

STATE OF NEW YORK

415--B

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. JACKSON, BRISPORT, BROUK, CLEARE, COMRIE, GIANARIS, GONZALEZ, HARCKHAM, LIU, MAY, MAYER, MYRIE, PERSAUD, RAMOS, RIVERA, SALAZAR, SANDERS, SERRANO, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to providing for minimum wage requirements for miscellaneous industry workers; and to amend the tax law, in relation to establishing the one fair wage reimbursement credit

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

1 Section 1. Section 196-d of the labor law, as added by chapter 1007 of
2 the laws of 1968, is amended to read as follows:
3 § 196-d. Gratuities. No employer or [~~his~~] their agent or an officer or
4 agent of any corporation, or any other person shall demand or accept,
5 directly or indirectly, any part of the gratuities, received by an
6 employee, or retain any part of a gratuity or of any charge purported to
7 be a gratuity for an employee. This provision shall not apply to the
8 checking of hats, coats or other apparel. Nothing in this subdivision
9 shall be construed as affecting the allowances from the minimum wage for
10 gratuities in the amount determined in accordance with the provisions of
11 article nineteen of this chapter nor as affecting practices in
12 connection with banquets and other special functions where a fixed
13 percentage of the patron's bill is added for gratuities which are
14 distributed to employees, nor to the sharing of tips by a [~~waiter~~] serv-
15 er, if the employer takes a credit for gratuities as permitted by subdi-
16 vision two of section six hundred fifty-two of this chapter with a

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

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1 [~~busboy~~] busser or similar employee, or, if the employer does not take a
2 credit for gratuities as permitted by subdivision two of section six
3 hundred fifty-two of this chapter, with any other non-managerial and
4 non-supervisory employees.

5 § 2. Section 651 of the labor law is amended by adding a new subdivi-
6 sion 10 to read as follows:

7 10. "Miscellaneous industry worker" means any employee covered by the
8 minimum wage order for miscellaneous industries and occupations pursuant
9 to the provisions of 12 NYCRR part 142, including, but not limited to,
10 car wash attendants, nail salon workers, tow truck drivers, dog groom-
11 ers, wedding planners, tour guides, valet parking attendants, hairdres-
12 sers, aestheticians, golf and tennis instructors, and door-persons.

13 § 3. Subdivisions 2 and 4 of section 652 of the labor law, as amended
14 by section 3 of part S of chapter 56 of the laws of 2023, are amended to
15 read as follows:

16 2. Existing wage orders. The minimum wage orders in effect on the
17 effective date of this act shall remain in full force and effect, except
18 as modified in accordance with the provisions of this article; provided,
19 however, that the minimum wage order for farm workers codified at part
20 one hundred ninety of title twelve of the New York code of rules and
21 regulations in effect on January first, two thousand twenty shall be
22 deemed to be a wage order established and adopted under this article and
23 shall remain in full force and effect except as modified in accordance
24 with the provisions of this article or article nineteen-A of this chap-
25 ter.

26 Such minimum wage orders shall be modified by the commissioner to
27 increase all monetary amounts specified therein in the same proportion
28 as the increase in the hourly minimum wage as provided in subdivisions
29 one, one-a, and one-b of this section, including the amounts specified
30 in such minimum wage orders as allowances for gratuities, and when
31 furnished by the employer to its employees, for meals, lodging, apparel
32 and other such items, services and facilities, except that the hourly
33 cash wage for food service workers, service employees and miscellaneous
34 industry workers who receive tips shall not be less than the cash wage
35 as provided in subdivision four of this section, and the maximum credit
36 for tips in minimum wage orders shall be modified so that such credit,
37 when combined with such cash wage, is equal to the minimum wage, and the
38 hourly cash wage for miscellaneous industry workers shall not be less
39 than the cash wage as provided in subdivision four of this section. All
40 amounts so modified shall be rounded off to the nearest five cents. The
41 modified orders shall be promulgated by the commissioner without a
42 public hearing, and without reference to a wage board, and shall become
43 effective on the effective date of such increases in the minimum wage
44 except as otherwise provided in this subdivision, notwithstanding any
45 other provision of this article.

46 4. [~~Notwithstanding subdivisions one, one-a, one-b, and two of this~~
47 ~~section, the wage for an employee who is a food service worker receiving~~
48 ~~tips shall be a cash wage of at least two thirds of the minimum wage~~
49 ~~rates set forth in subdivision one of this section, rounded to the near-~~
50 ~~est five cents or seven dollars and fifty cents, whichever is higher,~~
51 ~~provided that the tips of such an employee, when added to such cash~~
52 ~~wage, are equal to or exceed the minimum wage in effect pursuant to~~
53 ~~subdivisions one, one-a, and one-b of this section and provided further~~
54 ~~that no other cash wage is established pursuant to section six hundred~~
55 ~~fifty-three of this article] (a) Notwithstanding subdivisions one and
56 two of this section and section six hundred fifty-three of this article,~~

1 the wage for an employee who is a food service worker or service employ-
2 ee receiving tips and paid pursuant to the provisions of 12 NYCRR part
3 146 shall be, for each hour worked in the city of New York, a cash wage
4 of not less than:

5 \$12.77 per hour on and after January 1, 2027;

6 \$14.88 per hour on and after January 1, 2028;

7 \$17.00 per hour on and after January 1, 2029, and beginning on January
8 first, two thousand thirty, a cash wage rate established by the commis-
9 sioner annually, indexed to inflation as described in subdivision one-b
10 of this section.

11 (b) Notwithstanding subdivisions one and two of this section and
12 section six hundred fifty-three of this article, the wage for an employ-
13 ee who is a food service worker or service employee receiving tips and
14 paid pursuant to the provisions of 12 NYCRR part 146 shall be, for each
15 hour worked in the counties of Nassau, Suffolk and Westchester, a cash
16 wage of not less than:

17 \$12.77 per hour on and after January 1, 2027;

18 \$14.88 per hour on and after January 1, 2028;

19 \$17.00 per hour on and after January 1, 2029, and beginning on January
20 first, two thousand thirty, a cash wage rate established by the commis-
21 sioner annually, indexed to inflation as described in subdivision one-b
22 of this section.

23 (c) Notwithstanding subdivisions one and two of this section and
24 section six hundred fifty-three of this article, the wage for an employ-
25 ee who is a food service worker or service employee receiving tips and
26 paid pursuant to the provisions of 12 NYCRR part 146 shall be, for each
27 hour worked outside the city of New York and the counties of Nassau,
28 Suffolk and Westchester, a cash wage of not less than:

29 \$11.50 per hour on and after January 1, 2027;

30 \$13.00 per hour on and after January 1, 2028;

31 \$14.50 per hour on and after January 1, 2029;

32 \$16.00 per hour on and after January 1, 2030, and beginning on January
33 first, two thousand thirty-one, a cash wage rate established by the
34 commissioner annually, indexed to inflation as described in subdivision
35 one-b of this section.

36 (d) Notwithstanding subdivisions one and two of this section, the wage
37 for an employee who is a miscellaneous industry worker receiving tips
38 and paid pursuant to the provisions of 12 NYCRR part 142 shall be for
39 each hour worked in the city of New York, a cash wage of not less than
40 the cash wage rate as described in paragraph (a) of subdivision one-a of
41 this section.

42 (e) Notwithstanding subdivisions one and two of this section, the wage
43 for an employee who is a miscellaneous industry worker receiving tips
44 and paid pursuant to the provisions of 12 NYCRR part 142 shall be for
45 each hour worked in the counties of Nassau, Suffolk and Westchester, a
46 cash wage of not less than the cash wage rate as described in paragraph
47 (b) of subdivision one-a of this section.

48 (f) Notwithstanding subdivisions one and two of this section, the wage
49 for an employee who is a miscellaneous industry worker receiving tips
50 and paid pursuant to the provisions of 12 NYCRR part 142 shall be for
51 each hour worked outside the city of New York and the counties of
52 Nassau, Suffolk and Westchester, a cash wage of not less than the cash
53 wage rate as described in paragraph (c) of subdivision one-a of this
54 section.

55 § 4. Subdivision 2 of section 653 of the labor law, as added by chap-
56 ter 14 of the laws of 2000, is amended to read as follows:

1 (2) The commissioner shall, within six months after enactment of any
2 change in the statutory minimum wage set forth in subdivision one of
3 section six hundred fifty-two of this article, appoint a wage board to
4 inquire and report and recommend any changes to wage orders governing
5 wages payable to food service workers. Such wage board shall be estab-
6 lished consistent with the provisions of subdivision one of section six
7 hundred fifty-five of this article, except the representatives of the
8 employees shall be selected upon the nomination of the state American
9 Federation of Labor/Congress of Industrial Organizations; and provided,
10 further, that the representatives of the employers shall be selected
11 upon the nomination of the New York State Business Council. [~~Any wage
12 order authorizing a lesser wage than the previously and statutorily
13 mandated minimum wage for such employees shall be reviewed by the wage
14 board to ascertain at what level such wage order is sufficient to
15 provide adequate maintenance and to protect the health and livelihood of
16 employees subject to such a wage order after a statutory increase in the
17 mandated minimum wage~~] Notwithstanding section six hundred fifty-five of
18 this article, a wage order under this subdivision shall not authorize a
19 lesser wage than the previously and statutorily mandated minimum wage
20 for such employees.

21 § 5. The tax law is amended by adding a new section 50 to read as
22 follows:

23 § 50. One fair wage reimbursement credit. (a) Allowance of credit. A
24 taxpayer subject to tax under article nine-A, twenty-two, or thirty-
25 three of this chapter who is an eligible employer, as defined in subdi-
26 vision (b) of this section, shall be allowed a credit against such tax
27 to be computed as provided in subdivision (d) of this section.

28 (b) Definitions. As used in this section:

29 (1) "Eligible employer" means an employer who is required to pay wages
30 at the rates established pursuant to subdivision four of section six
31 hundred fifty-two of the labor law.

32 (2) "Eligible employee" means an employee whose wages are set pursuant
33 to subdivision four of section six hundred fifty-two of the labor law,
34 and for whom the employer maintains records of hours worked at such wage
35 rate.

36 (3) "Qualified hours" means the total number of hours worked by eligi-
37 ble employees during the taxable year for which such employees were paid
38 at the applicable minimum cash wage rate established pursuant to subdi-
39 vision four of section six hundred fifty-two of the labor law.

40 (4) "Certificate of advance payment" means a certificate issued pursu-
41 ant to subdivision three of this section.

42 (c) Advance payment of credit. (1) An eligible employer may apply to
43 the commissioner for an advance payment of the credit for the portion of
44 the taxable year beginning January first and ending July thirty-first.

45 (2) The commissioner, in consultation with the commissioner of labor,
46 shall issue a certificate of advance payment to eligible employers. Such
47 certificate shall include a certificate number and the maximum advance
48 amount for which the employer is eligible.

49 (3) Any advance payment received by a taxpayer who is subsequently
50 determined not to be eligible for the credit shall be added back to the
51 taxpayer's tax for such taxable year.

52 (4) The commissioner shall establish application procedures, documen-
53 tation standards, and timelines for issuance of advance payments.

54 (d) Amount of credit. (1) For taxable years beginning on or after
55 January first, two thousand twenty-seven, the credit shall be equal to
56 the product of the taxpayer's qualified hours and the applicable dollar

1 amount specified in subparagraphs (i) through (v) of paragraph two of
2 this subdivision.

3 (2) The applicable dollar amounts shall be:

4 (i) one dollar and fifty cents for taxable years beginning on or after
5 January first, two thousand twenty-seven and before January first, two
6 thousand twenty-eight;

7 (ii) one dollar and thirty cents for taxable years beginning on or
8 after January first, two thousand twenty-eight and before January first,
9 two thousand twenty-nine;

10 (iii) one dollar and twenty cents for taxable years beginning on or
11 after January first, two thousand twenty-nine and before January first,
12 two thousand thirty;

13 (iv) one dollar and ten cents for taxable years beginning on or after
14 January first, two thousand thirty and before January first, two thou-
15 sand thirty-one; and

16 (v) one dollar for taxable years beginning on or after January first,
17 two thousand thirty-one and before January first, two thousand thirty-
18 two.

19 (3) If the federal minimum wage is increased above eighty-five percent
20 of the minimum wage rate as defined in subdivision four of section six
21 hundred fifty-two of the labor law, the dollar amounts in this subdivi-
22 sion shall be reduced to the difference between the minimum wage rate as
23 defined in subdivision four of section six hundred fifty-two of the
24 labor law and the federal minimum wage. Such reduction shall take effect
25 on the date that employers are required to pay such federal minimum
26 wage.

27 (e) S-corporation treatment. A New York S-corporation shall compute
28 the credit allowed by this section, but may not apply such credit
29 against the tax imposed on the corporation. Instead, the S-corporation
30 shall pass the credit through to its shareholders in proportion to their
31 pro rata shares, to be applied against the tax imposed by article twenty-
32 two of this chapter.

33 (f) Recordkeeping and required attachment. A taxpayer claiming the
34 credit under this section shall file, in such form as the commissioner
35 may prescribe, a schedule listing each eligible employee, including: (1)
36 the employee's name or identifying number; (2) location where the
37 employee performed work; (3) total qualified hours for the taxable year;
38 and (4) the wage rate at which such hours were paid. Failure to file the
39 required schedule shall result in the denial of the credit.

40 (g) Restrictions. (1) The credit allowed under this section may not
41 reduce the tax due for any taxable year to less than the fixed dollar
42 minimum tax under article nine-A of this chapter or the minimum tax
43 under article thirty-three of this chapter.

44 (2) The credit shall not be applied against the metropolitan transpor-
45 tation business tax surcharge.

46 (3) No employer may claim the credit for any employee for whom the
47 employer claims another credit under this chapter, unless expressly
48 permitted by the commissioner.

49 (h) Refundability. If the amount of credit allowable under this
50 section exceeds the taxpayer's tax for such year, the excess shall be
51 treated as an overpayment to be refunded or credited to the succeeding
52 taxable year; provided, however, no interest shall be paid thereon.

53 (i) Regulations. The commissioner shall promulgate rules and regu-
54 lations necessary to implement the provisions of this section, including
55 procedures for verification, documentation, advance payments, and the
56 method of determining qualified hours.

1 (j) Cross-references. For application of the credit provided for in
2 this section, see the following provisions of this chapter:

- 3 (1) article 9-A: section 210-B, subdivision 63;
- 4 (2) article 22: section 606, subsections (i) and (uuu);
- 5 (3) article 33: section 1511, subdivision (ff).

6 § 6. Section 210-B of the tax law is amended by adding a new subdivi-
7 sion 63 to read as follows:

8 63. One fair wage reimbursement credit. (a) Allowance of credit. A
9 taxpayer shall be allowed a credit, to be computed as provided in
10 section fifty of this chapter, against the tax imposed by this article.

11 (b) Application of credit. The credit allowed under this subdivision
12 for any taxable year may not reduce the tax due for such year to less
13 than the amount prescribed in paragraph (d) of subdivision one of
14 section two hundred ten of this article. However, if the amount of the
15 credit allowed under this subdivision for any taxable year reduces the
16 tax to such amount or if the taxpayer otherwise pays tax based on the
17 fixed dollar minimum amount, any amount of credit thus not deductible in
18 such taxable year will be treated as an overpayment of tax to be credit-
19 ed or refunded in accordance with the provisions of section one thousand
20 eighty-six of this chapter. Provided, however, the provisions of
21 subsection (c) of section one thousand eighty-eight of this chapter
22 notwithstanding, no interest shall be paid thereon.

23 § 7. Subparagraph (B) of paragraph 1 of subdivision (i) of section 606
24 of the tax law is amended by adding a new clause (liii) to read as
25 follows:

26 <u>(liii) One fair wage</u>	<u>Amount of credit under</u>
27 <u>reimbursement credit</u>	<u>subdivision sixty-three of</u>
28 <u>under subsection (uuu)</u>	<u>section two hundred ten-B</u>

29 § 8. Section 606 of the tax law is amended by adding a new subsection
30 (uuu) to read as follows:

31 (uuu) One fair wage reimbursement credit. (1) Allowance of credit. A
32 taxpayer shall be allowed a credit, to be computed as provided in
33 section fifty of this chapter, against the tax imposed by this article.

34 (2) Application of credit. If the amount of the credit allowed under
35 this subsection for any taxable year exceeds the taxpayer's tax for such
36 year, the excess will be treated as an overpayment of tax to be credited
37 or refunded in accordance with the provisions of section six hundred
38 eighty-six of this article, provided, however, that no interest will be
39 paid thereon.

40 § 9. Section 1511 of the tax law is amended by adding a new subdivi-
41 sion (ff) to read as follows:

42 (ff) One fair wage reimbursement credit. (1) Allowance of credit. A
43 taxpayer shall be allowed a credit, to be computed as provided in
44 section fifty of this chapter, against the tax imposed by this article.

45 (2) Application of credit. The credit allowed under this subdivision
46 shall not reduce the tax due for such year to be less than the minimum
47 fixed by paragraph four of subdivision (a) of section fifteen hundred
48 two or section fifteen hundred two-a of this article, whichever is
49 applicable. However, if the amount of the credit allowed under this
50 subdivision for any taxable year reduces the taxpayer's tax to such
51 amount, any amount of credit thus not deductible will be treated as an
52 overpayment of tax to be credited or refunded in accordance with the
53 provisions of section one thousand eighty-six of this chapter. Provided,
54 however, the provisions of subsection (c) of section one thousand eight-

1 y-eight of this chapter notwithstanding, no interest shall be paid thereon.
2

3 § 10. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this act directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid clause, sentence, paragraph, subdivision, section or part of this act had not been included herein.

10 § 11. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2027.
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