

STATE OF NEW YORK

661

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sens. BOYLE, AKSHAR, HELMING, LANZA, ORTT, SEPULVEDA, SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the economic development law, in relation to reporting requirements for the START-UP NY program including specific data relating to net new jobs

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

1 Section 1. Notwithstanding the provisions of article 5 of the general
2 construction law, the provisions of section 438 of the economic develop-
3 ment law, as amended by section two of this act, are hereby revived and
4 shall continue in full force and effect as such provisions existed on
5 April 10, 2017.

6 § 2. Section 438 of the economic development law, as added by section
7 1 of part A of chapter 68 of the laws of 2013, is amended to read as
8 follows:

9 § 438. Disclosure authorization and reporting requirements. 1. The
10 commissioner and the department shall disclose publicly the names and
11 addresses of the businesses located within a tax-free NY area. In addi-
12 tion, the commissioner and the department shall disclose publicly and
13 include in the annual report required under subdivision two of this
14 section such other information contained in such businesses' applica-
15 tions and annual reports, including the projected number of net new jobs
16 to be created, as they determine is relevant and necessary to evaluate
17 the success of this program.

18 2. (a) The commissioner shall prepare an annual report to the governor
19 and the legislature no later than April first, two thousand twenty and
20 annually thereafter. Such report shall include the number of business
21 applicants, number of businesses approved, the names and addresses of

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

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1 the businesses located within a tax-free NY area, total amount of bene-
2 fits distributed, benefits received per business, number of net new jobs
3 created, net new jobs created per business, new investment per business,
4 the types of industries represented and such other information as the
5 commissioner determines is necessary to evaluate the progress of the
6 START-UP NY program. Such annual report shall, at a minimum, include
7 annual program data and information attributable solely to the preceding
8 calendar year. In addition, such report shall include cumulative annual
9 program data including all net new jobs previously recorded, adjusted
10 for net new jobs that have been subsequently lost. Cumulative data shall
11 be presented separate and distinct from annual program data reporting.
12 Such report shall be posted as a separate document on the department's
13 website.

14 (b) Any business located in a tax-free NY area must submit an annual
15 report to the commissioner in a form and at such time and with such
16 information as prescribed by the commissioner in consultation with the
17 commissioner of taxation and finance. Such information shall be suffi-
18 cient for the commissioner and the commissioner of taxation and finance
19 to: (i) monitor the continued eligibility of the business and its
20 employees to participate in the START-UP NY program and receive the tax
21 benefits described in section thirty-nine of the tax law; (ii) evaluate
22 the progress of the START-UP NY program; and (iii) prepare the annual
23 report required by paragraph (a) of this subdivision. Such annual report
24 shall also include information regarding the wages paid during the year
25 to its employees employed in the net new jobs created and maintained in
26 the tax-free NY area.

27 § 3. Subdivision 1 of section 433 of the economic development law, as
28 amended by section 3 of part UUU of chapter 59 of the laws of 2017, is
29 amended to read as follows:

30 1. In order to participate in the START-UP NY program, a business must
31 satisfy all of the following criteria.

32 (a) The mission and activities of the business must align with or
33 further the academic mission of the campus, college or university spon-
34 soring the tax-free NY area in which it seeks to locate, and the busi-
35 ness's participation in the START-UP NY program must have positive
36 community and economic benefits.

37 (b) The business must demonstrate that it will, in its first year of
38 operation, create net new jobs. After its first year of operation, the
39 business must maintain net new jobs. In addition, the average number of
40 employees of the business and its related persons in the state during
41 the year must equal or exceed the sum of: (i) the average number of
42 employees of the business and its related persons in the state during
43 the year immediately preceding the year in which the business submits
44 its application to locate in a tax-free NY area; and (ii) net new jobs
45 of the business in the tax-free NY area during the year. The average
46 number of employees of the business and its related persons in the state
47 shall be determined by adding together the total number of employees of
48 the business and its related persons in the state on March thirty-first,
49 June thirtieth, September thirtieth and December thirty-first and divid-
50 ing the total by the number of such dates occurring within such year.

51 (c) Except as provided in paragraphs ~~(f)~~ (g) and ~~(g)~~ (h) of this
52 subdivision, at the time it submits its application for the START-UP NY
53 program, the business must be a new business to the state.

54 (d) The business may be organized as a corporation, a partnership,
55 limited liability company or a sole proprietorship.

1 (e) Upon completion of its first year in the START-UP NY program and
2 thereafter, the business must complete and timely file the annual report
3 required under section four hundred thirty-eight of this article.

4 (f) Except as provided in paragraphs [~~(f)~~] (g) and [~~(g)~~] (h) of this
5 subdivision, the business must not be engaged in a line of business that
6 is currently or was previously conducted by the business or a related
7 person in the last five years in New York state.

8 [~~(f)~~] (g) If a business does not satisfy the eligibility standard set
9 forth in paragraph (c) or [~~(e)~~] (f) of this subdivision, because at one
10 point in time it operated in New York state but moved its operations out
11 of New York state on or before June first, two thousand thirteen, the
12 commissioner shall grant that business permission to apply to partic-
13 ipate in the START-UP NY program if the commissioner determines that the
14 business has demonstrated that it will substantially restore the jobs in
15 New York state that it previously had moved out of state.

16 [~~(g)~~] (h) If a business seeks to expand its current operations in New
17 York state into a tax-free NY area but the business does not qualify as
18 a new business because it does not satisfy the criteria in paragraph (c)
19 of subdivision six of section four hundred thirty-one of this article or
20 the business does not satisfy the eligibility standard set forth in
21 paragraph [~~(e)~~] (f) of this subdivision, the commissioner shall grant
22 the business permission to apply to participate in the START-UP NY
23 program if the commissioner determines that the business has demon-
24 strated that it will create net new jobs in the tax-free NY area and
25 that it or any related person has not eliminated any jobs in the state
26 in connection with this expansion.

27 § 4. This act shall take effect immediately.