

7257

2015-2016 Regular Sessions

I N A S S E M B L Y

April 29, 2015

Introduced by M. of A. TITUS, HEASTIE, AUBRY, SILVER, HOOPER, WRIGHT, FARRELL, DINOWITZ, PEOPLES-STOKES, MARKEY, KAVANAGH, ABINANTI, SEPULVEDA, BRAUNSTEIN, CLARK, DenDEKKER, FAHY, GOTTFRIED, JAFFEE, MAYER, ROSENTHAL, CAHILL, PICHARDO, COLTON, MORELLE, BRONSON, RUSSELL, SKARTADOS, JEAN-PIERRE, KAMINSKY -- Multi-Sponsored by -- M. of A. BLAKE, COOK, CRESPO, DAVILA, GANTT, GLICK, KIM, LAVINE, LIFTON, MAGNARELLI, MOSLEY, NOLAN, ORTIZ, OTIS, PERRY, PRETLOW, RAMOS, ROBERTS, ROBINSON, ROZIC, SCHIMEL, SIMOTAS, SOLAGES, STECK, THIELE, TITONE, WEINSTEIN, WEPRIN -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to the minimum wage

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (n) of subdivision 5 of section 651 of the labor
2 law, as amended by chapter 481 of the laws of 2010, is amended to read
3 as follows:
4 (n) by [a] THE federal[, state or municipal] government or political
5 subdivision thereof. The exclusions from the term "employee" contained
6 in this subdivision shall be as defined by regulations of the commis-
7 sioner; or
8 S 2. Subdivision 6 of section 651 of the labor law, as amended by
9 chapter 281 of the laws of 2002, is amended to read as follows:
10 6. "Employer" includes any individual, partnership, association,
11 corporation, limited liability company, business trust, legal represen-
12 tative, STATE OR MUNICIPAL GOVERNMENT OR POLITICAL SUBDIVISION THEREOF,
13 or any organized group of persons acting as employer.
14 S 3. Subdivisions 1, 4 and 5 of section 652 of the labor law, subdivi-
15 sion 1 as amended by section 1 of part P of chapter 57 of the laws of
16 2013 and subdivisions 4 and 5 as amended by chapter 747 of the laws of
17 2004, are amended to read as follows:

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

LBD10738-02-5

1 1. Statutory. Every employer shall pay to each of its employees for
2 each hour worked a wage of not less than:

3 \$4.25 on and after April 1, 1991,
4 \$5.15 on and after March 31, 2000,
5 \$6.00 on and after January 1, 2005,
6 \$6.75 on and after January 1, 2006,
7 \$7.15 on and after January 1, 2007,
8 \$8.00 on and after December 31, 2013,
9 \$8.75 on and after December 31, 2014,
10 \$9.00 on and after December 31, 2015,

11 \$12.50 IN A CITY WITH A POPULATION IN EXCESS OF ONE MILLION AND IN
12 COUNTIES WITH A POPULATION OF NINE HUNDRED THOUSAND OR MORE THAT FALL
13 WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT AS DEFINED IN
14 SECTION TWELVE HUNDRED SIXTY-TWO OF THE PUBLIC AUTHORITIES LAW, AND
15 \$10.50 IN THE REMAINDER OF THE STATE ON AND AFTER DECEMBER 31, 2016,

16 \$13.75 IN A CITY WITH A POPULATION IN EXCESS OF ONE MILLION AND IN
17 COUNTIES WITH A POPULATION OF NINE HUNDRED THOUSAND OR MORE THAT FALL
18 WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT AS DEFINED IN
19 SECTION TWELVE HUNDRED SIXTY-TWO OF THE PUBLIC AUTHORITIES LAW, AND
20 \$11.55 IN THE REMAINDER OF THE STATE ON AND AFTER DECEMBER 31, 2017,

21 \$15.00 IN A CITY WITH A POPULATION IN EXCESS OF ONE MILLION AND IN
22 COUNTIES WITH A POPULATION OF NINE HUNDRED THOUSAND OR MORE THAT FALL
23 WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT AS DEFINED IN
24 SECTION TWELVE HUNDRED SIXTY-TWO OF THE PUBLIC AUTHORITIES LAW, AND
25 \$12.60 IN THE REMAINDER OF THE STATE ON AND AFTER DECEMBER 31, 2018, AND
26 ON AND AFTER DECEMBER 31, 2019 AND ON EACH FOLLOWING DECEMBER
27 THIRTY-FIRST, THE COMMISSIONER SHALL CALCULATE AND ESTABLISH AN ADJUSTED
28 MINIMUM WAGE RATE BY INCREASING THE THEN CURRENT MINIMUM WAGE RATE BY
29 THE RATE OF INFLATION FOR THE MOST RECENT TWELVE MONTH PERIOD AVAILABLE
30 PRIOR TO EACH DECEMBER THIRTY-FIRST USING THE CONSUMER PRICE INDEX-ALL
31 URBAN CONSUMERS, CPI-U, OR A SUCCESSOR INDEX AS CALCULATED BY THE UNITED
32 STATES DEPARTMENT OF LABOR, IF SUCH RATE OF INFLATION IS GREATER THAN
33 ZERO PERCENT, or, if greater, such other wage as may be established by
34 federal law pursuant to 29 U.S.C. section 206 or its successors
35 or such other wage as may be established in accordance with the
36 provisions of this article.

37 4. Notwithstanding subdivisions one and two of this section, the wage
38 for an employee who is a food service worker receiving tips shall be a
39 cash wage of at least three dollars and thirty cents per hour on or
40 after March thirty-first, two thousand; three dollars and eighty-five
41 cents on or after January first, two thousand five; at least four
42 dollars and thirty-five cents on or after January first, two thousand
43 six; [and] at least four dollars and sixty cents on or after January
44 first, two thousand seven[,] AND AT LEAST \$10.40 IN A CITY WITH A POPU-
45 LATION IN EXCESS OF ONE MILLION AND IN COUNTIES WITH A POPULATION OF
46 NINE HUNDRED THOUSAND OR MORE THAT FALL WITHIN THE METROPOLITAN COMMUTER
47 TRANSPORTATION DISTRICT AS DEFINED IN SECTION TWELVE HUNDRED SIXTY-TWO
48 OF THE PUBLIC AUTHORITIES LAW, AND \$8.75 IN THE REMAINDER OF THE STATE
49 ON AND AFTER DECEMBER 31, 2016; AND AT LEAST \$11.45 IN A CITY WITH A
50 POPULATION IN EXCESS OF ONE MILLION AND IN COUNTIES WITH A POPULATION OF
51 NINE HUNDRED THOUSAND OR MORE THAT FALL WITHIN THE METROPOLITAN COMMUTER
52 TRANSPORTATION DISTRICT AS DEFINED IN SECTION TWELVE HUNDRED SIXTY-TWO
53 OF THE PUBLIC AUTHORITIES LAW, AND \$9.65 IN THE REMAINDER OF THE STATE
54 ON AND AFTER DECEMBER 31, 2017; AND \$12.50 IN A CITY WITH A POPULATION
55 IN EXCESS OF ONE MILLION AND IN COUNTIES WITH A POPULATION OF NINE
56 HUNDRED THOUSAND OR MORE THAT FALL WITHIN THE METROPOLITAN COMMUTER

1 TRANSPORTATION DISTRICT AS DEFINED IN SECTION TWELVE HUNDRED SIXTY-TWO
2 OF THE PUBLIC AUTHORITIES LAW, AND \$10.50 IN THE REMAINDER OF THE STATE
3 ON AND AFTER DECEMBER 31, 2018 AND ON EACH FOLLOWING DECEMBER
4 THIRTY-FIRST, THE COMMISSIONER SHALL CALCULATE AND ESTABLISH AN ADJUSTED
5 CASH WAGE RATE BY INCREASING THE THEN CURRENT CASH WAGE RATE BY THE RATE
6 OF INFLATION FOR THE MOST RECENT TWELVE MONTH PERIOD AVAILABLE PRIOR TO
7 EACH DECEMBER THIRTY-FIRST USING THE CONSUMER PRICE INDEX-ALL URBAN
8 CONSUMERS, CPI-U, OR A SUCCESSOR INDEX AS CALCULATED BY THE UNITED
9 STATES DEPARTMENT OF LABOR, IF SUCH RATE OF INFLATION IS GREATER THAN
10 ZERO PERCENT provided that the tips of such an employee, when added to
11 such cash wage, are equal to or exceed the minimum wage in effect pursu-
12 ant to subdivision one of this section and provided further that no
13 other cash wage is established pursuant to section six hundred fifty-
14 three of this article. In the event the cash wage payable under the Fair
15 Labor Standards Act (29 United States Code Sec. 203 (m), as amended), is
16 increased after enactment of this subdivision, the cash wage payable
17 under this subdivision shall automatically be increased by the propor-
18 tionate increase in the cash wage payable under such federal law, and
19 will be immediately enforceable as the cash wage payable to food service
20 workers under this article.

21 5. Notwithstanding subdivisions one and two of this section, meal and
22 lodging allowances for a food service worker receiving a cash wage
23 amounting to three dollars and thirty cents per hour on or after March
24 thirty-first, two thousand; three dollars and eighty-five cents on or
25 after January first, two thousand five; four dollars and thirty-five
26 cents on or after January first, two thousand six; [and] four dollars
27 and sixty cents on or after January first, two thousand seven[,]; AND AT
28 LEAST \$10.40 IN A CITY WITH A POPULATION IN EXCESS OF ONE MILLION AND IN
29 COUNTIES WITH A POPULATION OF NINE HUNDRED THOUSAND OR MORE THAT FALL
30 WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT AS DEFINED IN
31 SECTION TWELVE HUNDRED SIXTY-TWO OF THE PUBLIC AUTHORITIES LAW, AND
32 \$8.75 IN THE REMAINDER OF THE STATE ON AND AFTER DECEMBER 31, 2016; AND
33 AT LEAST \$11.45 IN A CITY WITH A POPULATION IN EXCESS OF ONE MILLION AND
34 IN COUNTIES WITH A POPULATION OF NINE HUNDRED THOUSAND OR MORE THAT FALL
35 WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT AS DEFINED IN
36 SECTION TWELVE HUNDRED SIXTY-TWO OF THE PUBLIC AUTHORITIES LAW, AND
37 \$9.65 IN THE REMAINDER OF THE STATE ON AND AFTER DECEMBER 31, 2017; AND
38 \$12.50 IN A CITY WITH A POPULATION IN EXCESS OF ONE MILLION AND IN COUN-
39 TIES WITH A POPULATION OF NINE HUNDRED THOUSAND OR MORE THAT FALL WITHIN
40 THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT AS DEFINED IN SECTION
41 TWELVE HUNDRED SIXTY-TWO OF THE PUBLIC AUTHORITIES LAW, AND \$10.50 IN
42 THE REMAINDER OF THE STATE ON AND AFTER DECEMBER 31, 2018 AND ON EACH
43 FOLLOWING DECEMBER THIRTY-FIRST, THE COMMISSIONER SHALL CALCULATE AND
44 ESTABLISH AN ADJUSTED CASH WAGE RATE BY INCREASING THE THEN CURRENT CASH
45 WAGE RATE BY THE RATE OF INFLATION FOR THE MOST RECENT TWELVE MONTH
46 PERIOD AVAILABLE PRIOR TO EACH DECEMBER THIRTY-FIRST USING THE CONSUMER
47 PRICE INDEX-ALL URBAN CONSUMERS, CPI-U, OR A SUCCESSOR INDEX AS CALCU-
48 LATED BY THE UNITED STATES DEPARTMENT OF LABOR, IF SUCH RATE OF
49 INFLATION IS GREATER THAN ZERO PERCENT shall not increase more than
50 two-thirds of the increase required by subdivision two of this section
51 as applied to state wage orders in effect pursuant to subdivision one of
52 this section.

53 S 4. This act shall take effect immediately.