STATE OF NEW YORK

5941

2021-2022 Regular Sessions

IN SENATE

March 23, 2021

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

AN ACT to amend the agriculture and markets law, the tax law, the estates, powers and trusts law, the labor law, the public health law and the workers' compensation law, in relation to establishing the NY food insecurity, farm resiliency and rural poverty initiative; and repealing certain provisions of the labor law and the workers' compensation law relating thereto; and making an appropriation therefor

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

Section 1. Short title. This act shall be known and may be cited as the "NY Food Insecurity, Farm Resiliency and Rural Poverty act".

§ 2. Legislative findings and intent. The legislature hereby recognizes that the agricultural industry is a significant, economically diverse and productive industry that is vital to the state of New York and has a substantial impact on the state's economy. That the COVID-19 pandemic, and the subsequent mandates and restrictions, have severely disrupted the agricultural markets to an extent seldom realized by the state. Consequently, the legislature hereby recognizes that a comprehensive support structure is necessary to ensure the viability of New York farms and provide reliable market expectations for New York farmers.

§ 3. The agriculture and markets law is amended by adding a new article 24-A to read as follows:

ARTICLE 24-A

NY FOOD INSECURITY, FARM RESILIENCY AND RURAL POVERTY ACT

Section 291. Short title.
291-a. Legislative intent.
291-b. Definitions.
291-c. NY food insecurity, farm resiliency and rural poverty office.
291-d. Permanent agricultural purchasing assistance program.
291-e. Commercial meat and dairy processing incentive program.
291-f. New York meat and dairy processing study commission.
291-g. Personal service cost assistance program.

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

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291-h. Beginning farmers grant program.
291-i. Farm infrastructure and equipment grant program.
291-j. Commercial real estate and warehousing grant program.
291-k. Cold storage equipment grant program.
291-l. Cold storage transportation grant program.
291-m. Transportation fuel reimbursement program.
291-n. FarmNet program.

§ 291. Short title. This article shall be known and may be cited as the "NY Food Insecurity, Farm Resiliency and Rural Poverty act".

§ 291-a. Legislative intent. The legislature hereby recognizes that New York state boasts a valuable agricultural sector as well as a comprehensive structure of ten regional food banks which are tailored to each region's resources and needs; New York's farmers and the state's food banks work in conjunction with over four thousand local food pantries and non-profit partner organizations to serve between three and five million New Yorkers annually. In support of these efforts, New York agriculture, which employs nearly two hundred thousand residents, produces eighteen billion pounds of fresh produce annually, as well as over fifteen billion pounds of milk and two hundred seventy-three million pounds of meat. The agricultural sector in New York state is worth more than five hundred seventy-five billion in direct economic activity annually; ninety-eight percent of New York farms are family-owned, with an average farm size of about two hundred five acres and a median producer age of about fifty-seven years. However profitable in terms of revenue, it must be acknowledged that the amount of acreage under tillage has been in decline; since two thousand twelve, acreage under cultivation has declined by nearly three hundred twenty thousand acres.

The COVID-19 pandemic and, more specifically, New York state's aggressive response to it has caused severe disruption to the lives and livelihoods of New York farmers; mandatory shutdowns and capacity limitations related to the state's COVID-19 response, especially during the spring of two thousand twenty, created a massive deficit in demand for agricultural products and services in sectors ranging from food-service to tourism, especially concerning dairy products. This drastically reduced demand forced New York's farmers to dump millions of gallons of milk as unprofitable waste, costing tens of millions of dollars in potential revenue.

New York state's COVID-19 response has thrown into sharp relief some ways in which the relationship between New York state agriculture and its food banks could be improved, both for the benefit of New York farmers and those in need. These include: agricultural assistance to prevent agricultural food waste and other problems associated with temporarily low demand for agricultural products due to emergency disruptions; access to, and capacity issues with, cold storage equipment, and the acquisition and maintenance of food transportation. To address these needs, the New York Food Insecurity, Farm Resiliency and Rural Poverty act is hereby introduced.

§ 291-b. Definitions. For purposes of this article, the following terms shall have the following meanings:

1. "Act" shall mean the New York Food Insecurity, Farm Resiliency and Rural Poverty act.

2. "Equipment" shall mean tractors, trucks, automated milk pushers, automated feed pushers, refrigerators, freezers, generators and any other tool, machine or implement used in agricultural, food bank or food pantry operations.

3. "Fuel" shall mean gasoline, diesel fuel, hydrogen, propane, compressed natural gas, or an electrical charge stored in one or more vehicle-borne batteries.

4. "Cold storage" shall mean the storage of perishable food products in a temperature-controlled cold space for the purpose of preservation.

5. "Commercial meat processing" shall mean the large-scale end-to-end preparation of meat, poultry and seafood for consumption, including inspection.

6. "Commercial dairy processing" shall mean the large-scale end-to-end preparation of milk and milk products for consumption, including inspection.

7. "Rendering" shall mean the recycling, by a meat processor, of unutilized meat, fat, bone and other waste animal products into other usable products, such as biofuels.

8. "NY FarmNet" or "FarmNet" means the farm family assistance program founded in nineteen eighty-six at the New York state college of agriculture and life sciences at Cornell university.

9. "Commissioners" shall mean the commissioner of agriculture and markets, the commissioner of the office of temporary and disability assistance and the commissioner of the department of health.

10. "Initiative" shall mean the New York food insecurity, farm resiliency and rural poverty initiative established pursuant to section two hundred ninety-one of this article.

11. "Commission" shall mean the New York meat and dairy processing study commission established pursuant to section two hundred ninety-one-f of this article.

12. "Livestock producer" shall mean any person who owns or acquires ownership of cattle, sheep, deer, llamas, alpacas, goats, horses, poultry, and similar animals kept for domestic use but not as pets, such as on a farm or ranch.

§ 291-c. NY food insecurity, farm resiliency and rural poverty office. The commissioners shall initiate and maintain a NY food insecurity, farm resiliency and rural poverty office within the department for the purpose of providing oversight and assistance to applicants and recipients intended to benefit from the initiative. The program shall provide financial assistance in the form of matching grants, personal service cost assistance, purchasing assistance, tax credits, tax exemptions, and reimbursements.

§ 291-d. Permanent agricultural purchasing assistance program. 1. There is hereby created within the NY food insecurity, farm resiliency and rural poverty office, the New York state permanent agricultural purchasing assistance program. Subject to the availability of funds, the sum of ten million dollars shall be annually available to fund such program. Such program shall be established and funded to permit regional food banks to purchase increased amounts of agricultural food products from New York farmers. Funding shall be allocated to each regional food bank according to a formula determined by the department to ensure equitable distribution of funds.

2. During a declared state of emergency and subject to the availability of funds, such program shall be given additional funds in the amount of twenty million dollars to permit program expansion.

§ 291-e. Commercial meat, fiber and dairy processing incentive program. 1. There is hereby created within the NY food insecurity, farm resiliency and rural poverty office, the commercial meat, fiber and dairy processing incentive program. The objective of such program is to increase the available processing capacity for meat, fiber and/or dairy

products in New York state. Under this section, the empire state development corporation is authorized to provide grants for construction, financing and equipment of up to one hundred percent of a project, provided that the total amount of assistance provided pursuant to this subdivision shall not exceed an appropriation provided for the purposes of this section.

2. The department shall develop rules and regulations necessary to:

(a) purchase commercial real property and build facilities suitable for turnkey operations by private commercial meat, fiber and/or dairy processors. Under this program, the department shall maintain ownership of the property and equipment and is hereby authorized to enter into lease agreements with commercial meat, fiber and dairy processing business entities to operate at such facilities; and

(b) require commercial meat, fiber and/or dairy processing facilities located at and/or operated by the state university of New York to maintain full-scale operations in the event of a declaration of a state of emergency.

§ 291-f. New York meat, fiber and dairy processing study commission. 1. There is hereby established within the department, the commission on meat, fiber and dairy processing in New York state (hereinafter referred to as "the commission").

2. The commission shall consist of nineteen members to be appointed as follows:

(a) the commissioner, or his or her designee;

(b) the commissioner of labor, or his or her designee;

(c) the president of the empire state development corporation, or his or her designee;

(d) the chancellor of the state university of New York, or his or her designee;

(e) the commissioner of transportation, or his or her designee;

(f) the commissioner of environmental conservation, or his or her designee;

(g) one member appointed by the speaker of the assembly, with expertise in one or more of the following areas: meat processing, fiber processing, dairy processing, or agriculture;

(h) one member appointed by the minority leader of the assembly, with expertise in one or more of the following areas: meat processing, fiber processing, dairy processing, or agriculture;

(i) one member appointed by the temporary president of the senate, with expertise in one or more of the following areas: meat processing, fiber processing, dairy processing, or agriculture;

(j) one member appointed by the minority leader of the senate, with expertise in one or more of the following areas: meat processing, fiber processing, dairy processing, or agriculture;

(k) the head of the food bank association of New York state, or his or her designee;

(l) one member who serves as the executive director of a regional food bank;

(m) one member who has owned and/or operated meat processing operations in New York for a period of at least five years;

(n) one member who has owned and/or operated a fiber processing operation in New York for a period of at least five years;

(o) one member who has owned and/or operated a dairy farm in New York for a period of at least ten years;

(p) one member who is an active meat inspector;

(q) one member who is an active dairy inspector;

(r) one member who is a livestock producer; and

(s) one member who has owned and/or operated an active produce farm for a period of at least ten years.

3. Appointments shall be made to the commission within ninety days of the effective date of this article. Commission members shall receive no compensation for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

4. The commission shall be authorized to hold public hearings and meetings to enable it to accomplish its duties. The commission may consult with any organization, educational institution, other government entity or agency or person in the development of its report.

5. The commission shall be tasked with undertaking a comprehensive examination of the logistical, legal, economic and regulatory challenges faced by the meat, fiber and dairy processing industries in New York state, with the objective of issuing recommendations in order to mitigate these challenges to encourage expansion of this economic sector. Among other matters, the commission shall examine the following areas of concern:

(a) Lack of inspectors;

(b) Utilities infrastructure;

(c) Labor law;

(d) All state and local regulations, including required documentation;

(e) Shortages of skilled, trained labor;

(f) Financial costs of construction of meat, fiber and dairy processing facilities; and

(g) Any further issues that the commission shall deem necessary. Upon receipt of recommendations from the commission, the commissioner shall, within ninety days, promulgate rules and regulations necessary for effectuating the intent of the recommendations made by the commission.

6. The commission shall direct the state university of New York to increase and maintain educational and training programs devoted to the rendering process, given its essential role in processing of this nature and the shortfalls currently faced by the state in terms of rendering capacity.

7. The commission will submit recommendations to the governor and the legislature concerning the number of processing plants to be constructed and where these facilities should be located, in order to achieve the most beneficial economic impact in various regions of the state. The commission shall issue a report detailing such recommendations for improving the state's prospects concerning in-state meat, fiber and dairy processing within nine months of the enactment of this article. Recommendations specific to the cost and construction of meat, fiber and dairy processing facilities shall be subject to approval and appropriation of funds by the legislature.

§ 291-g. Personal service cost assistance program. There is hereby created within the NY food insecurity, farm resiliency and rural poverty office, the personal service cost assistance program. Subject to the availability of funds, the sum of two million dollars shall be annually available to fund such program. Such program shall be established and funded to offset the hiring costs of additional personnel in support of expanded food bank operations, including but not limited to transportation personnel. No raises or additional compensation for existing employees will be permitted from this funding.

§ 291-h. Beginning farmers grant program. There is hereby created within the NY food insecurity, farm resiliency and rural poverty office, the beginning farmers grant program. Subject to the availability of

funds, the sum of one million dollars shall be made available to fund the beginning farmers grant program. Such program shall be funded for grants to be awarded under the beginning farmers NY fund pursuant to section sixteen-w of the urban development corporation act.

§ 291-i. Farm infrastructure and equipment grant program. There is hereby created within the NY food insecurity, farm resiliency and rural poverty office, the farm infrastructure and equipment grant program. Subject to the availability of funds, the sum of six million dollars shall be made available to fund such program. Matching grants are hereby established to help fund the costs of infrastructure improvements and equipment purchases for established New York farmers who have been in business for ten years or more. Eligible applicants shall be responsible for ten percent of funding, leveraging ninety percent in state funds. Capital grants may be utilized to improve farm profitability, purchase machinery, including but not limited to, automated farming equipment and/or for the construction or improvement of physical structures. Grants to eligible applicants, which shall include veterans and disabled persons, shall not exceed one hundred thousand dollars.

§ 291-j. Commercial real estate and warehousing grant program. There is hereby created within the NY food insecurity, farm resiliency and rural poverty office, the commercial real estate and warehousing grant program. Subject to the availability of funds, the sum of six million dollars shall be made available to fund such program. Matching grants are hereby established to help fund the costs of commercial real estate acquisition, as well as the construction of additional warehouse space, for each of New York's regional food banks, which shall include but not be limited to, Island Harvest, Ltd. and City Harvest, Inc. Eligible applicants shall provide twenty percent funding, leveraging eighty percent provided by state funds. Grants to eligible applicants may not exceed six hundred thousand dollars.

§ 291-k. Cold storage equipment grant program. There is hereby created within the NY food insecurity, farm resiliency and rural poverty office, the cold storage equipment grant program. Subject to the availability of funds, the sum of five hundred thousand dollars shall be annually available to fund such program. Matching grants are hereby established to help fund the purchase by non-profits and local food pantries of commercial and residential-scale cold-storage equipment. Eligible applicants must provide ten percent funding, leveraging ninety percent by state funds. Grants to eligible applicants may not exceed five thousand dollars.

§ 291-l. Cold storage transportation grant program. There is hereby created within the NY food insecurity, farm resiliency and rural poverty office, the cold storage transportation grant program. Subject to the availability of funds, the sum of three million dollars shall be made available to fund such program. Matching grants are hereby established to help fund the purchase, by regional food banks and associated non-profit organizations, of refrigerated box trucks, trailers, and any vehicles containing or equipped with refrigeration equipment. Eligible applicants must provide twenty percent funding, leveraging eighty percent by state funds. Grants to eligible applicants may not exceed one hundred thousand dollars.

§ 291-m. Transportation fuel reimbursement program. There is hereby created within the NY food insecurity, farm resiliency and rural poverty office, the transportation fuel reimbursement program. Subject to the availability of funds, the sum of five hundred thousand dollars shall be annually available to fund such program. Such program shall be estab-

lished and funded to provide reimbursements of fuel costs associated with increased vehicle use by regional food banks and eligible non-profit organizations, subject to the availability of funds.

§ 291-n. FarmNet program. There is hereby created within the NY food insecurity, farm resiliency and rural poverty office, the FarmNet program. Subject to the availability of funds, the sum of seven hundred eighteen thousand dollars shall be annually available to fund such program.

§ 4. Hunger prevention and nutrition assistance program. There is hereby created within the department of health, the hunger prevention and nutrition assistance program. Subject to the availability of funds, the sum of four million dollars shall be annually available to fund such program. The commissioner of the department of health is hereby directed to utilize such funding, allocated according to a formula which he or she shall devise, to award one new hunger prevention and nutrition assistance program contract each to the following non-profit organizations: City Harvest, Inc. and Island Harvest, Ltd.

§ 5. Nutrition outreach education program. There is hereby created within the office of temporary and disability assistance, the nutrition outreach education program. Subject to the availability of funds, the sum of two million dollars shall be annually available to fund such program. Such program shall be established and funded to provide grants to community-based organizations for nutrition outreach in areas where a significant percentage or number of those potentially eligible for food assistance programs are not participating in such programs.

§ 6. Paragraph (a) of subdivision 52 of section 210-B of the tax law, as added by section 4 of part DDD of chapter 59 of the laws of 2017, is amended to read as follows:

(a) General. In the case of a taxpayer that is an eligible farmer, there shall be allowed a credit, to be computed as hereinafter provided against the tax imposed by this article for taxable years beginning on and after January first, two thousand eighteen. The amount of the credit shall be [~~twenty-five~~] fifty percent of the fair market value of the taxpayer's qualified donations made to any eligible food pantry during the taxable year, not to exceed five thousand dollars per taxable year. If the taxpayer is a partner in a partnership, then the cap imposed by the preceding sentence shall be applied at the entity level, so that the aggregate credit allowed to all partners of such entity in the taxable year does not exceed five thousand dollars.

§ 7. Paragraph 1 of subsection (n-2) of section 606 of the tax law, as added by section 1 of part DDD of chapter 59 of the laws of 2017, is amended to read as follows:

(1) General. In the case of a taxpayer who is an eligible farmer, there shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article for taxable years beginning on and after January first, two thousand eighteen. The amount of the credit shall be [~~twenty-five~~] fifty percent of the fair market value of the taxpayer's qualified donations made to any eligible food pantry during the taxable year, not to exceed five thousand dollars per taxable year. If the taxpayer is a partner in a partnership or a shareholder of a New York S corporation, then the cap imposed by the preceding sentence shall be applied at the entity level, so that the aggregate credit allowed to all partners or shareholders of such entity in the taxable year does not exceed five thousand dollars.

§ 8. Subparagraph 3 of paragraph (a) of section 5-3.1 of the estates, powers and trusts law, as amended by chapter 437 of the laws of 2010, is amended to read as follows:

(3) Domestic and farm animals with their necessary food for sixty days, farm machinery, [~~one tractor~~] two tractors and one lawn tractor, not exceeding in aggregate value [~~twenty~~] one hundred thousand dollars.

§ 9. Subdivision 3 of section 701 of the labor law, as amended by chapter 43 of the laws of 1989, paragraph (a) as amended by chapter 105 of the laws of 2019 and paragraph (c) as amended by section 2 of part II of chapter 58 of the laws of 2020, is amended to read as follows:

3. (a) The term "employees" includes but is not restricted to any individual employed by a labor organization; any individual whose employment has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment; and shall not be limited to the employees of a particular employer, unless the article explicitly states otherwise, but shall not include any individual employed by his parent or spouse or in the domestic service of and directly employed, controlled and paid by any person in his home, any individual whose primary responsibility is the care of a minor child or children and/or someone who lives in the home of a person for the purpose of serving as a companion to a sick, convalescing or elderly person or any individuals employed only for the duration of a labor dispute, or any individuals employed as farm laborers or, any individual who participates in and receives rehabilitative or therapeutic services in a charitable non-profit rehabilitation facility or sheltered workshop or any individual employed in a charitable non-profit rehabilitation facility or sheltered workshop who has received rehabilitative or therapeutic services and whose capacity to perform the work for which he is engaged is substantially impaired by physical or mental deficiency or injury.

(b) The term "employee" shall also include a professional musician or a person otherwise engaged in the performing arts who performs services as such. "Engaged in the performing arts" shall mean performing services in connection with production of or performance in any artistic endeavor which requires artistic or technical skill or expertise.

[~~(c) The term "employee" shall also include farm laborers. "Farm laborers" shall mean any individual engaged or permitted by an employer to work on a farm. Members of an agricultural employer's immediate family who are related to the third degree of consanguinity or affinity shall not be considered to be employed on a farm if they work on a farm out of familial obligations and are not paid wages, or other compensation based on their hours or days of work.~~]

§ 10. The closing paragraph of subdivision 1 of section 161 of the labor law is REPEALED.

§ 11. Paragraphs b and d of subdivision 2 of section 161 of the labor law, as amended by chapter 105 of the laws of 2019, are amended to read as follows:

b. Employees in dairies, creameries, milk condenseries, milk powder factories, milk sugar factories, milk shipping stations, butter and cheese factories, ice cream manufacturing plants and milk bottling plants, where not more than seven persons are employed;

d. Employees whose duties include not more than three hours' work on Sunday in setting sponges in bakeries, caring for live animals, maintaining fires, or making necessary repairs to boilers or machinery.

§ 12. Section 163-a of the labor law is REPEALED.

§ 13. The opening paragraph of paragraph (a) of subdivision 6 of section 511 of the labor law, as amended by chapter 105 of the laws of 2019, is amended to read as follows:

The term "employment" [~~includes~~] **does not include** agricultural labor **unless it is covered pursuant to section five hundred sixty-four of this article**. The term "agricultural labor" includes all service performed:

§ 14. Section 564 of the labor law, as added by section 8, subdivision 2 as added and subdivision 3 as renumbered by section 23 of chapter 105 of the laws of 2019, is amended to read as follows:

§ 564. Agricultural labor [~~crew leaders~~]. **1. Coverage. (a) Notwithstanding the provisions of section five hundred sixty of this article, an employer of persons engaged in agricultural labor shall become liable for contributions under this article if the employer:**

(1) has paid cash remuneration of twenty thousand dollars or more in any calendar quarter to persons employed in agricultural labor, and such liability shall commence on the first day of such quarter, or

(2) has employed in agricultural labor ten or more persons on each of twenty days during a calendar year or the preceding calendar year, each day being in a different calendar week, and the liability shall in such event commence on the first day of the calendar year, or

(3) is liable for the tax imposed under the federal unemployment tax act as an employer of agricultural labor and the liability shall in such event commence on the first day of the calendar quarter in such calendar year when he or she first paid remuneration for agricultural labor in this state.

(b) An employer who becomes liable for contributions under paragraph (a) of this subdivision shall cease to be liable as of the first day of a calendar quarter next following the filing of a written application provided the commissioner finds that the employer:

(1) has not paid to persons employed in agricultural labor cash remuneration of twenty thousand dollars or more in any of the eight calendar quarters preceding such day, and

(2) has not employed in agricultural labor ten or more persons on each of twenty days during the current or the preceding calendar year, each day being in a different week, and

(3) is not liable for the tax imposed under the federal unemployment tax act as an employer of agricultural labor.

2. Crew leader. Whenever a person renders services as a member of a crew which is paid and furnished by the crew leader to perform services in agricultural labor for another employer, such other employer shall, for the purpose of this article, be deemed to be the employer of such person, unless:

[~~1.~~] **(a)** the crew leader holds a valid certificate of registration under the federal farm labor contractor registration act of nineteen hundred sixty-three or substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop dusting machinery or any other mechanized equipment which is provided by the crew leader, and

[~~2. Exclusion from coverage. For purposes of this section the term "employment" shall not include services rendered by an individual who is admitted to the United States to perform agricultural labor pursuant to 8 USC 1188 if, at the time such services are rendered, they are excluded from the definition of employment in section 3306(c) of the Federal Unemployment Tax Act.~~

~~3.~~] **(b)** the crew leader is not an employee of such other employer and has not entered into a written agreement with such employer under which he **or she** is designated as an employee.

§ 15. Paragraph (m) of subdivision 5 of section 225 of the public health law, as amended by chapter 105 of the laws of 2019, is amended to read as follows:

(m) require that application be made for a permit to operate a farm or food processing labor camp as defined in the sanitary code; authorize appropriate officers or agencies to issue such a permit when the applicant is in compliance with the established regulations; prescribe standards for living quarters at farm and food processing labor camps, including provisions for sanitary conditions; light, air, and safety; protection from fire hazards; maintenance; and such other matters as may be appropriate for security of life or health, provided however, that the provisions of the sanitary code established pursuant to the provisions hereof shall apply to all farm and food processing labor camps intended to house migrant workers and which are occupied **by five or more persons**. In the preparation of such regulations, the public health and health planning council may request and shall receive technical assistance from the board of standards and appeals of the state department of labor and the state building code commission. Such regulation shall be enforced in the same manner as are other provisions of the sanitary code;

§ 16. Groups 14-a and 14-b of subdivision 1 of section 3 of the workers' compensation law, as amended by chapter 105 of the laws of 2019, are amended to read as follows:

Group 14-a. On and after January first, nineteen hundred sixty-two, any other employment in a trade, business, or occupation carried on by the employer for pecuniary gain in which one or more employees **other than farm laborers** are employed.

Group 14-b. Employment as a farm laborer as provided herein. A farmer shall provide coverage under this chapter for all farm laborers **employed during any part of the twelve consecutive months beginning April first of any calendar year preceded by a calendar year in which the cash remuneration paid to all farm laborers aggregated twelve hundred dollars or more**.

§ 17. Section 51 of the workers' compensation law, as amended by chapter 105 of the laws of 2019, is amended to read as follows:

§ 51. Posting of notice regarding compensation. Every employer who has complied with section fifty of this article shall post and maintain in a conspicuous place or places in and about his place or places of business typewritten or printed in English and Spanish notices in form prescribed by the chairman, stating the fact that he has complied with all the rules and regulations of the chairman and the board and that he has secured the payment of compensation to his employees and their dependents in accordance with the provisions of this chapter, but failure to post such notice as herein provided shall not in any way affect the exclusiveness of the remedy provided for by section eleven of this chapter. Every employer who owns or operates automotive or horse-drawn vehicles and has no minimum staff of regular employees required to report for work at an established place of business maintained by such employer and every employer who is engaged in the business of moving household goods or furniture shall post such notices in each and every vehicle owned or operated by him. Failure to post or maintain such notice in any of said vehicles shall constitute presumptive evidence that such employer has failed to secure the payment of compensation. The chairman may require any employer to furnish a written statement at any time showing the stock corporation, mutual corporation or reciprocal insurer in which such employer is insured or the manner in which such employer has

complied with any provision of this chapter. Failure for a period of ten days to furnish such written statement shall constitute presumptive evidence that such employer has neglected or failed in respect of any of the matters so required. Any employer who fails to comply with the provisions of this section shall be required to pay to the board a fine of [~~five hundred~~] up to two hundred fifty dollars for each violation, in addition to any other penalties imposed by law to be deposited into the uninsured employers' fund.

§ 18. Section 110-b of the workers' compensation law is REPEALED.

§ 19. The opening paragraph of section 120 of the workers' compensation law, as amended by chapter 105 of the laws of 2019, is amended to read as follows:

It shall be unlawful for any employer or his or her duly authorized agent to discharge or fail to reinstate pursuant to section two hundred three-b of this chapter, or in any other manner discriminate against an employee as to his or her employment because such employee has claimed or attempted to claim compensation from such employer, [~~requested a claim form for injuries received in the course of employment,~~] or claimed or attempted to claim any benefits provided under this chapter or because he or she has testified or is about to testify in a proceeding under this chapter and no other valid reason is shown to exist for such action by the employer.

§ 20. The opening paragraph of paragraph A of subdivision 6 of section 201 of the workers' compensation law, as amended by chapter 105 of the laws of 2019, is amended to read as follows:

"Employment" means employment in any trade, business or occupation carried on by an employer, except that the following shall not be deemed employment under this article: services performed for the state, a municipal corporation, local governmental agency, other political subdivision or public authority; employment subject to the federal railroad unemployment insurance act; service performed on or as an officer or member of the crew of a vessel on the navigable water of the United States or outside the United States; services as farm laborers; casual employment and the first forty-five days of extra employment of employees not regularly in employment as otherwise defined herein; service as golf caddies; and service during all or any part of the school year or regular vacation periods as a part-time worker of any person actually in regular attendance during the day time as a student in an elementary or secondary school. The term "employment" shall include domestic or personal work in a private home. The term "employment" shall not include the services of a licensed real estate broker or sales associate if it be proven that (a) substantially all of the remuneration (whether or not paid in cash) for the services performed by such broker or sales associate is directly related to sales or other output (including the performance of services) rather than to the number of hours worked; (b) the services performed by the broker or sales associate are performed pursuant to a written contract executed between such broker or sales associate and the person for whom the services are performed within the past twelve to fifteen months; and (c) the written contract provided for in subparagraph (b) of this paragraph was not executed under duress and contains the following provisions:

§ 21. The opening paragraph of subdivision 5 of section 651 of the labor law, as amended by chapter 105 of the laws of 2019, is amended to read as follows:

"Employee" includes any individual employed or permitted to work by an employer in any occupation, but shall not include any individual who is

employed or permitted to work: (a) on a casual basis in service as a part time baby sitter in the home of the employer; (b) **in labor on a farm; (c)** in a bona fide executive, administrative, or professional capacity; [~~(c)~~] **(d)** as an outside salesman; [~~(d)~~] **(e)** as a driver engaged in operating a taxicab; [~~(e)~~] **(f)** as a volunteer, learner or apprentice by a corporation, unincorporated association, community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual; [~~(f)~~] **(g)** as a member of a religious order, or as a duly ordained, commissioned or licensed minister, priest or rabbi, or as a sexton, or as a christian science reader; [~~(g)~~] **(h)** in or for such a religious or charitable institution, which work is incidental to or in return for charitable aid conferred upon such individual and not under any express contract of hire; [~~(h)~~] **(i)** in or for such a religious, educational or charitable institution if such individual is a student; [~~(i)~~] **(j)** in or for such a religious, educational or charitable institution if the earning capacity of such individual is impaired by age or by physical or mental deficiency or injury; [~~(j)~~] **(k)** in or for a summer camp or conference of such a religious, educational or charitable institution for not more than three months annually; [~~(k)~~] **(l)** as a staff counselor in a children's camp; [~~(l)~~] **(m)** in or for a college or university fraternity, sorority, student association or faculty association, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and which is recognized by such college or university, if such individual is a student; [~~(m)~~] **(n)** by a federal, state or municipal government or political subdivision thereof; [~~(n)~~] **(o)** as a volunteer at a recreational or amusement event run by a business that operates such events, provided that no single such event lasts longer than eight consecutive days and no more than one such event concerning substantially the same subject matter occurs in any calendar year, where (1) any such volunteer shall be at least eighteen years of age, (2) a business seeking coverage under this paragraph shall notify every volunteer in writing, in language acceptable to the commissioner, that by volunteering his or her services, such volunteer is waiving his or her right to receive the minimum wage pursuant to this article, and (3) such notice shall be signed and dated by a representative of the business and the volunteer and kept on file by the business for thirty-six months; or [~~(o)~~] **(p)** in the delivery of newspapers or shopping news to the consumer by a person who is not performing commercial goods transportation services for a commercial goods transportation contractor within the meaning of article twenty-five-C of this chapter. The exclusions from the term "employee" contained in this subdivision shall be as defined by regulations of the commissioner.

§ 22. Subdivision 1 of section 674 of the labor law, as amended by chapter 105 of the laws of 2019, is amended to read as follows:

1. The commissioner may promulgate such regulations as he deems appropriate to carry out the purposes of this article and to safeguard minimum wage standards. Such regulations may include, but are not limited to, the defining of the circumstances or conditions for the acceptance of non-hourly rates and piece rates as equivalent to the minimum hourly rates established by this article. Such regulations also may include, but are not limited to, waiting time and call-in pay rates; wage provisions governing guaranteed earnings during specified periods of work; allowances for meals, lodging, and other items, services and facilities when furnished by the employer; **and the employment of indi-**

viduals whose earning capacity is affected or impaired by youth or age, or by physical or mental deficiency or injury, under special certificates issued by the commissioner, at such wages lower than the minimum wage established by this article and for such period as shall be prescribed in such regulations.

§ 23. Subdivision 2 of section 701 of the labor law, as amended by chapter 105 of the laws of 2019, is amended to read as follows:

2. [~~(a)~~] The term "employer" includes any person acting on behalf of or in the interest of an employer, directly or indirectly, with or without his knowledge, and shall include any person who is the purchaser of services performed by a person described in paragraph (b) of subdivision three of this section, but a labor organization or any officer or agent thereof shall only be considered an employer with respect to individuals employed by such organization.

[~~(b) The term "employer" includes agricultural employers. The term "agricultural employer" shall mean any employer engaged in cultivating the soil or in raising or harvesting any agricultural or horticultural commodity including custom harvesting operators, and employers engaged in the business of crops, livestock and livestock products as defined in section three hundred one of the agriculture and markets law, or other similar agricultural enterprises.~~]

§ 24. The closing paragraph of section 703 of the labor law is REPEALED.

§ 25. Section 704-b of the labor law is REPEALED.

§ 26. Subdivision 1-a of section 705 of the labor law is REPEALED.

§ 27. Section 702-b of the labor law is REPEALED.

§ 28. Section 674-a of the labor law is REPEALED.

§ 29. The sum of thirty-five million seven hundred thousand dollars ($35,700,000), or so much thereof as may be necessary, is hereby appropriated to the department of agriculture and markets from any moneys in the state treasury in the general fund to the credit of the state purposes account for the initial capital of the NY Food Insecurity, Farm Resiliency and Rural Poverty Initiative in carrying out the provisions of this act. Such sum shall be payable on the audit and warrant of the state comptroller on vouchers certified or approved in the manner provided by law. No expenditure shall be made from this appropriation until a certificate of approval of availability shall have been issued by the director of the budget and filed with the state comptroller and a copy filed with the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Such certificate may be amended from time to time by the director of the budget and a copy of each such amendment shall be filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

§ 30. This act shall take effect immediately; provided, however, that section three of this act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.