STATE OF NEW YORK

5140

2023-2024 Regular Sessions

IN SENATE

February 23, 2023

Introduced by Sen. PARKER -- 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 clarifying the definition of a "commission salesperson"

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

Section 1. Subdivision 6 of section 190 of the labor law, as added by chapter 548 of the laws of 1966, is amended to read as follows:

6. "Commission salesman" means any employee **(a)** whose principal activity is the selling of any goods, wares, merchandise, services, real estate, securities, insurance or any article or thing and whose earnings are based in whole or in part on commissions**, (b) not free to work at his or her own convenience or discretion, (c) constrained to a fixed schedule, (d) not free to engage in other employment and (e) on the employer's payroll and receives fringe benefits**. The term "commission salesman" does not include an employee whose principal activity is of a supervisory, managerial, executive or administrative nature.

§ 2. This act shall take effect immediately.

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

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