

STATE OF NEW YORK

3883

2025-2026 Regular Sessions

IN ASSEMBLY

January 30, 2025

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

AN ACT to amend the workers' compensation law, in relation to exempting farm laborer internships earning college credit from the definition of employee and employment

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

1 Section 1. The opening paragraph of subdivision 4 of section 2 of the
2 workers' compensation law, as amended by chapter 503 of the laws of
3 2016, is amended to read as follows:
4 "Employee" means a person engaged in one of the occupations enumerated
5 in section three of this article or who is in the service of an employer
6 whose principal business is that of carrying on or conducting a hazard-
7 ous employment upon the premises or at the plant, or in the course of
8 [~~his or her~~] such employee's employment away from the plant of [~~his or~~
9 ~~her~~] such employee's employer; "employee" shall also mean for the
10 purposes of this chapter any individual performing services in
11 construction for a contractor who does not overcome the presumption of
12 employment as provided under section eight hundred sixty-one-c of the
13 labor law; "employee" shall also mean for the purposes of this chapter
14 any individual performing services in the commercial goods transportation
15 industry for a commercial goods transportation contractor who does
16 not overcome the presumption of employment as provided under section
17 eight hundred sixty-two-b of the labor law; "employee" shall also mean
18 for the purposes of this chapter civil defense volunteers who are
19 personnel of volunteer agencies sponsored or authorized by a local
20 office under regulations of the civil defense commission, to the extent
21 of the provisions of groups seventeen and nineteen; "employee" shall at
22 the election of a municipal corporation made pursuant to local law duly
23 enacted also mean a member of an auxiliary police organization author-
24 ized by local law; and for the purposes of this chapter only a newspaper

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

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1 carrier under the age of eighteen years as defined in section thirty-two
2 hundred twenty-eight of the education law, but shall not include deliv-
3 ery of newspapers or shopping news to the consumer (including any
4 services directly related to such trade or business) by a person who is
5 not performing commercial goods transportation services for a commercial
6 goods transportation contractor within the meaning of article twenty-
7 five-C of the labor law, and shall not include domestic servants except
8 as provided in section three of this chapter, and except where the
9 employer has elected to bring such employees under the law by securing
10 compensation in accordance with the terms of section fifty of this chap-
11 ter. The term "employee" shall not include persons who are members of a
12 supervised amateur athletic activity operated on a non-profit basis,
13 provided that said members are not also otherwise engaged or employed by
14 any person, firm or corporation participating in said athletic activity,
15 nor shall it include the spouse or minor child of an employer who is a
16 farmer unless the services of such spouse or minor child shall be
17 engaged by said employer under an express contract of hire nor shall it
18 include an executive officer of a corporation who at all times during
19 the period involved owns all of the issued and outstanding stock of the
20 corporation and holds all of the offices pursuant to paragraph (e) of
21 section seven hundred fifteen of the business corporation law or two
22 executive officers of a corporation who at all times during the period
23 involved between them own all of the issued and outstanding stock of
24 such corporation and hold all such offices except as provided in subdi-
25 vision six of section fifty-four of this chapter provided, however, that
26 where there are two executive officers of a corporation each officer
27 must own at least one share of stock, nor shall it include a self-em-
28 ployed person or a partner of a partnership as defined in section ten of
29 the partnership law who is not covered under a compensation insurance
30 contract or a certificate of self-insurance as provided in subdivision
31 eight of section fifty-four of this chapter, nor shall it include farm
32 laborers except as provided in group fourteen-b of subdivision one
33 section three of this chapter. If a farm labor contractor recruits or
34 supplies farm laborers for work on a farm, such farm laborers shall for
35 the purposes of this chapter be deemed to be employees of the owner or
36 lessee of such farm. The term "employee" shall not include interns
37 receiving college credit for service as farm laborers. The term "employ-
38 ee" shall not include baby sitters as defined in subdivision three of
39 section one hundred thirty-one and subdivision three of section one
40 hundred thirty-two of the labor law or minors fourteen years of age or
41 over engaged in casual employment consisting of yard work and household
42 chores in and about a one family owner-occupied residence or the prem-
43 ises of a non-profit, non-commercial organization, not involving the use
44 of power-driven machinery. The term "employee" shall not include persons
45 engaged by the owner in casual employment consisting of yard work,
46 household chores and making repairs to or painting in and about a one-
47 family owner-occupied residence. The term "employee" shall not include
48 the services of a licensed real estate broker or sales associate if it
49 be proven that (a) substantially all of the remuneration (whether or not
50 paid in cash) for the services performed by such broker or sales associ-
51 ate is directly related to sales or other output (including the perform-
52 ance of services) rather than to the number of hours worked; (b) the
53 services performed by the broker or sales associate are performed pursu-
54 ant to a written contract executed between such broker or sales associ-
55 ate and the person for whom the services are performed within the past
56 twelve to fifteen months; and (c) the written contract provided for in

1 paragraph (b) of this subdivision was not executed under duress and
2 contains the following provisions:

3 § 2. The opening paragraph of paragraph A of subdivision 6 of section
4 201 of the workers' compensation law, as amended by chapter 105 of the
5 laws of 2019, is amended to read as follows:

6 "Employment" means employment in any trade, business or occupation
7 carried on by an employer, except that the following shall not be deemed
8 employment under this article: services performed for the state, a
9 municipal corporation, local governmental agency, other political subdivi-
10 sion or public authority; employment subject to the federal railroad
11 unemployment insurance act; service performed on or as an officer or
12 member of the crew of a vessel on the navigable water of the United
13 States or outside the United States; casual employment and the first
14 forty-five days of extra employment of employees not regularly in
15 employment as otherwise defined herein; service as golf caddies; service
16 as a farm laborer where such service is an internship granting college
17 course credit; and service during all or any part of the school year or
18 regular vacation periods as a part-time worker of any person actually in
19 regular attendance during the day time as a student in an elementary or
20 secondary school. The term "employment" shall include domestic or
21 personal work in a private home. The term "employment" shall not include
22 the services of a licensed real estate broker or sales associate if it
23 be proven that (a) substantially all of the remuneration (whether or not
24 paid in cash) for the services performed by such broker or sales associ-
25 ate is directly related to sales or other output (including the perform-
26 ance of services) rather than to the number of hours worked; (b) the
27 services performed by the broker or sales associate are performed pursu-
28 ant to a written contract executed between such broker or sales associ-
29 ate and the person for whom the services are performed within the past
30 twelve to fifteen months; and (c) the written contract provided for in
31 subparagraph (b) of this paragraph was not executed under duress and
32 contains the following provisions:

33 § 3. This act shall take effect on the first of January next succeed-
34 ing the date on which it shall have become a law.