

# STATE OF NEW YORK

6115

2019-2020 Regular Sessions

## IN SENATE

May 16, 2019

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to the secure choice savings program

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

1 Section 1. Section 1301 of the general business law, as added by  
2 section 2 of part X of chapter 55 of the laws of 2018, is amended to  
3 read as follows:

4 § 1301. Program established. There is hereby established a retirement  
5 savings program in the form of [a] an automatic enrollment payroll  
6 deduction IRA, known as the New York state secure choice savings  
7 program. The general administration and responsibility for the proper  
8 operation of the program shall be administered by the board for the  
9 purpose of promoting greater retirement savings for private-sector  
10 employees in a convenient, low-cost, and portable manner. The board may  
11 delegate such authority and responsibility for the development and  
12 implementation of the program to the department of taxation and finance  
13 as the board deems proper.

14 § 2. Subdivision 9 of section 1304 of the general business law, as  
15 added by section 2 of part X of chapter 55 of the laws of 2018, is  
16 amended to read as follows:

17 9. Evaluate and establish or authorize the process for enrollment  
18 including the process by which an employee may opt not to participate in  
19 the program, select a contribution level, select an investment option,  
20 and terminate participation in the program.

21 § 3. Subdivisions 3, 4 and 5 of section 1309 of the general business  
22 law, as added by section 2 of part X of chapter 55 of the laws of 2018,  
23 are amended to read as follows:

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

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1 3. The employee informational materials shall include a disclosure  
2 form. The disclosure form shall explain, but not be limited to, all of  
3 the following:

4 (a) the benefits and risks associated with making contributions to the  
5 program;

6 (b) the process for making contributions to the program;

7 (c) how to [~~cease participation in~~] opt out of the program;

8 (d) the process by which an employee can participate in the program  
9 with a level of employee contributions other than three percent;

10 (e) that they are not required to participate or contribute more than  
11 three percent;

12 (f) the process for withdrawal of retirement savings;

13 (g) the process for selecting beneficiaries of their retirement  
14 savings;

15 (h) how to obtain additional information about the program;

16 (i) that employees seeking financial advice should contact financial  
17 advisors, that participating employers are not in a position to provide  
18 financial advice, and that participating employers are not liable for  
19 decisions employees make pursuant to this article;

20 (j) information on how to access any available financial literacy  
21 programs; [~~and~~]

22 (k) that the program fund is not guaranteed by the state;

23 (l) that they can opt out after they have been enrolled.

24 4. The employee informational materials shall also include a form for  
25 an employee to note his or her decision [~~regarding~~] to opt out of  
26 participation in the program or [~~election~~] elect to participate with a  
27 level of employee contributions other than three percent.

28 5. Participating employers shall supply the employee informational  
29 materials to existing employees at least one month prior to the partic-  
30 ipating employers' facilitation of access to the program. Participating  
31 employers shall supply the employee informational materials to new  
32 employees at the time of hiring and new employees may opt out of partic-  
33 ipation in the program.

34 § 4. Subdivision 1 of section 1313 of the general business law, as  
35 added by section 2 of part X of chapter 55 of the laws of 2018, is  
36 amended to read as follows:

37 1. Participating employers shall not have any liability for an employ-  
38 ee's decision regarding whether to participate in, or opt out of, the  
39 program or for the investment decisions of the board or of any enrollee.

40 § 5. Subdivision 1 of section 1310 of the general business law, as  
41 added by section 2 of part X of chapter 55 of the laws of 2018, is  
42 amended to read as follows:

43 1. [~~No employer shall be required to participate in or otherwise~~  
44 ~~implement the program.~~] (a) Each participating employer shall establish  
45 a payroll deduction IRA to allow each employee to participate in the  
46 program at most nine months after the board opens the program for  
47 enrollment.

48 (b) Participating employers shall automatically enroll in the program  
49 each of their employees who has not opted out of participation in the  
50 program using the form described in this article and shall provide  
51 payroll deduction retirement savings arrangements for such employees and  
52 deposit, on behalf of such employees, these funds into the program.  
53 Small employers with less than ten employees may, but are not required  
54 to, opt into the program.

1 § 6. Subdivisions 4 and 8 of section 1300 of the general business law,  
2 as added by section 2 of part X of chapter 55 of the laws of 2018, are  
3 amended and a new subdivision 10-a is added to read as follows:

4 4. "Employer" shall mean a person or entity engaged in a business,  
5 industry, profession, trade, or other enterprise in New York state,  
6 whether for profit or not for profit, that (i) has at all times during  
7 the previous calendar year employed at least ten employees in the state,  
8 (ii) has been in business at least two years, and (iii) has not offered  
9 a qualified retirement plan, including, but not limited to, a plan qual-  
10 ified under sections 401(a), 401(k), 403(a), 403(b), 408(k), 408(p) or  
11 457(b) of the Internal Revenue Code of 1986 in the preceding two years.

12 8. "Participating employer" shall mean an employer or small employer  
13 that [~~elects to facilitate~~] facilitates access to the program's payroll  
14 deduction IRA as provided for by this article for its employees who are  
15 enrollees in the program.

16 10-a. "Small employer" shall mean a person or entity engaged in a  
17 business, industry, profession, trade, or other enterprise in New York  
18 state, whether for profit or not for profit, that (i) employed less than  
19 ten employees at any one time in the state throughout the previous  
20 calendar year, or (ii) has been in business less than two years, or both  
21 paragraphs (i) and (ii), but that notifies the comptroller that it is  
22 interested in being a participating employer.

23 § 7. This act shall take effect immediately.