

STATE OF NEW YORK

28--C

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 -- reported favorably from said committee and committed to the Committee on Disabilities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- 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 and a new subdivision 10 is added 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

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

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

38 10. "Special certificate" means a special certificate issued by the
39 United States department of labor pursuant to section 214 (c) of the
40 federal "fair labor standards act of 1938", as amended, 29 U.S.C. sec.
41 201 et seq., to an employer that authorizes the employer to pay wages
42 that are less than the minimum wage otherwise required by law to employ-
43 ees whose earning or productive capacity is impaired by age, physical or
44 mental disability, or injury.

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

48 (c) The wage board may also recommend, to the extent necessary in
49 order to prevent curtailment of opportunities for employment, regu-
50 lations for (1) the employment of learners and apprentices, under
51 special certificates issued by the commissioner, at such wages lower
52 than the minimum wage established by this article and subject to such
53 limitations as to time, number, proportion and length of service as
54 shall be prescribed in such regulation, (2) [~~the employment of individ-~~
55 ~~uals whose earning capacity is affected or impaired by youth or age or~~
56 ~~by physical or mental deficiency or injury, under special certificates~~

1 ~~issued by the commissioner, at such wages lower than the minimum wage~~
2 ~~established by this article and for such period as shall be prescribed~~
3 ~~in such regulation, (3)]~~ the establishment of a period not extending
4 beyond seventeen consecutive weeks during which a resort hotel or camp
5 may employ students under special certificates issued by the commission-
6 er, at such wages lower than the minimum wage established by this arti-
7 cle as shall be prescribed in such regulation, and [~~(4)~~] (3) the employ-
8 ment of residential employees in a non-profit making religious,
9 charitable or educational organization or in a non-profit making college
10 or university sorority or fraternity under special certificates issued
11 by the commissioner at such weekly wage as shall be prescribed in such
12 regulation.

13 § 3. Section 652 of the labor law is amended by adding a new subdivi-
14 sion 7 to read as follows:

15 7. Notwithstanding any other provision of law to the contrary, no
16 employer shall pay an employee with a disability less than the highest
17 acceptable minimum wage where such employer was issued a new special
18 certificate or a special certificate was renewed based on the employee
19 having an impaired earning or productive capacity because of such
20 employee's disability on or after the effective date of this subdivi-
21 sion.

22 § 4. Subdivision 7 of section 652 of the labor law, as added by
23 section three of this act, is amended to read as follows:

24 7. Notwithstanding any other provision of law to the contrary, no
25 employer shall pay an employee with a disability less than the highest
26 acceptable minimum wage [~~where~~] regardless of whether such employer was
27 issued a [~~new~~] special certificate [~~or a special certificate was~~
28 ~~renewed~~] based on the employee having an impaired earning or productive
29 capacity because of such employee's disability [~~on or after the effec-~~
30 ~~tive date of this subdivision~~].

31 § 5. This act shall take effect immediately; provided, however,
32 sections one, two, and four of this act shall take effect December 31,
33 2027; and provided further, however, section three of this act shall
34 take effect December 31, 2025. Effective immediately, the addition,
35 amendment and/or repeal of any rule or regulation by the department of
36 labor necessary for the implementation of this act on its effective date
37 are authorized to be made on or before such effective date.