STATE OF NEW YORK

3546

2021-2022 Regular Sessions

IN SENATE

January 30, 2021

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to providing for rest between work shifts

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

Section 1. The labor law is amended by adding a new section 168-a to read as follows:

§ 168-a. Right to rest between work shifts. 1. An employer may not schedule or require an employee to work during the following rest periods:

a. the first ten hours following the end of the previous calendar day's work shift or on-call shift; or

b. the first ten hours following the end of a work shift or on-call shift that spanned two calendar days.

2. An employee may request or consent to work during hours otherwise prohibited under subdivision one of this section. An employer shall compensate an employee for each hour or portion of an hour that an employee works during a rest period at one and one-half times the employee's regular rate of pay.

3. This section shall apply only to an employer who is deemed to be a person, corporation, limited liability company, limited liability partnership, or association employing five hundred or more full-time employees nationwide or a proportional number of part-time employees, and who provides services in the retail trade sector, or provides hospitality service, housekeeping or cleaning services, or accommodation and food services, as such terms are defined under the North American Industry Classification System, except in the case of hospitality service, in which case such term shall have the same meaning as the definition of a hotel and motel under the North American Industry Classification System.

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

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4. It shall be an unlawful practice for an employer to retaliate or in any way discriminate against an individual with respect to any term or condition of employment or threaten such action due to an employee rejecting a request by an employer to work during a prescribed rest period.

5. Any employer who violates this section shall forfeit to the people of the state the sum of one thousand dollars for each violation, to be recovered by the commissioner in any legal action necessary, and shall pay to the aggrieved employee damages of an amount equivalent to three times the value of owed wages for shifts worked in violation of this section, or at least one hundred dollars for each work day that the violation occurred or continued to occur.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.