STATE OF NEW YORK

5126

2019-2020 Regular Sessions

IN ASSEMBLY

February 7, 2019

Introduced by M. of A. SCHIMMINGER, THIELE, LUPARDO, JONES, M. G. MILLER, QUART, WOERNER, KIM, PHEFFER AMATO, KOLB, BARRON, CUSICK, STIRPE, BRABENEC -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to directing the commissioner of labor to smooth existing wage orders to conform with statutory changes to the minimum wage, specifically the Wage Order issued September 10, 2015 relative to fast-food employees; and to repeal section 5 of part K of chapter 54 of the laws of 2016, amending the labor law relating to the rate of minimum wage

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

Section 1. The opening paragraph of subdivision 2 of section 652 of the labor law, as amended by chapter 38 of the laws of 1990, is amended to read as follows:

The minimum wage orders in effect on the effective date of this act shall remain in full force and effect, except as modified in accordance with the provisions of this article**; provided further, that any future wage increases pursuant to the September 10, 2015 wage order relative to fast-food employees shall not be enacted. The wage for fast-food employees in effect on the effective date of this act shall remain in effect until such time as the minimum wage as provided for in subdivision one of this section shall exceed such wage at which time the wage for fast-food employees shall be the wage provided for in subdivision one of this section**.

§ 2. Subdivision 2 of section 657 of the labor law, as amended by chapter 102 of the laws of 1968, is amended to read as follows:

2. Review by board of standards and appeals. Any person in interest, including a labor organization or employer association, in any occupation for which a minimum wage order or regulation has been issued under the provisions of this article who is aggrieved by such order or regulation may obtain review before the board of standards and appeals by

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

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filing with said board, within forty-five days after the date of the publication of the notice of such order or regulation, a written petition requesting that the order or regulation be modified or set aside. A copy of such petition shall be served promptly upon the commissioner. On such appeal, the commissioner shall certify and file with the board of standards and appeals a transcript of the entire record, including the testimony and evidence upon which such order or regulation was made and the report of the wage board. The board of standards and appeals, upon the record certified and filed by the commissioner, shall, after oral argument, determine whether the order or regulation appealed from is [~~contrary to law~~] **invalid or unreasonable**. Within forty-five days after the expiration of the time for the filing of a petition, the board of standards and appeals shall issue an order confirming, amending or setting aside the order or regulation appealed from. The appellate jurisdiction of the board of standards and appeals shall be exclusive and its order final except that the same shall be subject to an appeal taken directly to the appellate division of the supreme court, third judicial department, within sixty days after its order is issued. The commissioner shall be considered an aggrieved party entitled to take an appeal from an order of the board of standards and appeals.

§ 3. Section 5 of part K of chapter 54 of the laws of 2016, amending the labor law, relating to the rate of minimum wage, is REPEALED.

§ 4. Section 659 of the labor law is amended by adding a new subdivision 3 to read as follows:

3. By commissioner. The commissioner shall, within six months after enactment of any change in the statutory minimum wage set forth in subdivision one of section six hundred fifty-two of this article, conform all wage orders in effect on the effective date of such legislation to the statutory minimum wage, provided further that in no event may a worker's wages be reduced by such conformity.

§ 5. This act shall take effect immediately.