to examine different industries and services, including, but
not limited to personal transportation (including taxis, black car and
ride sharing services), local delivery (including messenger and food
delivery services), and various personal services (including temporary
staffing services, cleaning services, and custom errand services).

§ 8. The commissioner of labor shall make a report of his or her find-
ings to the governor, the temporary president of the senate, and the
speaker of the assembly, within one year of the first public meeting.
Such report shall include recommendations for further action and legis-
lation.

§ 9. The provisions of law to be examined by the commissioner of labor
shall include, but not be limited to, the following:

a. social safety net employment laws, including:
i. compensation for the unemployed, under the unemployment insurance
law, under article 18 of the labor law;
ii. compensation and medical benefits for workplace injuries and
illnesses under articles 1-8 of the workers' compensation law;
iii. compensation for non-workplace disability and family leave bene-
fits under the disability benefits law and the paid family leave bene-
fits law under article 9 of the workers' compensation law;
iv. notices and compensation for workers laid off due to plant clos-
ings under the New York state worker adjustment and retraining notifica-
tion (WARN) act, under article 25-A of the labor law; and
v. notification of continuation of coverage for health insurance
following termination under section 217 of the labor law.

b. anti-discrimination, opportunity and privacy protections, includ-
ing:
i. equal opportunity and anti-discrimination employment protections
under the human rights law under article 15 of the executive law;
ii. licensure and employment of persons previously convicted of one or
more criminal offenses under article 23-A of the correction law;
iii. related posting and sexual harassment training requirements under
sections 201-f and 201-g of the labor law;
iv. prohibition on use of lie detectors and other psychological stress
evaluators in employment under article 20-B of the labor law;
v. prohibition on finger printing under section 201-a of the labor
law;
vi. employee privacy in connection with changing rooms, personal iden-
tifying information, physical examinations and nursing mothers under
sections 203-c, 203-d, 206-a and 206-c of the labor law;
vii. various prohibitions on discrimination based on child-care for
adoptive parents, lawful outside activities, for failure to meet ticket
quotas and displaying the American flag under sections 201-c, 201-d, 215-a and 215-c of the labor law; and
vii. anti-retaliation and anti-discrimination protections in connection with workers' compensation and labor laws under sections 210-a and 215 of the labor law.
c. laws regarding payment of wages, including:
i. payment of wages and related protections under article 6 of the labor law;
ii. minimum wages and related protections under the minimum wage act under article 19 of the labor law; and
iii. payment of fees for medical exams required for employment under section 201-b of the labor law.
d. laws regulating hours of work, including:
i. employment of minors hours and permitting under article 4 of the labor law;
ii. child performers hours, education and trust requirements under article 4-A of the labor law;
iii. hours of labor and day of rest requirements under article 5 of the labor law; and
iv. leave of absences for volunteer emergency first responders and following child-birth under sections 202-l and 206-b of the labor law.
e. laws regulating safety and health, including:
i. right to know protections under the toxic substances provisions of article 28 of the labor law; and
ii. protections in connection with window cleaning, bridges and tunnels, hotels and motels, eating in certain workrooms, factories, high-voltage lines, mercantile establishments, mines, explosives and places of public assembly under sections 202, 202-e, 202-f, 202-h, 205 and articles 11, 14, 15, 16 and 17 of the labor law.
§ 10. This act shall take effect on the sixtieth day after it shall have become a law.