

STATE OF NEW YORK

1826--A

2019-2020 Regular Sessions

IN SENATE

January 16, 2019

Introduced by Sens. KENNEDY, ADDABBO, BENJAMIN, BIAGGI, BOYLE, BRESLIN, GAUGHRAN, GOUNARDES, HARCKHAM, JACKSON, KAPLAN, LIU, MAY, MAYER, METZGER, MYRIE, RAMOS, SALAZAR, SAVINO, SKOUFIS, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to enacting the "New York call center jobs act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York call center jobs act".

3 § 2. The labor law is amended by adding a new article 21 to read as
4 follows:

ARTICLE 21

NEW YORK CALL CENTER JOBS ACT

Section 770. Definitions.

8 771. List of relocated call centers.

9 772. Grants, guaranteed loans and tax benefits.

10 773. Procurement contracts.

11 774. State benefits for workers.

12 775. No private right of action.

13 776. Regulations.

§ 770. Definitions. As used in this article:

15 1. The term "call center" means a facility or other operation whereby
16 employees receive phone calls or other electronic communication for the
17 purpose of providing customer assistance or other service.

18 2. (a) The term "employer" means any business entity that employs
19 fifty or more employees, excluding part-time employees; or fifty or more
20 employees that in the aggregate work at least fifteen hundred hours per

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

LBD02106-05-9

1 week, excluding overtime hours, for the purpose of staffing a call
2 center.

3 (b) The term "part-time employee" means an employee who is employed
4 for an average of fewer than twenty hours per week or who has been
5 employed for fewer than six of the twelve months preceding the date on
6 which notice is required under this article.

7 § 771. List of relocated call centers. 1. A call center employer that
8 intends to relocate a call center, or one or more facilities or operat-
9 ing units within a call center comprising at least thirty percent of the
10 call center's, or operating unit's, total volume when measured against
11 the previous twelve month average call volume of operations or substan-
12 tially similar operations, from New York state to a foreign country or
13 any other state shall notify the commissioner at least one hundred days
14 before such relocation.

15 2. A call center employer that violates subdivision one of this
16 section shall be subject to a civil penalty not to exceed ten thousand
17 dollars for each day of such violation, except that the commissioner may
18 reduce such amount for just cause shown.

19 3. The commissioner shall compile an annual list of all call center
20 employers that relocate a call center, or one or more facilities or
21 operating units within a call center comprising at least thirty percent
22 of the call center's total volume of operations, from New York state to
23 a foreign country or to another state.

24 4. The commissioner shall make the list created pursuant to subdivi-
25 sion three of this section, available to the public and shall prominent-
26 ly display a link to the list on the department's website.

27 § 772. Grants, guaranteed loans and tax benefits. 1. Except as
28 provided in subdivision three of this section and notwithstanding any
29 other provision of law, a call center employer that appears on the list
30 described in section seven hundred seventy-one of this article shall be
31 ineligible for any direct or indirect state grants, state guaranteed
32 loans, tax benefits or other financial governmental support for a period
33 of five years from the date such list is published.

34 2. Except as provided in subdivision three of this section and
35 notwithstanding any other provision of law, a call center employer that
36 appears on the list described in section seven hundred seventy-one of
37 this article shall remit the unamortized value of any grant or guaran-
38 teed loans, or any tax benefits or other governmental support it has
39 previously received in the past five years. The provisions of this
40 subdivision shall apply to grants, loans, tax benefits and financial
41 governmental assistance that is received on or after the effective date
42 of this article. Nothing in this subdivision shall be deemed to prevent
43 the employer from receiving any grant to provide training or other
44 employment assistance to individuals who are selected as being in
45 particular need of training or other employment assistance due to the
46 transfer or relocation of the employer's facility or operating units.

47 3. The commissioner, in consultation with the appropriate agency
48 providing a loan or grant, may waive the requirement provided under
49 subdivision two of this section if the employer demonstrates that such
50 requirement would:

51 (a) threaten state or national security;

52 (b) result in substantial job loss in the state of New York; or

53 (c) harm the environment.

54 § 773. Procurement contracts. The head of each state agency shall
55 ensure that all state-business-related call center and customer service
56 work be performed by state contractors or other agents or subcontractors

1 entirely within the state of New York. State contractors who currently
2 perform such work outside the state of New York shall have two years
3 following the effective date of this article to comply with this
4 section; provided, that if any such contractors which perform work
5 outside this state adds customer service employees who will perform work
6 on such contracts, those new employees shall immediately be employed
7 within the state of New York, except that businesses subject to a
8 contract agreed to prior to the effective date of this article with
9 terms extending beyond a date greater than two years after the effective
10 date of this article shall be subject to the provisions of this subdivi-
11 sion at the next point in which the contract is subject to renewal.

12 § 774. State benefits for workers. No provision of this article shall
13 be construed to permit withholding or denial of payments, compensation,
14 or benefits under any other state law, including but not limited to
15 state unemployment compensation, disability payments or worker retrain-
16 ing or readjustment funds, to workers employed by employers that relo-
17 cate to a foreign country.

18 § 775. No private right of action. Nothing set forth in this article
19 shall be construed as creating, establishing, or authorizing a private
20 cause of action by an aggrieved person against an employer who has
21 violated, or is alleged to have violated, any provision of this article.

22 § 776. Regulations. The commissioner shall promulgate such rules and
23 regulations as shall be necessary and proper to effectuate the purposes
24 and provisions of this article.

25 § 3. This act shall take effect on the one hundred eightieth day after
26 it shall have become a law.