

# STATE OF NEW YORK

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5875

2019-2020 Regular Sessions

## IN ASSEMBLY

February 20, 2019

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Introduced by M. of A. CUSICK -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to eligibility for New York state paid family leave benefits by persons engaged in a teaching capacity in a religious institution

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

1 Section 1. Group 18 of subdivision 1 of section 3 of the workers'  
2 compensation law, as amended by chapter 260 of the laws of 1972, is  
3 amended to read as follows:

4 Group 18. All other employments, except persons engaged in a [~~teaching~~  
5 ~~ex~~] nonmanual capacity in or for a religious, charitable or educational  
6 institution, notwithstanding the definition of employment in subdivision  
7 five of section two, not hereinbefore enumerated, carried on by any  
8 person, firm or corporation in which there are engaged or employed one  
9 or more employees regularly, in the same business or in or about the  
10 same establishment either upon the premises or at the plant or away from  
11 the plant of the employer, under any contract of hire, express or  
12 implied, oral or written, except farm laborers and domestics other than  
13 those within the coverage of this chapter pursuant to groups fourteen-b  
14 and twelve respectively of this subdivision, unless the employer has  
15 elected to bring such employees under the law by securing compensation  
16 in accordance with the terms of section fifty of this chapter and  
17 persons engaged in voluntary service not under contract of hire. A duly  
18 ordained, commissioned or licensed minister, priest or rabbi, a sexton,  
19 a christian science reader, or a member of a religious order, shall not  
20 be deemed to be employed or engaged in employment under the terms of  
21 this section. Recipients of charitable aid from a religious or charita-  
22 ble institution who perform work in or for the institution which is  
23 incidental to or in return for the aid conferred, and not under any  
24 express contract of hire, shall not be deemed to be employed or engaged

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

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1 in employment under the terms of this section. All persons who are  
2 members of a supervised amateur athletic activity operated on a non-pro-  
3 fit basis shall not be deemed to be employed or engaged in employment  
4 under the terms of this section, provided that said members are not also  
5 otherwise engaged or employed by any person, firm or corporation partic-  
6 ipating in said athletic activity. The terms "religious, charitable or  
7 educational institution" mean a corporation, unincorporated association,  
8 community chest, fund or foundation organized and operated exclusively  
9 for religious, charitable or educational purposes, no part of the net  
10 earnings of which inure to the benefit of any private shareholder or  
11 individual.

12 § 2. The opening paragraph of subdivision 5 of section 201 of the  
13 workers' compensation law, as amended by chapter 481 of the laws of  
14 2010, is amended to read as follows:

15 "Employee" means a person engaged in the service of an employer in any  
16 employment defined in subdivision six of this section, except a minor  
17 child of the employer, except a duly ordained, commissioned, or licensed  
18 minister, priest or rabbi, a sexton, a christian science reader, or  
19 member of a religious order, or an executive officer of a corporation  
20 who at all times during the period involved owns all of the issued and  
21 outstanding stock of the corporation and holds all of the offices pursu-  
22 ant to paragraph (e) of section seven hundred fifteen of the business  
23 corporation law or two executive officers of a corporation who at all  
24 times during the period involved between them own all of the issued and  
25 outstanding stock of such corporation and hold all such offices  
26 provided, however, that each officer must own at least one share of  
27 stock, except as provided in section two hundred twelve of this article,  
28 or an executive officer of an incorporated religious, charitable or  
29 educational institution, or persons engaged in a professional [~~or teach-~~  
30 ~~ing~~] capacity in or for a religious, charitable or educational institu-  
31 tion, or volunteers in or for a religious, charitable or educational  
32 institution, or persons participating in and receiving rehabilitative  
33 services in a sheltered workshop operated by a religious, charitable or  
34 educational institution under a certificate issued by the United States  
35 department of labor, or recipients of charitable aid from a religious or  
36 charitable institution who perform work in or for the institution which  
37 is incidental to or in return for the aid conferred, and not under an  
38 express contract of hire. The terms "religious, charitable or educa-  
39 tional institution" mean a corporation, unincorporated association,  
40 community chest, fund or foundation organized and operated exclusively  
41 for religious, charitable or educational purposes, no part of the net  
42 earnings of which inure to the benefit of any private shareholder or  
43 individual.

44 § 3. This act shall take effect on the thirtieth day after it shall  
45 have become a law.