STATE OF NEW YORK

7559

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

Introduced by M. of A. JOYNER -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to providing certain exemptions for individuals having entered into a contract to play baseball at the minor league level and who are compensated pursuant to the terms of a collective bargaining agreement

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

Section 1. 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 a bona fide executive, administrative, or professional capacity; (c) as an outside salesman; (d) as a driver engaged in operating a taxicab; (e) 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) 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) 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) in or for such a religious, educational or charitable institution if such individual is a student; (i) 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) in or for a summer camp or conference of such a reli-

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

LBD11575-01-3

gious, educational or charitable institution for not more than three months annually; (k) as a staff counselor in a children's camp; (l) 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) by a federal, state or municipal government or political subdivision thereof; (n) 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) 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**; or (p) having entered into a contract to play baseball at the minor league level and who is compensated pursuant to the terms of a collective bargaining agreement that expressly provides for the wages, hours of work, and working conditions of employees**. The exclusions from the term "employee" contained in this subdivision shall be as defined by regulations of the commissioner.

§ 2. Subdivisions 2 and 4 of section 190 of the labor law, as added by chapter 548 of the laws of 1966, are amended to read as follows:

2. "Employee" means any person employed for hire by an employer in any employment**, but with respect to the entirety of this article, except sections one hundred ninety-three, one hundred ninety-six-b, one hundred ninety-eight, and one hundred ninety-eight-b, shall not include any person who has entered into a contract to play baseball at the minor league level and who is compensated pursuant to the terms of a collective bargaining agreement that expressly provides for the wages, hours of work, and working conditions of employees**.

4. "Manual worker" means a mechanic, workingman or laborer**, but shall not include any person who has entered into a contract to play baseball at the minor league level and who is compensated pursuant to the terms of a collective bargaining agreement that expressly provides for the wages, hours of work, and working conditions of employees**.

§ 3. This act shall take effect immediately.