

STATE OF NEW YORK

28--A

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. SKOUFIS, COMRIE, COONEY, FERNANDEZ, GOUNARDES, HARCKHAM, HOYLMAN-SIGAL, JACKSON, KAVANAGH, MAY, RAMOS, SALAZAR, STAVISKY -- 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

AN ACT to amend the labor law, in relation to the minimum wage for employees with disabilities

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 5 of section 651 of
2 the labor law, as amended by chapter 391 of the laws of 2024, is amended
3 to read as follows:
4 "Employee" includes any individual employed or permitted to work by an
5 employer in any occupation, but shall not include any individual who is
6 employed or permitted to work: (a) on a casual basis in service as a
7 part time baby sitter in the home of the employer; (b) in a bona fide
8 executive, administrative, or professional capacity; (c) as an outside
9 [~~salesman~~ salesperson; (d) as a driver engaged in operating a taxicab;
10 (e) as a volunteer, learner or apprentice by a corporation, unincorpo-
11 rated association, community chest, fund or foundation organized and
12 operated exclusively for religious, charitable or educational purposes,
13 no part of the net earnings of which inures to the benefit of any
14 private shareholder or individual; (f) as a member of a religious order,
15 or as a duly ordained, commissioned or licensed minister, priest or
16 rabbi, or as a sexton, or as a christian science reader; (g) in or for
17 such a religious or charitable institution, which work is incidental to
18 or in return for charitable aid conferred upon such individual and not
19 under any express contract of hire; (h) in or for such a religious,
20 educational or charitable institution if such individual is a student;

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

LBD00052-03-5

1 (i) [~~in or for such a religious, educational or charitable institution~~
 2 ~~if the earning capacity of such individual is impaired by age or by~~
 3 ~~physical or mental deficiency or injury, (j)~~] in or for a summer camp or
 4 conference of such a religious, educational or charitable institution
 5 for not more than three months annually; [~~(k)~~] (j) as a staff counselor
 6 in a children's camp; [~~(l)~~] (k) in or for a college or university
 7 fraternity, sorority, student association or faculty association, no
 8 part of the net earnings of which inures to the benefit of any private
 9 shareholder or individual, and which is recognized by such college or
 10 university, if such individual is a student; [~~(m)~~] (l) by a federal,
 11 state or municipal government or political subdivision thereof; [~~(n)~~]
 12 (m) as a volunteer at a recreational or amusement event run by a busi-
 13 ness that operates such events, provided that no single such event lasts
 14 longer than eight consecutive days and no more than one such event
 15 concerning substantially the same subject matter occurs in any calendar
 16 year, where (1) any such volunteer shall be at least eighteen years of
 17 age, (2) a business seeking coverage under this paragraph shall notify
 18 every volunteer in writing, in language acceptable to the commissioner,
 19 that by volunteering [~~his or her~~] their services, such volunteer is
 20 waiving [~~his or her~~] their right to receive the minimum wage pursuant to
 21 this article, and (3) such notice shall be signed and dated by a repre-
 22 sentative of the business and the volunteer and kept on file by the
 23 business for thirty-six months; [~~(o)~~] (n) in the delivery of newspapers
 24 or shopping news to the consumer by a person who is not performing
 25 commercial goods transportation services for a commercial goods trans-
 26 portation contractor within the meaning of article twenty-five-C of this
 27 chapter; or [~~(p)~~] (o) having entered into a contract to play baseball at
 28 the minor league level and who is compensated pursuant to the terms of a
 29 collective bargaining agreement that expressly provides for the wages,
 30 hours of work, and working conditions of employees. The exclusions from
 31 the term "employee" contained in this subdivision shall be as defined by
 32 regulations of the commissioner.

33 § 2. Paragraph (c) of subdivision 5 of section 655 of the labor law,
 34 as amended by chapter 747 of the laws of 1978, is amended to read as
 35 follows:

36 (c) The wage board may also recommend, to the extent necessary in
 37 order to prevent curtailment of opportunities for employment, regu-
 38 lations for (1) the employment of learners and apprentices, under
 39 special certificates issued by the commissioner, at such wages lower
 40 than the minimum wage established by this article and subject to such
 41 limitations as to time, number, proportion and length of service as
 42 shall be prescribed in such regulation, (2) [~~the employment of individ-~~
 43 ~~uals whose earning capacity is affected or impaired by youth or age or~~
 44 ~~by physical or mental deficiency or injury, under special certificates~~
 45 ~~issued by the commissioner, at such wages lower than the minimum wage~~
 46 ~~established by this article and for such period as shall be prescribed~~
 47 ~~in such regulation, (3)] the establishment of a period not extending
 48 beyond seventeen consecutive weeks during which a resort hotel or camp
 49 may employ students under special certificates issued by the commission-
 50 er, at such wages lower than the minimum wage established by this arti-
 51 cle as shall be prescribed in such regulation, and [~~(4)~~] (3) the employ-
 52 ment of residential employees in a non-profit making religious,
 53 charitable or educational organization or in a non-profit making college
 54 or university sorority or fraternity under special certificates issued
 55 by the commissioner at such weekly wage as shall be prescribed in such
 56 regulation.~~

1 § 3. This act shall take effect on the thirty-first of December next
2 succeeding the date upon which it shall have become a law. Effective
3 immediately, the addition, amendment and/or repeal of any rule or regu-
4 lation by the department of labor necessary for the implementation of
5 this act on its effective date are authorized to be made on or before
6 such effective date.