

STATE OF NEW YORK

1971

2021-2022 Regular Sessions

IN ASSEMBLY

January 13, 2021

Introduced by M. of A. CRUZ -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing tiers of essential employees during a state of emergency

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

1 Section 1. The executive law is amended by adding a new section 29-1
2 to read as follows:

3 § 29-1. Tiers of essential workers. During periods when a federal,
4 state, or local state of emergency has been declared, the persons
5 employed in the following positions and fields, including any for-profit
6 or non-profit, shall be deemed essential personnel in the following
7 manner and shall be entitled to federal, state and local mandated
8 assistance, benefits and protections that maintain such employees posi-
9 tions including, but not limited to, child care, job protection where
10 workers cannot be fired when not attending work due to the lack of safe-
11 ty precautions provided or other circumstances related to the emergency
12 declaration, medical supplies and/or personal protective equipment:

13 1. Tier I. Emergency health and safety responders, including:

14 (a) health care personnel needed for direct care, research and labora-
15 tory services and critical administrative staff of the personnel needed
16 for direct care, including:

17 (i) full-time and part-time long-term facility personnel, including,
18 but not limited to, personnel working in group homes and supportive
19 housing settings, residential homes, nursing homes, and residential
20 mental health, substance use disorder, pediatric and adolescent residen-
21 tial treatment facilities;

22 (ii) full-time and part-time post-acute care personnel, including, but
23 not limited to, personnel working in long-term hospitals, in-patient
24 rehabilitation, home health care, and skilled nurses;

25 (iii) home health and personal care attendants;

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

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1 (iv) personnel working in adult, adolescent and pediatric residential
2 mental health, behavioral health or substance use disorder treatment
3 facilities, intensive residential treatment services, emergency shel-
4 ters, health care for the homeless providers, and homeless drop-in
5 centers;

6 (v) county and tribal financial/eligibility workers for public
7 programs;

8 (vi) state, tribal and county staff in emergency management or health
9 and human services, including case managers and direct service delivery;

10 (vii) personnel working in county and tribal child welfare;

11 (viii) pharmacy, drug store and medical distribution employees neces-
12 sary for filling prescriptions, cultivating and processing medical
13 supplies;

14 (b) full-time emergency medical services personnel, including:

15 (i) paramedics;

16 (ii) emergency medical technicians;

17 (iii) immediate supervisory staff;

18 (iv) emergency medical services operators and dispatchers;

19 (v) emergency medical services region medical directors necessary to
20 make override decisions to direct ambulances to other emergency rooms
21 based on medical needs;

22 (vi) medical examiners;

23 (c) law enforcement personnel, including:

24 (i) full-time police officers, auxillary police and their supervisory
25 staff;

26 (ii) full-time sheriffs and their supervisory staff;

27 (iii) full-time department of environmental conservation sworn offi-
28 cers and their supervisory staff;

29 (iv) full-time state police officers and their supervisory staff;

30 (v) 911 operators and dispatchers and their supervisory staff;

31 (vi) full-time investigators, at the discretion of their agency chief;

32 (d) firefighter personnel, including:

33 (i) full-time firefighters;

34 (ii) paid on call duty crew;

35 (e) correctional services personnel, including:

36 (i) corrections officers;

37 (ii) correctional lieutenants;

38 (iii) correctional captains;

39 (iv) correctional sergeants;

40 (v) physical plant personnel;

41 (vi) correctional facility case managers;

42 (vii) correctional facility educators and educational paraprofession-
43 als;

44 (viii) wardens;

45 (ix) associate wardens;

46 (x) correctional facility office assistants;

47 (xi) correctional facility nurses and supervisors;

48 (xii) correctional program therapists;

49 (xiii) correctional facility personnel;

50 (xiv) informational technology staff;

51 (xv) correctional facility human resources staff;

52 (xvi) correctional facility financial services personnel;

53 (xvii) correctional facility records personnel;

54 (xviii) correctional facility safety officers;

55 (f) centralized correctional operations personnel, including:

56 (i) medical directors;

(ii) directors of health services;
(iii) reentry services personnel;
(iv) policy and legal services personnel;
(v) offender transportation personnel;
(vi) centralized records personnel;
(vii) centralized human resources personnel;
(viii) investigators, including special investigations and professional accountability;
(ix) personnel assigned to the disaster preparedness commission;
(x) government and community relations personnel;
(xi) hearings and release personnel;
(xii) behavioral health personnel;
(xiii) communications personnel;
(xiv) personnel in the office of the commissioner of corrections and community supervision;
(g) correctional, transitional and supervision services personnel, including:
(i) state probation officers and supervisors;
(ii) state probation agents and supervisors;
(iii) state supervised release agents and supervisors;
(iv) county probation officers and supervisors;
(v) county probation agents and supervisors;
(vi) county supervised release agents and supervisors;
(h) public health personnel, including:
(i) state, tribal and local public health employees directly supporting the response of a state of emergency or other infectious disease operations;
(ii) state, tribal and local public health officials responding to imminent public health threats;
(iii) newborn health screeners;
(iv) state, tribal and local public health lab priority services;
(v) state, city, county and tribal emergency management essential personnel;
(i) court personnel and contractors, including, but not limited to, full-time court personnel, court officers, interpreters and clerks;
(j) national guard members (if activated).
2. Tier II. Essential employees, including:
(a) educators;
(b) child care workers, including foster care staff;
(c) department of transportation employees;
(d) state and local essential information technology personnel;
(e) substance disorder treatment workers;
(f) maintenance, janitorial, custodial and cleaning staff;
(g) delivery and warehouse workers;
(h) water treatment/wastewater personnel, including:
(i) water treatment plant operators;
(ii) drinking water distribution system maintenance workers;
(iii) safe drinking water delivery personnel;
(iv) wastewater treatment plant operators;
(v) storm and sanitary sewer system maintenance workers;
(i) day-to-day operations personnel for gas and electric critical infrastructure, including:
(i) electric utility lineworkers, substation technicians, meter technicians, dispatchers, power plant operators including those at energy storage and electric vehicle infrastructure;

(ii) operations managers and supervisors, including those ensuring safe and reliable service to customers;
(iii) fleet and maintenance technicians;
(iv) transmission and distribution engineers and operators including those for maintenance, resilience, reliability and demand response;
(v) fuel supply providers and pipeline infrastructure operators;
(vi) construction coordinators and technicians;
(vii) fuel technicians;
(viii) relay coordinators;
(ix) control room/center operators;
(x) cybersecurity related information technology personnel;
(xi) gas safety personnel;
(xii) gas operations personnel;
(xiii) water system operators, water treatment plant operators;
(xiv) wastewater system operators and wastewater treatment plant operators;
(xv) managers with key responsibility for customer and community communications and response;
(j) emergency response for gas and electric personnel, including:
(i) damage assessment personnel;
(ii) engineers;
(iii) safety personnel;
(iv) communications personnel;
(v) mutual aid crews from other utilities or facilities;
(k) restaurant workers, including:
(i) management;
(ii) front of house staff;
(iii) back of house staff;
(iv) food delivery workers, including app delivery workers;
(l) food distribution workers, including street vendors and food bank staff;
(m) food distribution centers personnel, including:
(i) drivers;
(ii) order selectors;
(iii) forklift loaders;
(iv) information technology personnel;
(v) mechanics;
(vi) sanitation workers;
(n) in-store supermarket and grocery food personnel, including:
(i) store clerks;
(ii) stockers;
(iii) food preparation personnel;
(iv) cleaning staff;
(v) deli and produce staff;
(o) public works personnel, including:
(i) city fleet (emergency equipment, fire trucks, police vehicles, etc.) maintenance workers;
(ii) traffic signal system maintenance workers;
(iii) emergency repair workers for bridges, water and sewer main breaks, and other emergent issues;
(iv) administrative support personnel that ensure federal OSHA safety requirements and field support for operations;
(v) snowplow drivers;
(p) solid waste management (waste, recyclable/organics) personnel, including;

1 (i) collection, transfer trailer truck drivers and fleet maintenance
2 crews;

3 (ii) transfer stations, landfills, resource recovery, recycling and
4 organics facility operations staff;

5 (iii) heavy equipment operators, facility operators (e.g. scale house
6 operator, loader operator, line operators, boiler operator);

7 (iv) environmental systems personnel (e.g. gas and leachate manage-
8 ment, pollution control equipment);

9 (q) infectious and hazardous waste management personnel, including:

10 (i) infectious and hazardous waste collection personnel;

11 (ii) infectious facilities operations personnel (e.g. autoclave and
12 incineration operators);

13 (iii) hazardous waste treatment, storage, and disposal facilities
14 operations personnel;

15 (r) commercial public sanitation personnel;

16 (s) shelter staff and homeless outreach workers, including:

17 (i) shelter drop-in staff;

18 (ii) shelter and free meal program food preparation staff;

19 (iii) domestic violence and victims services shelter staff;

20 (t) telecommunication network operations personnel, including:

21 (i) outside plant technicians for infrastructure restoration;

22 (ii) install/repair technicians for customer premise restoration as
23 needed;

24 (iii) customer service representatives that interface with customers
25 on service troubles;

26 (iv) dispatchers involved with service repair and restoration;

27 (u) bank personnel and community financial institutions;

28 (v) community violence interrupters, including:

29 (i) gang violence prevention staff;

30 (ii) trauma informed personnel.

31 3. Enforcement. (a) All federal, state and local essential worker
32 mandated assistance required pursuant to this section, including, but
33 not limited to, child care, job protections, medical supplies and/or
34 personal protective equipment must be made available to the essential
35 worker within seven calendar days of the declaration of a state of emer-
36 gency.

37 (b) An essential worker, who within seven calendar days has not
38 received the benefits required under the law, may obtain an action in
39 any court of competent jurisdiction for:

40 (i) declaratory relief directing the state agency to provide the
41 required services; and

42 (ii) a civil penalty in an amount not to exceed five hundred dollars
43 per day of violation.

44 4. Reporting. (a) Every two years the state division of homeland secu-
45 rity and emergency services shall present the governor and the legisla-
46 ture with a detailed report describing at a minimum affirmative steps
47 taken by the executive and state agencies to comply with this law, the
48 number of tier I and tier II workers in the state of New York, and
49 recommendations on types of essential workers that should be added or
50 removed from the existing tier I and tier II lists.

51 (b) The legislature shall review the report provided by the state
52 division of homeland security and emergency services and seek to amend
53 any relevant section of this section to ensure essential workers are
54 added and/or removed from the existing list, as well as any other
55 provision that would strengthen the purpose of this section.

56 § 2. This act shall take effect immediately.