# STATE OF NEW YORK

3062--D

2021-2022 Regular Sessions

# IN SENATE

January 27, 2021

Introduced by Sens. RAMOS, BIAGGI, BRISPORT, CLEARE, COONEY, GOUNARDES, JACKSON, KAVANAGH, KRUEGER, REICHLIN-MELNICK -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to raising the minimum wage annually by a percentage which is based on inflation and providing for the enforcement of such minimum wage; and to repeal subdivision 6 of section 652 of the labor law relating thereto

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

Section 1. This act shall be known and may be cited as the "raise the wage act".

§ 2. Legislative findings. As New Yorkers struggle with the rapidly rising cost of living, their paychecks are not keeping up. The state minimum wage has been flat at $15 in New York city since 2019. In the New York city suburbs it is also stalled at $15 and under current law will not increase further. And in the rest of the state, years after the legislature last acted to raise the minimum wage it is still gradually inching up to $15, but will not increase further until the legislature acts.

At the same time, record inflation is causing the real value of the minimum wage to plummet across the state as consumers struggle with the rapidly rising cost of necessities. In New York city, its value has already fallen more than 15%, and is projected to fall a further 15% by

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

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2027, or even more if consumer price inflation does not moderate in 2023 and 2024 as expected. This steep decline in the minimum wage is reversing the historic reductions in poverty and earnings inequality that the state achieved with the $15 minimum wage. And even once inflation returns to more typical levels, workers will continue to lose real wages as long as our minimum wage remains stagnant.

While in 2016 New York led the nation as the first state to adopt a $15 minimum wage, today it has fallen behind the many other cities and states that are raising their minimum wages well beyond $15. About fifty cities and counties and two states will have minimum wages above $15 an hour as of January 2023, and a growing group will have minimum wages of more than $17 or $18 an hour. The fact that Yakima, Washington, Fresno, California, and Denver, Colorado will all have higher minimum wages than New York shows how far pay has fallen in the state.

To fix this, first, the value of New York city's minimum wage needs to be restored by "catching it up" to where it would have been if it had been adjusted steadily each year since 2019 to keep pace with rising prices and workforce productivity. That translates to raising the minimum wage to $21.25 an hour by 2026.

Second, because the state minimum wage in New York city's suburbs, including Nassau, Suffolk, and Westchester counties, is also stalled at $15 and those regions have housing and living costs that are almost as high as New York city, the minimum wage there should increase at the same rate.

Third, the minimum wage in the remainder of the state should also eventually catch up with the state-wide rate, but at a slower pace since wages and costs are lower there.

Finally, once the minimum wage across the state catches up, it must be automatically adjusted or "indexed" each year so that it doesn't fall behind again. That is the approach that 18 states and Washington, D.C. are already using to keep their minimum wages up to date. For adjusting the minimum wage each year, the legislature should adopt the same formula that the department of labor and the division of the budget used successfully to increase New York's upstate minimum wage in 2022 and 2023. They have been adjusting the minimum wage so that it keeps up both with rising prices and also with any increases in worker productivity. This best practice ensures that underpaid workers' paychecks maintain their purchasing power and, that when there are gains in worker productivity, that workers too share in those benefits. This approach has resulted in steady, moderate increases in the upstate wage of 70 cents in 2022, and $1.00 in 2023. It should be made permanent and expanded state-wide.

Many of our lowest paid jobs across the state are publicly-funded human services jobs, in fields such as home care, childcare, and mental health care, where workers provide essential services on which we all rely. But the eroded minimum wage is holding down pay for these vital caregivers and making it impossible to fill these demanding jobs at the same time that demand for services has exploded as the state's population ages and the pandemic has stressed families and communities. To address this critical worker shortage, we need to not just raise the minimum wage significantly, but also to provide the state funding necessary to finance those raises in the state and city-contracted programs that employ these essential workers.

New York's experience phasing in the $15 minimum wage showed that significant wage increases have been manageable for employers and that higher paychecks have put money back into local communities, boosting

consumer spending at neighborhood businesses. Studies by the federal reserve bank of New York of the impact in upstate counties, and by the New York city-based new school both found that New York's last minimum wage increase raised pay significantly without hurting employment - even in counties along the New York-Pennsylvania border where the minimum wage in our neighboring state is just $7.25.

With the value of New York's minimum wage plummeting and rising prices squeezing New York's working families, we cannot afford to wait to restore a strong minimum wage for all New Yorkers.

§ 3. Subdivision 1 of section 652 of the labor law, as amended by section 1 of part K of chapter 54 of the laws of 2016, is amended to read as follows:

1. Statutory. Every employer shall pay to each of its employees for each hour worked a wage of not less than:

$4.25 on and after April 1, 1991,
$5.15 on and after March 31, 2000,
$6.00 on and after January 1, 2005,
$6.75 on and after January 1, 2006,
$7.15 on and after January 1, 2007,
$8.00 on and after December 31, 2013,
$8.75 on and after December 31, 2014,
$9.00 on and after December 31, 2015, and until December 31, 2016, or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(a) New York City. [~~(i) Large employers.~~] Every employer [~~of eleven or more employees~~] shall pay to each of its employees for each hour worked in the city of New York a wage of not less than:

$11.00 per hour on and after December 31, 2016,
$13.00 per hour on and after December 31, 2017,
$15.00 per hour on and after December 31, 2018,
**$17.25 on and after January 1, 2024,**
**$19.25 on and after January 1, 2025,**
**$21.25 on and after January 1, 2026,** or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

[~~(ii) Small employers. Every employer of ten or less employees shall pay to each of its employees for each hour worked in the city of New York a wage of not less than:~~

~~$10.50 per hour on and after December 31, 2016,~~
~~$12.00 per hour on and after December 31, 2017,~~
~~$13.50 per hour on and after December 31, 2018,~~
~~$15.00 per hour on and after December 31, 2019,~~
~~or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.~~]

(b) Remainder of downstate. Every employer shall pay to each of its employees for each hour worked in the counties of Nassau, Suffolk and Westchester a wage not less than:

$10.00 per hour on and after December 31, 2016,
$11.00 per hour on and after December 31, 2017,
$12.00 per hour on and after December 31, 2018,
$13.00 per hour on and after December 31, 2019,
$14.00 per hour on and after December 31, 2020,

$15.00 per hour on and after December 31, 2021,
**$17.25 on and after January 1, 2024,**
**$19.25 on and after January 1, 2025,**
**$21.25 on and after January 1, 2026,**
or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(c) Remainder of state. Every employer shall pay to each of its employees for each hour worked outside of the city of New York and the counties of Nassau, Suffolk, and Westchester, a wage of not less than:
$9.70 on and after December 31, 2016,
$10.40 on and after December 31, 2017,
$11.10 on and after December 31, 2018,
$11.80 on and after December 31, 2019,
$12.50 on and after December 31, 2020,
[~~and on each following December thirty-first, a wage published by the commissioner on or before October first, based on the then current minimum wage increased by a percentage determined by the director of the budget in consultation with the commissioner, with the result rounded to the nearest five cents, totaling no more than fifteen dollars, where the percentage increase shall be based on indices including, but not limited to, (i) the rate of inflation for the most recent twelve month period ending June of that year based on the consumer price index for all urban consumers on a national and seasonally unadjusted basis (CPI-U), or a successor index as calculated by the United States department of labor, (ii) the rate of state personal income growth for the prior calendar year, or a successor index, published by the bureau of economic analysis of the United States department of commerce, or (iii) wage growth;~~]
**$13.20 on and after December 31, 2021,**
**$14.20 on and after January 1, 2023,**
**$16.00 on and after January 1, 2024,**
**$18.00 on and after January 1, 2025,**
**$20.00 on and after January 1, 2026,**
or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or its successors or such other wage as may be established in accordance with the provisions of this article.

(d) **Annual increases. On January first, two thousand twenty-seven, and on each following January first, the wages set forth in paragraphs (a), (b) and (c) of this subdivision and any other wages established in accordance with the provisions of this chapter and set forth in any minimum wage order, shall be the wages published by the commissioner pursuant to this paragraph. The commissioner shall publish such wages on or before October first, two thousand twenty-six, and on each following October first. The commissioner shall base each such published wage on each then current wage increased by the sum of: (i) the rate of inflation, if greater than zero, as measured by the change in the average for the twelve months through June of the current year divided by the average for the twelve months through June of the preceding year in the consumer price index for all urban wage earners and clerical workers on a national and seasonally unadjusted basis (CPI-W), or a successor index, as calculated by the United States department of labor; and (ii) labor productivity growth, if greater than zero, as measured by the change in the average quarterly index for the four quarters through the second quarter of the current year divided by the average quarterly index for the four quarters through the second quarter of the preceding year in national labor productivity (output per hour) of all employed**

persons in the nonfarm business sector, or a successor index, as calculated by the United States department of labor, with the sum rounded to the nearest multiple of five cents. The commissioner shall publish such wages on or before October first, two thousand twenty-six, and on or before each following October first. Provided, however, that the wage set forth for paragraph (c) of this subdivision that the commissioner publishes on or before October first, two thousand twenty-six to take effect on January first, two thousand twenty-seven shall be a wage that is equal to the wage that the commissioner publishes to take effect on January first, two thousand twenty-seven for paragraphs (a) and (b) of this subdivision. Thereafter, beginning with the wage that the commissioner publishes for paragraph (c) of this subdivision on or before October first, two thousand twenty-seven to take effect on January first, two thousand twenty-eight, and that the commissioner publishes on or before each following October first to take effect on each following January first, the commissioner shall adjust the current wage for paragraph (c) of this subdivision using the formula specified above in this paragraph. For purposes of subdivision two of this section, each published wage that increases each then current minimum wage shall be deemed to be an increase in hourly minimum wage as provided in this subdivision.

(e) The rates and schedules established [~~in paragraphs (a) and (b) of~~] under this subdivision for New York city and for Nassau, Suffolk, and Westchester counties shall not be deemed to be the minimum wage under this subdivision for purposes of the calculations specified in subdivisions one and two of section five hundred twenty-seven of this chapter.

§ 4. Subdivision 6 of section 652 of the labor law is REPEALED.

§ 5. Section 665 of the labor law is renumbered section 669 and a new section 665 is added to read as follows:

§ 665. Local wage enforcement authority. A city with a population of one million or more, acting through its comptroller, may enforce and investigate violations of the state minimum wage, other state wage requirements established pursuant to this article, and any other local law, ordinance, or regulation requiring payment of a minimum wage or compensation, or establishing a labor standard for work performed within the city's geographic boundaries. The comptroller shall be empowered to adopt further enforcement provisions, remedies, penalties, and other implementing regulations. Provided, however, the commissioner of consumer and worker protection of such a city or any successor to such office may also enforce and investigate violations of the state minimum wage and other state wage requirements established pursuant to this article in the course of enforcing other laws that such commissioner is charged with enforcing and may order any authorized remedies or penalties. Provided, further, nothing in this section shall limit the authority of the department of labor or any other government agency to enforce the state minimum wage and other state wage requirements established pursuant to this article or any other law within the geographic boundaries of a city with a population of one million or more or elsewhere.

§ 6. This act shall take effect immediately.