STATE OF NEW YORK

1540

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. REYES, DINOWITZ, ENGLEBRIGHT, GOTTFRIED, RAMOS, L. ROSENTHAL, JEAN-PIERRE, QUART, SIMON, JOYNER, AUBRY, STIRPE, CAHILL, WEPRIN, TAYLOR, WILLIAMS, SANTABARBARA, CRUZ, STECK, NIOU, GLICK, BARNWELL, FERNANDEZ, PAULIN, LAVINE, ABINANTI, STERN, JACOBSON, J. RIVERA, DE LA ROSA, DeSTEFANO, SEAWRIGHT, PICHARDO, EPSTEIN, McMAHON, DICKENS -- Multi-Sponsored by -- M. of A. FRONTUS, NOLAN, THIELE -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to protecting employee freedom of speech and conscience

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

Section 1. Paragraph c of subdivision 1 of section 201-d of the labor law, as added by chapter 776 of the laws of 1992, is amended and two new paragraphs d and e are added to read as follows:

c. "Work hours" shall mean, for purposes of this section, all time, including paid and unpaid breaks and meal periods, that the employee is suffered, permitted or expected to be engaged in work, and all time the employee is actually engaged in work. This definition shall not be referred to in determining hours worked for which an employee is entitled to compensation under any law including article nineteen of this chapter[.]**;**

d. "Political matters" shall mean matters relating to elections for political office, political parties, legislation, regulation and the decision to join or support any political party or political, civic, community, fraternal or labor organization;

e. "Religious matters" shall mean matters relating to religious affiliation and practice and the decision to join or support any religious organization or association.

§ 2. Paragraphs c and d of subdivision 2 of section 201-d of the labor law, as added by chapter 776 of the laws of 1992, 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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c. an individual's legal recreational activities outside work hours, off of the employer's premises and without use of the employer's equipment or other property; [~~or~~]

d. an individual's membership in a union or any exercise of rights granted under Title 29, USCA, Chapter 7 or under article fourteen of the civil service law; or

e. an individual's refusal to: (i) attend an employer-sponsored meeting with the employer or its agent, representative or designee, the primary purpose of which is to communicate the employer's opinion concerning religious or political matters; or (ii) listen to speech or view communications, the primary purpose of which is to communicate the employer's opinion concerning religious or political matters.

§ 3. Section 201-d of the labor law is amended by adding three new subdivisions 8, 9 and 10 to read as follows:

8. Nothing in this section shall prohibit: (i) an employer or its agent, representative or designee from communicating to its employees any information that the employer is required by law to communicate, but only to the extent of such legal requirement; (ii) an employer or its agent, representative or designee from communicating to its employees any information that is necessary for such employees to perform their job duties; (iii) an institution of higher education, or any agent, representative or designee of such institution, from meeting with or participating in any communications with its employees that are part of coursework, any symposia or an academic program at such institution; (iv) casual conversations between employees or between an employee and an agent, representative or designee of an employer, provided participation in such conversations is not required; or (v) a requirement limited to the employer's managerial and supervisory employees.

9. The provisions of this section shall not apply to a religious corporation, entity, association, educational institution or society that is exempt from the requirements of Title VII of the Civil Rights Act of 1964 pursuant to 42 USC 2000e-1(a) with respect to speech on religious matters to employees who perform work connected with the activities undertaken by such religious corporation, entity, association, educational institution or society.

10. Every employer shall post a sign in every workplace at the location or locations where notices to employees are normally posted, to inform employees of their rights pursuant to this section.

§ 4. This act shall take effect immediately.