STATE OF NEW YORK

8995--A

IN ASSEMBLY

February 1, 2024

Introduced by M. of A. BICHOTTE HERMELYN, LEVENBERG, AUBRY, DAVILA, LUCAS, SEPTIMO -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to establishing light duty during pregnancy and parental leave for railroad employees

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

Section 1. Legislative intent. The legislature hereby finds and declares that pregnant employees and new parents in the railroad industry face unique challenges that necessitate specific protections and accommodations. The intent of this legislation is to ensure that pregnant employees are provided with suitable light duty assignments to safeguard their health and well-being, and to establish paid parental leave benefits to support employees bonding with their newborn or newly adopted children. These measures aim to promote a safe and inclusive work environment while balancing the operational needs of employers.

§ 2. The labor law is amended by adding two new sections 167-a and 167-b to read as follows:

§ 167-a. Light duty for pregnant railroad employees. 1. Should any employee engaged in the service of any railroad, including any commuter rail service, as defined by section ninety-seven-a of the railroad law, owned or operated by a state authority or its subsidiary, as defined by section two of the public authorities law, who is pregnant be prevented by such pregnancy from performing the activities involved in the employee's regular assigned duties due, but is able, as determined by the employee's medical provider, to perform specified types of light duty, the employer shall make available such light duty to the employee, provided, however, that such light duty shall enable the employee to continue to be entitled to the employee's concurrent assignment earnings, including increases thereof and fringe benefits, to which the employee would have been entitled if the employee were able to perform the employee's regular assigned duties.

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

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2. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any collective bargaining agreement or employment contract.

§ 167-b. Parental leave for railroad employees. 1. For purposes of this section, "parental leave" shall mean any leave taken by an employee of any railroad, including any commuter rail service, as defined by section ninety-seven-a of the railroad law, owned or operated by a state authority or its subsidiary, as defined by section two of the public authorities law, from work to bond with the employee's child during the first twelve months after the child's birth, or the first twelve months after the placement of the child for adoption or foster care with the employee.

2. Beginning January first, two thousand twenty-five, railroad employees in employment for twenty-six or more consecutive weeks shall be eligible for parental leave benefits. Every such employee shall continue to be eligible for parental leave benefits until the termination of employment with the employer. An employee regularly in the employment of an employer as described in subdivision one of this section on a work schedule less than the employer's normal work week shall become eligible for parental leave benefits on the one hundred seventy-fifth day of such regular employment. An employee who is eligible for parental leave benefits shall not be deemed, for the purposes of this section, to have such employment terminated during any period the employee is eligible to receive benefits under this section with respect to such employment.

3. The weekly benefit for parental leave that occurs on or after January first, two thousand twenty-five, shall not exceed twelve weeks during any fifty-two week calendar period and shall be sixty-seven percent of the employee's average weekly wage. The entire period of the leave of absence granted pursuant to this section shall not be charged against any other leave such employee is otherwise entitled to. Benefits may be payable to employees for parental leave taken intermittently or for less than a full work week in increments of one full day or one-fifth of the weekly benefit.

4. Parental leave benefits shall be payable to an eligible employee for the first full day when parental leave is required and thereafter during the continuance of the need for parental leave. The first payment of benefits shall be due on the fourteenth day of parental leave and benefits for that period shall be paid directly to the employee and thereafter benefits shall be due and payable bi-weekly in like manner.

5. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any collective bargaining agreement or employment contract.

§ 3. This act shall take effect immediately.