

# STATE OF NEW YORK

---

6333

2019-2020 Regular Sessions

## IN SENATE

June 5, 2019

---

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the labor law, in relation to inclusion of certain off-site custom fabrication as public work for the purposes of payment of prevailing wage

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

1 Section 1. Legislative findings and intent. The legislature finds and  
2 declares that the prevailing wage law was established to provide fair  
3 and equitable working conditions, wages and supplementary benefits for  
4 persons employed on public works construction projects.

5 The legislature further finds and declares that there are a growing  
6 number of instances where materials are fabricated off the public work  
7 job site either to meet the unique specifications of the project subject  
8 to a public work contract or for the contractor's convenience.

9 The legislature further finds and declares that in many instances the  
10 prevailing wage is not paid to persons involved in off-site fabrication  
11 and all drafting related to the fabrication of materials which are used  
12 specifically for public works projects.

13 It is the intent of the legislature that construction, drafting, and  
14 fabrication done off the public work site for specific use only in the  
15 public work project be compensated at the prevailing wage rate.

16 § 2. Subdivision 3 of section 220 of the labor law is amended by  
17 adding a new closing paragraph to read as follows:

18 Notwithstanding any law, rule or regulation to the contrary, "custom  
19 fabrication" means the fabrication and all drafting related to the  
20 fabrication of woodwork, cases, cabinets or counters and the fabrication  
21 of electrical, plumbing, heating, cooling, ventilation or exhaust duct  
22 systems, and mechanical insulation solely and specifically designed and  
23 engineered for installation in the construction, repair or renovation of  
24 a building which is the subject of a contract to which the state, a

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

LBD05997-01-9

1 municipal corporation, a public benefit corporation or commission  
2 appointed pursuant to law is a party, and any third party acting on  
3 behalf of any public entity; for the purposes of this subdivision,  
4 contractors or subcontractors engaged in custom fabrication and drafting  
5 related to such fabrication shall not be regarded as material suppliers.  
6 For the purposes of this subdivision, a legal day's work for which the  
7 prevailing rate of wages shall be paid to laborers, workers and mechan-  
8 ics shall include custom fabrication and the drafting of such fabri-  
9 cation whether or not the custom fabrication or drafting thereof is done  
10 on the public works site. Each contractor who employs workers off-site  
11 on a public works project must maintain certified payrolls and provide  
12 such payrolls, with original certifications, to the contracting agency  
13 at least once every thirty days.

14 § 3. This act shall take effect on the sixtieth day after it shall  
15 have become a law and shall apply only to those contracts effective on  
16 or after such date.