

STATE OF NEW YORK

4018--A

2019-2020 Regular Sessions

IN SENATE

February 25, 2019

Introduced by Sens. SKOUFIS, GOUNARDES, SALAZAR, 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 the minimum wage for employees with disabilities

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

1 Section 1. The opening paragraph of subdivision 5 of section 651 of
2 the labor law, as amended by chapter 503 of the laws of 2016, is amended
3 to read as follows:

4 "Employee" includes any individual employed or permitted to work by an
5 employer in any occupation, but shall not include any individual who is
6 employed or permitted to work: (a) on a casual basis in service as a
7 part time baby sitter in the home of the employer; (b) in labor on a
8 farm; (c) in a bona fide executive, administrative, or professional
9 capacity; (d) as an outside salesman; (e) as a driver engaged in operat-
10 ing a taxicab; (f) as a volunteer, learner or apprentice by a corpo-
11 ration, unincorporated association, community chest, fund or foundation
12 organized and operated exclusively for religious, charitable or educa-
13 tional purposes, no part of the net earnings of which inures to the
14 benefit of any private shareholder or individual; (g) as a member of a
15 religious order, or as a duly ordained, commissioned or licensed minis-
16 ter, priest or rabbi, or as a sexton, or as a christian science reader;
17 (h) in or for such a religious or charitable institution, which work is
18 incidental to or in return for charitable aid conferred upon such indi-
19 vidual and not under any express contract of hire; (i) in or for such a
20 religious, educational or charitable institution if such individual is a
21 student; (j) [~~in or for such a religious, educational or charitable~~
22 ~~institution if the earning capacity of such individual is impaired by~~
23 ~~age or by physical or mental deficiency or injury; (k)] in or for a~~

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

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1 summer camp or conference of such a religious, educational or charitable
2 institution for not more than three months annually; [~~(l)~~] (k) as a
3 staff counselor in a children's camp; [~~(m)~~] (l) in or for a college or
4 university fraternity, sorority, student association or faculty associ-
5 ation, no part of the net earnings of which inures to the benefit of any
6 private shareholder or individual, and which is recognized by such
7 college or university, if such individual is a student; [~~(n)~~] (m) by a
8 federal, state or municipal government or political subdivision thereof;
9 [~~(o)~~] (n) as a volunteer at a recreational or amusement event run by a
10 business that operates such events, provided that no single such event
11 lasts longer than eight consecutive days and no more than one such event
12 concerning substantially the same subject matter occurs in any calendar
13 year, where (1) any such volunteer shall be at least eighteen years of
14 age, (2) a business seeking coverage under this paragraph shall notify
15 every volunteer in writing, in language acceptable to the commissioner,
16 that by volunteering his or her services, such volunteer is waiving his
17 or her right to receive the minimum wage pursuant to this article, and
18 (3) such notice shall be signed and dated by a representative of the
19 business and the volunteer and kept on file by the business for thirty-
20 six months; or [~~(p)~~] (o) in the delivery of newspapers or shopping news
21 to the consumer by a person who is not performing commercial goods
22 transportation services for a commercial goods transportation contractor
23 within the meaning of article twenty-five-C of this chapter. The exclu-
24 sions from the term "employee" contained in this subdivision shall be as
25 defined by regulations of the commissioner.

26 § 2. Paragraph (c) of subdivision 5 of section 655 of the labor law,
27 as amended by chapter 747 of the laws of 1978, is amended to read as
28 follows:

29 (c) The wage board may also recommend, to the extent necessary in
30 order to prevent curtailment of opportunities for employment, regu-
31 lations for (1) the employment of learners and apprentices, under
32 special certificates issued by the commissioner, at such wages lower
33 than the minimum wage established by this article and subject to such
34 limitations as to time, number, proportion and length of service as
35 shall be prescribed in such regulation, (2) [~~the employment of individ-~~
36 ~~uals whose earning capacity is affected or impaired by youth or age or~~
37 ~~by physical or mental deficiency or injury, under special certificates~~
38 ~~issued by the commissioner, at such wages lower than the minimum wage~~
39 ~~established by this article and for such period as shall be prescribed~~
40 ~~in such regulation, (3)] the establishment of a period not extending
41 beyond seventeen consecutive weeks during which a resort hotel or camp
42 may employ students under special certificates issued by the commission-
43 er, at such wages lower than the minimum wage established by this arti-
44 cle as shall be prescribed in such regulation, and [~~(4)~~] (3) the employ-
45 ment of residential employees in a non-profit making religious,
46 charitable or educational organization or in a non-profit making college
47 or university sorority or fraternity under special certificates issued
48 by the commissioner at such weekly wage as shall be prescribed in such
49 regulation.~~

50 § 3. This act shall take effect on the thirty-first of December next
51 succeeding the date upon which it shall have become a law. Effective
52 immediately, the addition, amendment and/or repeal of any rule or regu-
53 lation by the department of labor necessary for the implementation of
54 this act on its effective date are authorized to be made and completed
55 on or before such effective date.