

# 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:

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

"Employee" includes any individual employed or permitted to work by an employer in any occupation, but shall not include any individual who is employed or permitted to work: (a) on a casual basis in service as a part time baby sitter in the home of the employer; (b) in labor on a farm; (c) in a bona fide executive, administrative, or professional capacity; (d) as an outside salesman; (e) as a driver engaged in operating a taxicab; (f) as a volunteer, learner or apprentice by a corporation, unincorporated association, community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual; (g) as a member of a religious order, or as a duly ordained, commissioned or licensed minister, priest or rabbi, or as a sexton, or as a christian science reader; (h) in or for such a religious or charitable institution, which work is incidental to or in return for charitable aid conferred upon such individual and not under any express contract of hire; (i) in or for such a religious, educational or charitable institution if such individual is a student; (j) [~~in or for such a religious, educational or charitable institution if the earning capacity of such individual is impaired by 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; ~~[(1)]~~ (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.