

[Second Reprint]

ASSEMBLY, No. 822

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

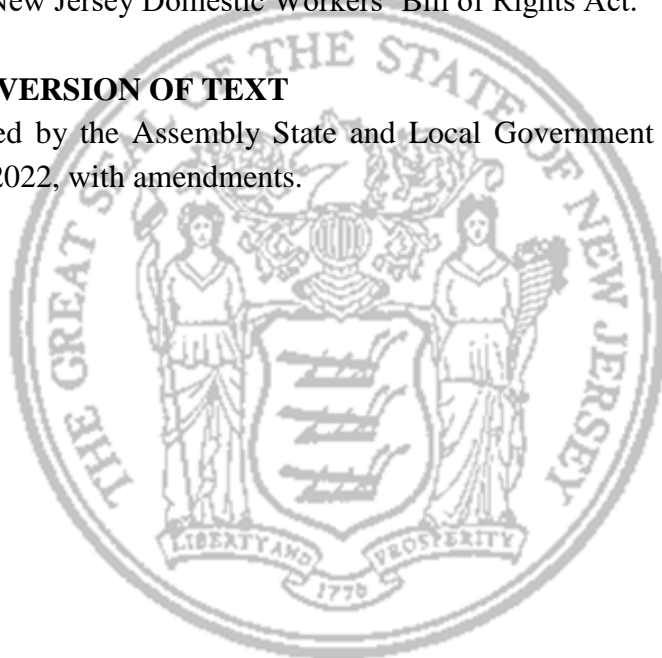
**Assemblyman Mukherji, Assemblywoman Sumter, Assemblyman Atkins,
Assemblywoman Jaffer, Assemblyman Spearman, Assemblywomen
Speight, Haider, McKnight, Yustein and Assemblyman McKeon**

SYNOPSIS

Creates “New Jersey Domestic Workers’ Bill of Rights Act.”

CURRENT VERSION OF TEXT

As reported by the Assembly State and Local Government Committee on
October 17, 2022, with amendments.



(Sponsorship Updated As Of: 1/8/2024)

1 **AN ACT** concerning the employment rights of domestic workers and
 2 amending and supplementing various parts of the statutory law.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 5 *of New Jersey:*

6

7 1. (New section) The Legislature finds and declares that:

8 a. Domestic workers provide valuable services in industries
 9 such as in-home child care, house cleaning, home care, cooking,
 10 gardening, and other household occupations.

11 b. The labor domestic workers provide is an important
 12 contribution to the State's economy and prosperity, including but
 13 not limited to, by providing support services that enable other
 14 individuals to participate in the workforce.

15 c. Many domestic workers are women, immigrants, and
 16 persons of color who work in or about private homes, isolated from
 17 other workers.

18 d. Since 2007, the National Domestic Workers Alliance
 19 (NDWA) has advocated for respect for domestic workers by
 20 including them in national, State, and local labor protection laws.
 21 NDWA. In September 2020, NDWA affiliates, Adhikaar, Casa
 22 Freehold, New Labor and Wind of the Spirit, in collaboration with
 23 the Center for Women at Work at Rutgers University, released a
 24 report which found low pay, lack of benefits, and rampant wage
 25 theft occurs throughout the domestic worker industry, and that there
 26 is a lack of enforcement regarding existing rights of domestic
 27 workers.

28 e. At least 10 other states and two cities have enacted
 29 legislation to provide rights, benefits, and protections for domestic
 30 workers.

31 f. The Legislature therefore finds that it is in the best interest
 32 of the State of New Jersey and its residents to provide rights,
 33 benefits, and protections to the countless domestic workers
 34 providing valuable services throughout the State.

35

36 2. (New section) As used in P.L. , c. (C.) (pending
 37 before the Legislature as this bill):

38 "Casual work" means work that is:

39 (1) irregular, uncertain, or incidental in nature and duration; and
 40 (2) different in nature from the type of paid work in which the
 41 worker is customarily engaged.

42 "Domestic services" means services of a household nature and
 43 performed by an individual in or about a private home on a
 44 permanent or temporary basis, and includes services performed by a
 45 domestic worker.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALA committee amendments adopted May 19, 2022.

²Assembly ASL committee amendments adopted October 17, 2022.

1 "Domestic worker" or "worker" means hourly and salaried
2 employees, independent contractors, full-time and part-time
3 individuals and temporary individuals and is narrowly construed to
4 mean any worker who:

5 (1) works for one or more employers; and

6 (2) is an individual who works in residence for the purposes of
7 providing any of the following services: caring for a child; serving
8 as a companion or caretaker for a sick, convalescing, or elderly
9 person, or a person with a disability; housekeeping or house
10 cleaning; cooking; providing food or butler service; parking cars;
11 cleaning laundry; gardening; personal organizing, or for any other
12 domestic service purpose; provided that the term domestic worker
13 does not include:

14 (a) A family member, with "family member" meaning a spouse,
15 child, parent, sibling, aunt, uncle, niece, nephew, first cousin,
16 grandparent, grandchild, father-in-law, mother-in-law, son-in-law,
17 daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half
18 brother, or half sister, whether the individual is related by blood,
19 marriage, or adoption;

20 (b) An individual primarily engaged in house sitting, pet sitting,
21 or dog walking;

22 (c) An individual working at a business operated primarily out
23 of the residence, such as a home day-care business;

24 (d) An individual whose primary work involves household
25 repair or maintenance, such as a roofer, plumber, mason, painter or
26 other
27 similar contractor;

28 (e) ²~~【A home health care worker while they are paid through~~
29 ~~public funds, such as a home health care worker while paid through~~
30 ~~Medicaid or Medicare】An employee of the State or the United~~
31 ~~States~~²;

32 (f) An individual established as a kinship legal guardian, as
33 defined by section 2. of P.L.2001, c. 250 (C.3B:12A-2), of a child
34 who lives in the residence, or an individual who participates in the
35 Kinship Navigator Program, as authorized by the Department of
36 Children and Families, as a caregiver of a child who lives in the
37 residence and receives services provided by a kinship navigator
38 service provider; or

39 (g) An individual less than 18 years of age.

40 "Department" means the Department of Labor and Workforce
41 Development.

42 "Employment agency" means any person or entity that procures,
43 or attempts to procure, directly or indirectly through placement in a
44 physical or virtual labor pool:

45 (1) employees, independent contractors, or domestic workers for
46 employers or companies seeking the services of employees,
47 independent contractors, or domestic workers; and

(2) after the procurement is complete, continues involvement in the terms of exchange of domestic services with the employees, independent contractors, or domestic workers through activities, including, but not limited to:

(a) processing or distributing or withholding workers' payment that the workers are owed from ¹**["hiring entities"]** ²**["employers"]** hiring entities² or clients;

(b) levying fees, fines, or discipline for unsatisfactory worker behavior that happened during an employment, independent contractor engagement, or other job, including the termination of workers;

(c) rating workers on an ongoing basis and publicly sharing those ratings to employers or clients;

(d) adjusting wages or payment based on ratings from employers or clients; or

(e) other forms of continued involvement after procurement that evidence ongoing control.

¹**["Hiring entity"]** means any employer, as defined in section 1 of P.L.1965, c.173 (C.34:11-4.1), who employs a domestic worker, and also means any person, firm, business, partnership, association, corporation, limited liability company, or other entity, including referral, employment, and internet based or on-demand platforms, that provides compensation directly or indirectly to a domestic worker for the performance of domestic services and any person or persons acting directly or indirectly in the interest of the employer in relation to the domestic worker.¹ ²"Hiring entity" means any employer, as defined in section 1 of P.L.1965, c.173 (C.34:11-4.1), who employs a domestic worker, and also means any person, firm, business, partnership, association, corporation, limited liability company, or other entity, including referral, employment, and internet based or on-demand platforms, that provides compensation directly or indirectly to a domestic worker for the performance of domestic services and any person or persons acting directly or indirectly in the interest of the employer in relation to the domestic worker.²

"Live-in domestic worker" includes any individuals, who, as part of their employment, reside in the personal residence of the ¹**["hiring entity"]** employer.¹

"Referral agency" means any person or entity that procures, or attempts to procure, directly or indirectly through placement in a physical or virtual labor pool:

(1) employees, independent contractors, or domestic workers for employers or companies seeking the services of employees, independent contractors, or domestic workers; and

(2) after the procurement does not continue involvement in the terms of exchange of domestic services with the employees,

1 independent contractors, or domestic workers in any way, with the
2 exception of the following:

3 (a) continuing to display or host or advertise, either through
4 physical means or virtual means, the workers' contact information,
5 job qualifications, resume, image, or digital profile which
6 employers or clients can use to independently contact employees,
7 independent contractors, or domestic workers about employment,
8 independent contractor engagement, or domestic workers about
9 employment, independent contractor engagements, or other jobs; or

10 (b) removing, either through physical means or virtual means,
11 the workers' contact information, job qualifications, resume, image,
12 or digital profile which employers or clients can use to
13 independently contact employees, upon the mandate of any federal,
14 State, or local

15 "Wage" means compensation due to the work of a domestic
16 worker, payable in legal tender of the United States or checks on
17 banks convertible into cash on demand at full face value, subject to
18 any deductions, charges, or allowances as may be permitted by rules
19 of the department.

20 "Written" or "writing" means a printed or printable
21 communication in physical or electronic form, including a
22 communication that is transmitted through email, text message, or a
23 computer system, or is otherwise sent and maintained
24 electronically.

25

26 3. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read
27 as follows:

28 5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a
29 different meaning clearly appears from the context:

30 a. "Person" includes one or more individuals, partnerships,
31 associations, organizations, labor organizations, corporations, legal
32 representatives, trustees, trustees in bankruptcy, receivers, and
33 fiduciaries.

34 b. "Employment agency" **[includes any person undertaking to**
35 **procure employees or opportunities for others to work]** ²**[shall have**
36 **the same meaning as in section 2 of P.L. , c. (C.) (pending**
37 **before the Legislature as this bill)] includes any person undertaking**
38 **to procure employees or opportunities for others to work**².

39 c. "Labor organization" includes any organization which exists
40 and is constituted for the purpose, in whole or in part, of collective
41 bargaining, or of dealing with employers concerning grievances,
42 terms or conditions of employment, or of other mutual aid or
43 protection in connection with employment.

44 d. "Unlawful employment practice" and "unlawful
45 discrimination" include only those unlawful practices and acts
46 specified in section 11 of P.L.1945, c.169 (C.10:5-12).

- 1 e. "Employer" includes all persons as defined in subsection a.
2 of this section ¹~~["and "hiring entities" as defined by section 2 of~~
3 ~~P.L. , c. (C.) (pending before the Legislature as this bill)."]¹~~
4 ²~~and "hiring entities" as defined by section 2 of P.L. ,~~
5 ~~c. (C.) (pending before the Legislature as this bill).²~~ unless
6 otherwise specifically exempt under another section of P.L.1945,
7 c.169 (C.10:5-1 et seq.), and includes the State, any political or civil
8 subdivision thereof, and all public officers, agencies, boards, or
9 bodies.
- 10 f. ~~["Employee" does not include any individual employed in~~
11 ~~the domestic service of any person.] (Deleted by amendment,~~
12 ~~P.L. , c. (pending before the Legislature as this bill)~~
- 13 g. "Liability for service in the Armed Forces of the United
14 States" means subject to being ordered as an individual or member
15 of an organized unit into active service in the Armed Forces of the
16 United States by reason of membership in the National Guard, naval
17 militia or a reserve component of the Armed Forces of the United
18 States, or subject to being inducted into such armed forces through
19 a system of national selective service.
- 20 h. "Division" means the "Division on Civil Rights" created by
21 P.L.1945, c.169 (C.10:5-1 et seq.).
- 22 i. "Attorney General" means the Attorney General of the State
23 of New Jersey or the Attorney General's representative or designee.
- 24 j. "Commission" means the Commission on Civil Rights
25 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 26 k. "Director" means the Director of the Division on Civil
27 Rights.
- 28 l. "A place of public accommodation" shall include, but not be
29 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
30 summer camp, day camp, or resort camp, whether for entertainment
31 of transient guests or accommodation of those seeking health,
32 recreation, or rest; any producer, manufacturer, wholesaler,
33 distributor, retail shop, store, establishment, or concession dealing
34 with goods or services of any kind; any restaurant, eating house, or
35 place where food is sold for consumption on the premises; any
36 place maintained for the sale of ice cream, ice and fruit preparations
37 or their derivatives, soda water or confections, or where any
38 beverages of any kind are retailed for consumption on the premises;
39 any garage, any public conveyance operated on land or water or in
40 the air or any stations and terminals thereof; any bathhouse,
41 boardwalk, or seashore accommodation; any auditorium, meeting
42 place, or hall; any theatre, motion-picture house, music hall, roof
43 garden, skating rink, swimming pool, amusement and recreation
44 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
45 pool parlor, or other place of amusement; any comfort station; any
46 dispensary, clinic, or hospital; any public library; and any
47 kindergarten, primary and secondary school, trade or business

1 school, high school, academy, college and university, or any
2 educational institution under the supervision of the State Board of
3 Education or the Commissioner of Education of the State of New
4 Jersey. Nothing herein contained shall be construed to include or to
5 apply to any institution, bona fide club, or place of accommodation,
6 which is in its nature distinctly private; nor shall anything herein
7 contained apply to any educational facility operated or maintained
8 by a bona fide religious or sectarian institution, and the right of a
9 natural parent or one in loco parentis to direct the education and
10 upbringing of a child under his control is hereby affirmed; nor shall
11 anything herein contained be construed to bar any private secondary
12 or post-secondary school from using in good faith criteria other than
13 race, creed, color, national origin, ancestry, gender identity, or
14 expression or affectional or sexual orientation in the admission of
15 students.

16 m. "A publicly assisted housing accommodation" shall include
17 all housing built with public funds or public assistance pursuant to
18 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
19 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
20 c.184, and all housing financed in whole or in part by a loan,
21 whether or not secured by a mortgage, the repayment of which is
22 guaranteed or insured by the federal government or any agency
23 thereof.

24 n. The term "real property" includes real estate, lands,
25 tenements and hereditaments, corporeal and incorporeal, and
26 leaseholds, provided, however, that, except as to publicly assisted
27 housing accommodations, the provisions of this act shall not apply
28 to the rental: (1) of a single apartment or flat in a two-family
29 dwelling, the other occupancy unit of which is occupied by the
30 owner as a residence; or (2) of a room or rooms to another person or
31 persons by the owner or occupant of a one-family dwelling
32 occupied by the owner or occupant as a residence at the time of
33 such rental. Nothing herein contained shall be construed to bar any
34 religious or denominational institution or organization, or any
35 organization operated for charitable or educational purposes, which
36 is operated, supervised, or controlled by or in connection with a
37 religious organization, in the sale, lease, or rental of real property,
38 from limiting admission to or giving preference to persons of the
39 same religion or denomination or from making such selection as is
40 calculated by such organization to promote the religious principles
41 for which it is established or maintained. Nor does any provision
42 under this act regarding discrimination on the basis of familial
43 status apply with respect to housing for older persons.

44 o. "Real estate broker" includes a person, firm, or corporation
45 who, for a fee, commission, or other valuable consideration, or by
46 reason of promise or reasonable expectation thereof, lists for sale,
47 sells, exchanges, buys or rents, or offers or attempts to negotiate a
48 sale, exchange, purchase, or rental of real estate or an interest

1 therein, or collects or offers or attempts to collect rent for the use of
2 real estate, or solicits for prospective purchasers or assists or directs
3 in the procuring of prospects or the negotiation or closing of any
4 transaction which does or is contemplated to result in the sale,
5 exchange, leasing, renting, or auctioning of any real estate, or
6 negotiates, or offers or attempts or agrees to negotiate a loan
7 secured or to be secured by mortgage or other encumbrance upon or
8 transfer of any real estate for others; or any person who, for
9 pecuniary gain or expectation of pecuniary gain conducts a public
10 or private competitive sale of lands or any interest in lands. In the
11 sale of lots, the term "real estate broker" shall also include any
12 person, partnership, association, or corporation employed by or on
13 behalf of the owner or owners of lots or other parcels of real estate,
14 at a stated salary, or upon a commission, or upon a salary and
15 commission or otherwise, to sell such real estate, or any parts
16 thereof, in lots or other parcels, and who shall sell or exchange, or
17 offer or attempt or agree to negotiate the sale or exchange, of any
18 such lot or parcel of real estate.

19 p. "Real estate salesperson" includes any person who, for
20 compensation, valuable consideration or commission, or other thing
21 of value, or by reason of a promise or reasonable expectation
22 thereof, is employed by and operates under the supervision of a
23 licensed real estate broker to sell or offer to sell, buy or offer to buy
24 or negotiate the purchase, sale, or exchange of real estate, or offers
25 or attempts to negotiate a loan secured or to be secured by a
26 mortgage or other encumbrance upon or transfer of real estate, or to
27 lease or rent, or offer to lease or rent any real estate for others, or to
28 collect rents for the use of real estate, or to solicit for prospective
29 purchasers or lessees of real estate, or who is employed by a
30 licensed real estate broker to sell or offer to sell lots or other parcels
31 of real estate, at a stated salary, or upon a commission, or upon a
32 salary and commission, or otherwise to sell real estate, or any parts
33 thereof, in lots or other parcels.

34 q. "Disability" means physical or sensory disability, infirmity,
35 malformation, or disfigurement which is caused by bodily injury,
36 birth defect, or illness including epilepsy and other seizure
37 disorders, and which shall include, but not be limited to, any degree
38 of paralysis, amputation, lack of physical coordination, blindness or
39 visual impairment, deafness or hearing impairment, muteness or
40 speech impairment, or physical reliance on a service or guide dog,
41 wheelchair, or other remedial appliance or device, or any mental,
42 psychological, or developmental disability, including autism
43 spectrum disorders, resulting from anatomical, psychological,
44 physiological, or neurological conditions which prevents the typical
45 exercise of any bodily or mental functions or is demonstrable,
46 medically or psychologically, by accepted clinical or laboratory
47 diagnostic techniques. Disability shall also mean AIDS or HIV
48 infection.

- 1 r. "Blind person" or "person who is blind" means any
2 individual whose central visual acuity does not exceed 20/200 in the
3 better eye with correcting lens or whose visual acuity is better than
4 20/200 if accompanied by a limit to the field of vision in the better
5 eye to such a degree that its widest diameter subtends an angle of
6 no greater than 20 degrees.
- 7 s. "Guide dog" means a dog used to assist persons who are
8 deaf, or which is fitted with a special harness so as to be suitable as
9 an aid to the mobility of a person who is blind, and is used by a
10 person who is blind and has satisfactorily completed a specific
11 course of training in the use of such a dog, and has been trained by
12 an organization generally recognized by agencies involved in the
13 rehabilitation of persons with disabilities, including, but not limited
14 to, those persons who are blind or deaf, as reputable and competent
15 to provide dogs with training of this type.
- 16 t. "Guide or service dog trainer" means any person who is
17 employed by an organization generally recognized by agencies
18 involved in the rehabilitation of persons with disabilities, including,
19 but not limited to, those persons who are blind, have visual
20 impairments, or are deaf or have hearing impairments, as reputable
21 and competent to provide dogs with training, as defined in this
22 section, and who is actually involved in the training process.
- 23 u. "Housing accommodation" means any publicly assisted
24 housing accommodation or any real property, or portion thereof,
25 which is used or occupied, or is intended, arranged, or designed to
26 be used or occupied, as the home, residence, or sleeping place of
27 one or more persons, but shall not include any single family
28 residence the occupants of which rent, lease, or furnish for
29 compensation not more than one room therein.
- 30 v. "Public facility" means any place of public accommodation
31 and any street, highway, sidewalk, walkway, public building, and
32 any other place or structure to which the general public is regularly,
33 normally, or customarily permitted or invited.
- 34 w. "Deaf person" or "person who is deaf" means any person
35 whose hearing is so severely impaired that the person is unable to
36 hear and understand conversational speech through the unaided ear
37 alone, and who must depend primarily on an assistive listening
38 device or visual communication such as writing, lip reading, sign
39 language, and gestures.
- 40 x. "Atypical hereditary cellular or blood trait" means sickle cell
41 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
42 fibrosis trait.
- 43 y. "Sickle cell trait" means the condition wherein the major
44 natural hemoglobin components present in the blood of the
45 individual are hemoglobin A (normal) and hemoglobin S (sickle
46 hemoglobin) as defined by standard chemical and physical analytic
47 techniques, including electrophoresis; and the proportion of
48 hemoglobin A is greater than the proportion of hemoglobin S or one

1 natural parent of the individual is shown to have only normal
2 hemoglobin components (hemoglobin A, hemoglobin A2,
3 hemoglobin F) in the normal proportions by standard chemical and
4 physical analytic tests.

5 z. "Hemoglobin C trait" means the condition wherein the major
6 natural hemoglobin components present in the blood of the
7 individual are hemoglobin A (normal) and hemoglobin C as defined
8 by standard chemical and physical analytic techniques, including
9 electrophoresis; and the proportion of hemoglobin A is greater than
10 the proportion of hemoglobin C or one natural parent of the
11 individual is shown to have only normal hemoglobin components
12 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
13 proportions by standard chemical and physical analytic tests.

14 aa. "Thalassemia trait" means the presence of the thalassemia
15 gene which in combination with another similar gene results in the
16 chronic hereditary disease Cooley's anemia.

17 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
18 which in combination with another similar gene results in the
19 chronic hereditary disease Tay-Sachs.

20 cc. "Cystic fibrosis trait" means the presence of the cystic
21 fibrosis gene which in combination with another similar gene
22 results in the chronic hereditary disease cystic fibrosis.

23 dd. "Service dog" means any dog individually trained to the
24 requirements of a person with a disability including, but not limited
25 to minimal protection work, rescue work, pulling a wheelchair or
26 retrieving dropped items. This term shall include a "seizure dog"
27 trained to alert or otherwise assist persons with epilepsy or other
28 seizure disorders.

29 ee. "Qualified Medicaid applicant" means an individual who is a
30 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

31 ff. "AIDS" means acquired immune deficiency syndrome as
32 defined by the Centers for Disease Control and Prevention of the
33 United States Public Health Service.

34 gg. "HIV infection" means infection with the human
35 immunodeficiency virus or any other related virus identified as a
36 probable causative agent of AIDS.

37 hh. "Affectional or sexual orientation" means male or female
38 heterosexuality, homosexuality, or bisexuality by inclination,
39 practice, identity, or expression, having a history thereof or being
40 perceived, presumed, or identified by others as having such an
41 orientation.

42 ii. "Heterosexuality" means affectional, emotional, or physical
43 attraction or behavior which is primarily directed towards persons
44 of the other gender.

45 jj. "Homosexuality" means affectional, emotional, or physical
46 attraction or behavior which is primarily directed towards persons
47 of the same gender.

1 kk. "Bisexuality" means affectional, emotional, or physical
2 attraction or behavior which is directed towards persons of either
3 gender.

4 ll. "Familial status" means being the natural parent of a child,
5 the adoptive parent of a child, the resource family parent of a child,
6 having a "parent and child relationship" with a child as defined by
7 State law, or having sole or joint legal or physical custody, care,
8 guardianship, or visitation with a child, or any person who is
9 pregnant or is in the process of securing legal custody of any
10 individual who has not attained the age of 18 years.

11 mm. "Housing for older persons" means housing:

12 (1) provided under any State program that the Attorney General
13 determines is specifically designed and operated to assist persons
14 who are elderly (as defined in the State program); or provided under
15 any federal program that the United States Department of Housing
16 and Urban Development determines is specifically designed and
17 operated to assist persons who are elderly (as defined in the federal
18 program); or

19 (2) intended for, and solely occupied by, persons 62 years of age
20 or older; or

21 (3) intended and operated for occupancy by at least one person
22 55 years of age or older per unit. In determining whether housing
23 qualifies as housing for older persons under this paragraph, the
24 Attorney General shall adopt regulations which require at least the
25 following factors:

26 (a) the existence of significant facilities and services
27 specifically designed to meet the physical or social needs of older
28 persons, or if the provision of such facilities and services is not
29 practicable, that such housing is necessary to provide important
30 housing opportunities for older persons; and

31 (b) that at least 80 percent of the units are occupied by at least
32 one person 55 years of age or older per unit; and

33 (c) the publication of, and adherence to, policies and procedures
34 which demonstrate an intent by the owner or manager to provide
35 housing for persons 55 years of age or older.

36 Housing shall not fail to meet the requirements for housing for
37 older persons by reason of: persons residing in such housing as of
38 September 13, 1988 not meeting the age requirements of this
39 subsection, provided that new occupants of such housing meet the
40 age requirements of this subsection; or unoccupied units, provided
41 that such units are reserved for occupancy by persons who meet the
42 age requirements of this subsection.

43 nn. "Genetic characteristic" means any inherited gene or
44 chromosome, or alteration thereof, that is scientifically or medically
45 believed to predispose an individual to a disease, disorder, or
46 syndrome, or to be associated with a statistically significant
47 increased risk of development of a disease, disorder, or syndrome.

1 oo. "Genetic information" means the information about genes,
2 gene products, or inherited characteristics that may derive from an
3 individual or family member.

4 pp. "Genetic test" means a test for determining the presence or
5 absence of an inherited genetic characteristic in an individual,
6 including tests of nucleic acids such as DNA, RNA, and
7 mitochondrial DNA, chromosomes, or proteins in order to identify a
8 predisposing genetic characteristic.

9 qq. "Domestic partnership" means a domestic partnership
10 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

11 rr. "Gender identity or expression" means having or being
12 perceived as having a gender related identity or expression whether
13 or not stereotypically associated with a person's assigned sex at
14 birth.

15 ss. "Civil Union" means a legally recognized union of two
16 eligible individuals established pursuant to R.S.37:1-1 et seq. and
17 P.L.2006, c.103 (C.37:1-28 et al.).

18 tt. "Premium wages" means additional remuneration for night,
19 weekend, or holiday work, or for standby or irregular duty.

20 uu. "Premium benefit" means an employment benefit, such as
21 seniority, group life insurance, health insurance, disability
22 insurance, sick leave, annual leave, or an educational or pension
23 benefit that is greater than the employment benefit due the
24 employee for an equivalent period of work performed during the
25 regular work schedule of the employee.

26 vv. "Race" is inclusive of traits historically associated with race,
27 including, but not limited to, hair texture, hair types, and protective
28 hairstyles.

29 ww. "Protective hairstyles" includes, but is not limited to, such
30 hairstyles as braids, locks, and twists.

31 xx. "Family member" means a child, parent, parent-in-law,
32 sibling, grandparent, grandchild, spouse, partner in a civil union
33 couple, domestic partner, or any other individual related by blood to
34 the person, and any other individual that the person shows to have a
35 close association with the person which is the equivalent of a family
36 relationship.

37 (cf: P.L.2019, c.436, s.2)

38

39 4. Section 2 of P.L.1965, c.154 (C.34:6A-2) is amended to read as
40 follows:

41 2. The following terms wherever used or referred to in this act
42 shall have the following meaning:

43 (a) "Act" means this act and rules and regulations promulgated
44 hereunder.

45 (b) "Board" means the Industrial Safety Board established under
46 this act.

1 (c) "Bureau" means the Bureau of Engineering and Safety in the
 2 Division of Labor, Department of Labor and Industry established
 3 under this act.

4 (d) "Commissioner" means the Commissioner of the Department
 5 of Labor and Industry or his authorized representatives.

6 (e) "Committee" means the New Jersey State Industrial Safety
 7 Committee established under this act.

8 (f) "Department" means the Department of Labor and Industry.

9 (g) "Employee" means any person engaged in service to an
 10 employer for wages, salary or other compensation.

11 (h) "Employer" means any person or corporation, partnership,
 12 individual proprietorship, joint venture, firm, company or other similar
 13 legal entity who engages the services of an employee and who pays his
 14 wages, salary, or other compensation; and any person exercising
 15 supervision of employees on an employer's behalf ¹]; and includes all
 16 "hiring entities" as defined by section 2 of P.L. , c. (C.)
 17 (pending before the Legislature as this bill)]¹.

18 (i) "Owner" means the person possessing legal or equitable title.
 19 For the purposes of this act "Person possessing equitable title" shall
 20 mean that person or corporation, partnership, individual proprietorship,
 21 joint venture, firm, company or other legal entity that has actual
 22 control over the premises used in whole or in part as a place of
 23 employment.

24 (j) "Place of employment" means any building or other premises
 25 occupied by an employer in or about which an employee customarily
 26 is suffered or permitted to work.

27 (k) "Domestic worker" means all persons defined as a domestic
 28 worker by section 2 of P.L. , c. (C.) (pending before the
 29 Legislature as bill).

30 (cf: P.L.1965, c.154, s.2)

31

32 ²5. Section 6 of P.L.1965, c.154 (C.34:6A-6) is amended to read
 33 as follows:

34 6. a. The commissioner shall enforce the provisions of this act,
 35 make complaints against persons violating its provisions and prosecute
 36 violations of the same.

37 b. The commissioner shall have the power and authority, without
 38 notice or delay during regular working hours or other reasonable
 39 hours within reasonable limits and in a reasonable manner, to enter
 40 and inspect any place of employment and all pertinent conditions,
 41 structures, machinery, apparatus, devices, equipment and materials
 42 and to question privately the owner and any employer or employee.

43 c. In the case where the ¹place of employment is a residential
 44 dwelling and the employee is a domestic worker] employer is an
 45 individual or group of individuals and the place of employment is the
 46 employer's residential dwelling¹, the commissioner or the
 47 commissioner's authorized representative shall initiate telephone

1 contact with the '【hiring entity】 employer' as soon as possible, but
2 not later than 14 calendar days after receipt of a complaint charging a
3 violation.

4 When telephone contact is successfully made, the commissioner or
5 the authorized representative shall:

6 (1) Notify the '【hiring entity】 employer' of the existence of any
7 alleged unsafe or unhealthful condition;

8 (2) Describe the alleged hazard and any specific regulatory
9 standard alleged to have been violated;

10 (3) Inform the '【hiring entity】 employer' that the '【entity】
11 employer' is required to investigate and abate any hazard discovered
12 during the investigation regarding violations of section 3 of P.L.1965,
13 c.154 (C.34:6A-3);

14 (4) Inform the '【hiring entity】 employer' by letter sent by
15 facsimile or email, or by certified mail if the employer cannot receive
16 facsimile or email, of each alleged hazard and each specific allegation
17 of a violation of a standard;

18 (5) Inform the '【hiring entity】 employer' that if the department
19 determines that the '【hiring entity's】 employer's' response is
20 unsatisfactory for any reason, the department shall seek permission
21 from the '【hiring entity】 employer' to enter the residential dwelling to
22 investigate the matter, and if permission is denied, may secure an
23 inspection warrant to conduct an onsite inspection of the residential
24 dwelling; and

25 (6) Provide the complainant with copies of the law and regulations
26 alleged to have been violated, the department's letter to the employer,
27 and all subsequent correspondence concerning the investigation of any
28 alleged hazards;

29 d. '【A hiring entity】 An employer' subject to investigation shall:

30 (1) Provide the department, within 14 days of the '【hiring
31 entity's】 employer's' receipt of the department's letter, a response
32 describing the results of the employer's investigation of the alleged
33 hazard and a description of all actions taken, in the process of being
34 taken, or planned to be taken, by the '【hiring entity】 employer' to
35 abate the alleged hazard;

36 (2) Provide a copy of the commissioner or the commissioner's
37 authorized representative's letter to the domestic worker, and all
38 subsequent correspondence from and to the '【hiring entity】 employer'
39 to the affected domestic worker, or prominently post the letter and
40 correspondence in the method prescribed by letter sent pursuant to
41 subsection c. of this section regarding each alleged hazard and each
42 specific standard to have been violated;

43 e. For complaints alleging serious illness or injury or death while
44 performing domestic services as defined by section 2 of P.L. ,
45 c. (C.) (pending before the Legislature as this bill), the
46 commissioner or the authorized representative may enter the premises
47 with permission or with an inspection warrant issued pursuant to

1 subsection b. of this section without first initiating the telephone
2 contact described in subsection c. of this section.

3 f. Notwithstanding any other provision of this chapter to the
4 contrary, investigations of complaints in domestic services as defined
5 by section 2 of P.L. , c. (C.) (pending before the Legislature
6 as this bill), shall be conducted in a manner to avoid any unwarranted
7 invasion of personal privacy and shall not contain any personal,
8 financial, or medical information of the individuals residing in the
9 residential dwelling that is not pertinent to the investigation of the
10 complaint.

11 g. No person shall obstruct, hinder or delay or interfere with by
12 force or otherwise the performance by the commissioner of any duty
13 under the provisions of this act.

14 (cf: P.L.1973, c.259, s.1)]²

15
16 ²6.5² Section 9 of P.L.1965, c.154 (C.34:6A-9) is amended to
17 read as follows:

18 9. The commissioner shall make and promulgate rules and
19 regulations reasonably necessary to implement the purposes of this act.
20 Such rules and regulations shall have the force and effect of law and
21 shall be enforced in the manner provided in this act.

22 The commissioner shall ¹make and promulgate rules to ensure the
23 requirements of section 3 of P.L.1965, c.154 (C.34:6A-3) apply to the
24 hiring entities of domestic workers. These rules shall include the
25 establishment of a mechanism to receive complaints within the
26 department that prompts inspections by the commissioner in
27 accordance with section 6 of P.L.1965, c.154 (C.34:6A-6)] provide for
28 the adoption of all applicable occupational standards, amendments, or
29 changes adopted or recognized by the Secretary of Labor under the
30 authority of the "Occupational Safety and Health Act of 1970," which
31 shall be applicable to domestic workers employed by individuals in the
32 residences of the individuals¹.

33 Buildings or other structures in use on the effective date of this act
34 as a place of employment other than a place where the manufacturing
35 of goods of any kind is carried on shall not be made to comply with
36 the requirements of rules and regulations promulgated hereunder
37 substantially affecting such building or other structures unless such
38 compliance is essential to correct an unsafe or unhealthful condition
39 which constitutes a serious and substantial threat to the health or
40 safety of employees.

41 The commissioner shall before promulgation furnish a copy of
42 proposed rules and regulations to the members of the committee for its
43 review and recommendations. Within 90 days of the receipt of said
44 proposed rules and regulations the committee shall provide the
45 commissioner and the board with its written recommendations.
46 Following receipt of the committee's recommendations or upon the
47 expiration of 90 days, the commissioner shall furnish to every member

1 of the board a copy of the proposed rules and regulations with or
2 without change in his discretion and at the same time a notice of intent
3 to promulgate proposed rules and regulations shall be published by the
4 commissioner. This notice of intent shall state briefly the purpose of
5 the proposed rules and regulations, shall state that a copy of the
6 proposed rules and regulations may be obtained by any person upon
7 written request to the department, and shall fix the date, time and place
8 for a public hearing on the proposed rules and regulations, which date
9 shall be not less than 21 days after the publication of the notice. All
10 person appearing at such hearing shall be given the opportunity to be
11 heard. Rules and regulations, as so proposed or as changed by the
12 commissioner after such hearing, may be promulgated by the
13 commissioner 90 days following delivery to the board to be effective
14 on such date as the rules and regulations shall provide unless
15 disapproved by a majority of the board and if so disapproved such
16 rules or regulations shall not become effective. Within 30 days after
17 the public hearing and on 30 days' notice the commissioner shall call a
18 meeting of the board for the purpose of discussing the proposed rules
19 and regulations. If any changes were made in the proposed rules or
20 regulations following the public hearing, a copy of such change shall
21 accompany such notice. At any meeting called for such purpose
22 disapproval shall be by vote of the majority of the members of the
23 board.

24 (cf: P.L.1965, c.154, s.9)

25
26 ²~~7.~~^{6.} Section 19 of P.L.1965, c.154 (C.34:6A-19) is
27 amended to read as follows:

28 19. Any person violating any of the provisions of this act shall
29 be liable to a penalty of not less than ~~[\$25.00]~~ \$975 nor more than
30 ~~[\$500.00]~~ \$13,653 to be collected in a civil action by a summary
31 proceeding under the Penalty Enforcement Law ~~[(N.J.S. 2A:58-1)]~~
32 of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Notwithstanding
33 the penalties prescribed in this section, the penalty amounts shall be
34 subject to adjustment by the commissioner to remain consistent
35 with the federal Occupational Safety and Health Act of 1970 (29
36 U.S.C. s. 651 et seq.). 50 percent of the sum collected as a penalty
37 pursuant to this subsection shall be provided to the employee
38 harmed by violation. Any violation of the act by an officer, agent or
39 employee shall also be a violation of the act by his employer if such
40 employer had knowledge of and actual control over the cause of
41 such violation. Where the violation is of a continuing nature each
42 day during which it continues, after the date given by which the
43 violation must be eliminated in the order by the commissioner, shall
44 constitute an additional, separate and distinct offense, except during
45 the time an appeal from said order may be taken or is pending.

46 The commissioner is hereby authorized and empowered to
47 compromise and settle any claim for a penalty under this section in

1 such amount in the discretion of the commissioner as may appear
2 appropriate and equitable under all of the circumstances.

3 Nothing in this subsection shall affect the rights of employees or
4 any remedies available to employees provided by section 5 of
5 P.L.1986, c.105 (C.34:19-5) or any other provision of law.
6 (cf: P.L.1965 c.154, s.19)
7

8 ²~~8.~~ ^{7.} ² Section 22 of P.L.1965, c.154 (C.34:6A-22) is amended
9 to read as follows:

10 22. This act is not intended to apply and shall not apply to the
11 following:

12 (a) Places of employment under the exclusive jurisdiction of the
13 Federal Government with respect to the health and safety of
14 employees;

15 (b) Places of employment subject to the provisions of the Mine
16 Safety Act, P.L.1954, c. 197;

17 (c) Employment and places of employment subject to the
18 provisions of the Construction Safety Act, P.L.1962, c. 45;

19 (d) ~~Domestic employment;~~ (Deleted by amendment, P.L. , c.)
20 (pending before the Legislature as this bill)

21 (e) Transportation equipment coming under the jurisdiction of the
22 Interstate Commerce Commission, Federal Aviation Administration,
23 or of the New Jersey Division of Motor Vehicles;

24 (f) ~~Institutions requiring a license issued by the Department of~~
25 ~~Institutions and Agencies pursuant to Revised Statutes 30:11-1;~~
26 ~~(Deleted by amendment, P.L. , c.) (pending before the Legislature~~
27 ~~as this bill)~~

28 (g) Schools, colleges and universities;

29 (h) Places of employment with fewer than 4 employees, except
30 places of employment ¹~~of~~ by individuals for¹ domestic services¹ in
31 the residences of the individuals¹; employment in which the
32 manufacturing of goods of any kind is carried on; and except as
33 hereinafter provided in paragraph (o) of this section;

34 (i) Agricultural employment;

35 (j) Banks and other financial institutions;

36 (k) Places of employment in which the employees are primarily
37 engaged in office operations and buildings under the actual control of
38 one employer and in which the employees are primarily engaged in
39 office operations or laboratories primarily engaged in research,
40 development, or testing conducted on premises, in separate buildings,
41 or in building sections devoted exclusively to these operations;

42 (l) Public utilities which own, operate, manage or control any
43 autobus, canal, express, railroad, street railway, traction railway,
44 subway, pipeline, gas, electric light, heat, power, water, oil, sewer,
45 telephone or telegraph system, plant or equipment for public use,
46 under privileges granted by the State or by any political subdivision
47 thereof, with respect to work operations performed in connection with

1 the plant or facilities of such public utility located in the public streets
2 and highways, roads and alleys, private rights-of-way, or upon their
3 customers' premises;

4 (m) Liquefied petroleum gas bulk plants and facilities subject to
5 the jurisdiction and supervision of the Superintendent of State Police,
6 pursuant to chapter 139 of the laws of 1950 (N.J.S.A. 21:1B-1 to
7 21:1B-8);

8 (n) Natural gas pipeline utilities subject to the provisions of the
9 Natural Gas Safety Act (P.L.1952, c. 166) (N.J.S.A. 48:10-2 to 48:10-
10 9); and

11 (o) Establishments with fewer than 10 employees and which are
12 devoted exclusively to the sale of goods, or furnishing of services, at
13 retail.

14 (cf: P.L.1965, c.154, s.22)

15
16 ¹9. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to
17 read as follows:

18 2. As used in this act:

19 (a) "Commissioner" means the Commissioner of Labor and
20 Workforce Development.

21 (b) "Director" means the director in charge of the bureau
22 referred to in section 3 of this act.

23 (c) "Wage board" means a board created as provided in section
24 10 of this act.

25 (d) "Wages" means any moneys due an employee from an
26 employer for services rendered or made available by the employee
27 to the employer as a result of their employment relationship
28 including commissions, bonus and piecework compensation and
29 including the fair value of any food or lodgings supplied by an
30 employer to an employee, and, until December 31, 2018, "wages"
31 includes any gratuities received by an employee for services
32 rendered for an employer or a customer of an employer. The
33 commissioner may, by regulation, establish the average value of
34 gratuities received by an employee in any occupation and the fair
35 value of food and lodging provided to employees in any occupation,
36 which average values shall be acceptable for the purposes of
37 determining compliance with this act in the absence of evidence of
38 the actual value of such items.

39 (e) "Regular hourly wage" means the amount that an employee
40 is regularly paid for each hour of work as determined by dividing
41 the total hours of work during the week into the employee's total
42 earnings for the week, exclusive of overtime premium pay.

43 (f) "Employ" includes to suffer or to permit to work.

44 (g) "Employer" includes any individual, partnership,
45 association, corporation, and the State and any county,
46 municipality, or school district in the State, or any agency,
47 authority, department, bureau, or instrumentality thereof, or any
48 person or group of persons acting directly or indirectly in the

1 interest of an employer in relation to an employee, and includes
2 “hiring entities” as defined in section 2 of P.L. , c. (C.)
3 (pending before the Legislature as this bill).

4 (h) "Employee" includes any individual employed by an
5 employer.

6 (i) "Occupation" means any occupation, service, trade,
7 business, industry or branch or group of industries or employment
8 or class of employment in which employees are gainfully employed.

9 (j) "Minimum fair wage order" means a wage order
10 promulgated pursuant to this act.

11 (k) "Fair wage" means a wage fairly and reasonably
12 commensurate with the value of the service or class of service
13 rendered and sufficient to meet the minimum cost of living
14 necessary for health.

15 (l) "Oppressive and unreasonable wage" means a wage which is
16 both less than the fair and reasonable value of the service rendered
17 and less than sufficient to meet the minimum cost of living
18 necessary for health.

19 (m) "Limousine" means a motor vehicle used in the business of
20 carrying passengers for hire to provide prearranged passenger
21 transportation at a premium fare on a dedicated, nonscheduled,
22 charter basis that is not conducted on a regular route and with a
23 seating capacity in no event of more than 14 passengers, not
24 including the driver, provided, that such a motor vehicle shall not
25 have a seating capacity in excess of four passengers, not including
26 the driver, beyond the maximum passenger seating capacity of the
27 vehicle, not including the driver, at the time of manufacture.
28 "Limousine" shall not include taxicabs, hotel or airport shuttles and
29 buses, buses employed solely in transporting school children or
30 teachers to and from school, vehicles owned and operated directly
31 or indirectly by businesses engaged in the practice of mortuary
32 science when those vehicles are used exclusively for providing
33 transportation related to the provision of funeral services or vehicles
34 owned and operated without charge or remuneration by a business
35 entity for its own purposes.

36 (n) "Seasonal employment" means employment during a year by
37 an employer that is a seasonal employer, or employment by a non-
38 profit or government entity of an individual who is not employed by
39 that employer outside of the period of that year commencing on
40 May 1 and ending September 30, or employment by a governmental
41 entity in a recreational program or service during the period
42 commencing on May 1 and ending September 30, except that
43 "seasonal employment" does not include employment of employees
44 engaged to labor on a farm on either a piece-rate or regular hourly
45 rate basis.

46 (o) "Seasonal employer" means an employer who exclusively
47 provides its services in a continuous period of not more than ten
48 weeks during the months of June, July, August, and September, or

1 an employer for which, during the immediately previous calendar
2 year, not less than two thirds of the employer's gross receipts were
3 received in a continuous period of not more than sixteen weeks or
4 for which not less than 75 percent of the wages paid by the
5 employer during the immediately preceding year were paid for work
6 performed during a single calendar quarter.

7 (p) "Small employer" means any employer who employed less
8 than six employees for every working day during each of a majority
9 of the calendar workweeks in the current calendar year and less than
10 six employees for every working day during not less than 48
11 calendar workweeks in the preceding calendar year, except that, if
12 the employer was newly established during the preceding calendar
13 year, the employer shall be regarded as a "small employer" if the
14 employer employed less than six employees for every working day
15 during all of the weeks of that year, and during a majority of the
16 calendar workweeks in the current calendar year, and, if the
17 employer is newly established during the current calendar year, the
18 employer shall be regarded as a "small employer" if the employer
19 employed less than six employees for every working day during a
20 majority of the calendar workweeks in the current calendar year.

21 (q) "Long-term care facility direct care staff member" means
22 any health care professional licensed or certified pursuant to Title
23 26 or Title 45 of the Revised Statutes who is employed by a long-
24 term care facility and who provides personal care, assistance, or
25 treatment services directly to residents of the facility in the course
26 of the professional's regular duties.

27 (cf: P.L.2020, c.89, s.1) **1**¹

28
29 **¹[10.] ²[9.1] 8.2** Section 5 of P.L.1966, c.113 (C.34:11-56a4)
30 is amended to read as follows:

31 5. a. Except as provided in subsections c., d., e. g., and i. of
32 this section, each employer shall pay to each of his employees
33 wages at a rate of not less than \$8.85 per hour as of January 1, 2019
34 and, on January 1 of 2020 and January 1 of each subsequent year,
35 the minimum wage shall be increased by any increase in the
36 consumer price index for all urban wage earners and clerical
37 workers (CPI-W) as calculated by the federal government for the 12
38 months prior to the September 30 preceding that January 1, except
39 that any of the following rates shall apply if it exceeds the rate
40 determined in accordance with the applicable increase in the CPI-W
41 for the indicated year: on July 1, 2019, the minimum wage shall be
42 \$10.00 per hour; on January 1, 2020, the minimum wage shall be
43 \$11.00 per hour; and on January 1 of each year from 2021 to 2024,
44 inclusive, the minimum wage shall be increased from the rate of the
45 preceding year by \$1.00 per hour. If the federal minimum hourly
46 wage rate set by section 6 of the federal "Fair Labor Standards Act
47 of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
48 level higher than the State minimum wage rate set by this

1 subsection, then the State minimum wage rate shall be increased to
2 the level of the federal minimum wage rate and subsequent
3 increases based on increases in the CPI-W pursuant to this section
4 shall be applied to the higher minimum wage rate. If an applicable
5 wage order has been issued by the commissioner under section 17
6 (C.34:11-56a16) of this act, the employer shall also pay not less
7 than the wages prescribed in said order. The wage rates fixed in
8 this section shall not be applicable to **part-time employees**
9 primarily engaged in the care and tending of children in the home of
10 the employer, to **persons** under the age of 18 not possessing a
11 special vocational school graduate permit issued pursuant to section
12 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as
13 salesmen of motor vehicles, or to persons employed as outside
14 salesmen as such terms shall be defined and delimited in regulations
15 adopted by the commissioner, or to persons employed in a volunteer
16 capacity and receiving only incidental benefits at a county or other
17 agricultural fair by a nonprofit or religious corporation or a
18 nonprofit or religious association which conducts or participates in
19 that fair.

20 b. (1) An employer shall also pay each employee not less than
21 1 1/2 times such employee's regular hourly rate for each hour of
22 working time in excess of 40 hours in any week, except that this
23 overtime rate shall not apply: to any individual employed in a bona
24 fide executive, administrative, or professional capacity; or to
25 employees engaged to labor on a farm or employed in a hotel; or to
26 an employee of a common carrier of passengers by motor bus; or to
27 a limousine driver who is an employee of an employer engaged in
28 the business of operating limousines; or to employees engaged in
29 labor relative to the raising or care of livestock.

30 (2) Employees engaged on a piece-rate or regular hourly rate
31 basis to labor on a farm shall be paid for each day worked not less
32 than the applicable minimum hourly wage rate multiplied by the
33 total number of hours worked.

34 (3) Full-time students may be employed by the college or
35 university at which they are enrolled at not less than 85% of the
36 effective applicable minimum wage rate.

37 c. Employees of a small employer, and employees who are
38 engaged in seasonal employment, except for employees who
39 customarily and regularly receive gratuities or tips who shall be
40 subject to the provisions of subsections a. and d. of this section,
41 shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1
42 of 2020 and January 1 of each subsequent year, that minimum wage
43 rate shall be increased by any increase in the consumer price index
44 for all urban wage earners and clerical workers (CPI-W) as
45 calculated by the federal government for the 12 months prior to the
46 September 30 preceding that January 1, except that any of the
47 following rates shall apply if it exceeds the rate determined in
48 accordance with the applicable increase in the CPI-W for the

1 indicated year: on January 1, 2020, the minimum wage shall be
2 \$10.30 per hour; and on January 1 of each year from 2021 to 2025,
3 inclusive, the minimum wage shall be increased from the rate of the
4 preceding year by eighty cents per hour, and, in 2026, the minimum
5 wage shall be increased from the rate of the preceding year by
6 seventy cents per hour, and, in each year from 2027 to 2028
7 inclusive, the minimum wage for employees subject to this
8 subsection c. shall be increased by the same amount as the increase
9 for employees subject to subsection a. of this section based on CPI-
10 W increases, plus one half of the difference between \$15.00 per
11 hour and the minimum wage in effect in 2026 for employees
12 pursuant to subsection a. of this section, so that, by 2028, the
13 minimum wage for employees subject to this subsection shall be the
14 same as the minimum wage in effect for employees subject to
15 subsection a. of this section. If the federal minimum hourly wage
16 rate set by section 6 of the federal "Fair Labor Standards Act of
17 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
18 level higher than the State minimum wage rate set by this
19 subsection, then the State minimum wage rate shall be increased to
20 the level of the federal minimum wage rate and subsequent
21 increases based on increases in the CPI-W pursuant to this
22 subsection shall be applied to the higher minimum wage rate.

23 d. Employees engaged on a piece-rate or regular hourly rate
24 basis to labor on a farm shall be paid \$8.85 per hour as of January
25 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent
26 year, that minimum wage rate shall be increased by any increase in
27 the consumer price index for all urban wage earners and clerical
28 workers (CPI-W) as calculated by the federal government for the 12
29 months prior to the September 30 preceding that January 1, except
30 that any of the following rates shall apply if it exceeds the rate
31 determined in accordance with the applicable increase in the CPI-W
32 for the indicated year:

33 (1) on January 1, 2020, the minimum wage shall be \$10.30 per
34 hour; on January 1, 2022, the minimum wage shall be \$10.90 per
35 hour; and on January 1 of each year from 2023 to 2024, inclusive,
36 the minimum wage shall be increased from the rate of the preceding
37 year by eighty cents per hour; and

38 (2) subject to the provisions of paragraph (3) of this subsection
39 d., minimum wage rates shall be increased as follows: on January 1
40 of 2025, the minimum wage shall be increased to \$13.40, and on
41 January 1 of each year from 2026 to 2027, inclusive, the minimum
42 wage shall be increased from the rate of the preceding year by
43 eighty cents per hour, and, in each year from 2028 to 2030
44 inclusive, the minimum wage for employees subject to this
45 subsection d. shall be increased during that year by the same
46 amount as the increase in that year for employees subject to
47 subsection a. of this section based on CPI-W increases, plus one
48 third of the difference between \$15.00 per hour and the minimum

1 wage in effect in 2027 for employees pursuant to subsection a. of
2 this section, so that, by 2030, the minimum wage for employees
3 subject to this subsection shall be the same as the minimum wage in
4 effect for employees subject to subsection a. of this section.

5 (3) Not later than March 31, 2024, the commissioner and the
6 Secretary of Agriculture shall review the report issued by the
7 commissioner pursuant to subsection b. of section 4 of P.L.2019,
8 c.32 (C.34:11-56a4.10) and shall consider any information provided
9 by the secretary regarding the impact on farm employers and the
10 viability of the State's agricultural industry of the increases of the
11 minimum wage made pursuant to paragraph (1) of this subsection,
12 and the potential impact of the increases which would be set by
13 paragraph (2) of this subsection, including comparisons with the
14 wage rates in the agricultural industries in other states, and shall
15 recommend: approval of the increases set forth in paragraph (2) of
16 this subsection; disapproval of the increases set forth in paragraph
17 (2) of this subsection; or an alternative manner of changing the
18 minimum wage after 2024 for employees engaged on a piece-rate or
19 regular hourly rate basis to labor on a farm. In contemplation of the
20 possibility that the commissioner and the secretary are unable to
21 agree on the recommendation required by this paragraph, by
22 December 31, 2021, the Governor shall appoint a public member
23 subject to advice and consent by the Senate, who will serve as a tie-
24 breaking member if needed. The increases set forth in paragraph
25 (2) of this subsection shall take effect unless there is a
26 recommendation pursuant to this paragraph to disapprove the
27 increases or for an alternative manner of changing the minimum
28 wage after 2024 for employees engaged on a piece-rate or regular
29 hourly rate basis to labor on a farm and the Legislature, not later
30 than June 30, 2024, enacts a concurrent resolution approving the
31 implementation of that recommendation. Beginning in 2024, the
32 commissioner, secretary, and public member shall meet biennially
33 to make either a one or two year recommendation to the Legislature
34 for implementation by way of concurrent resolution.

35 (4) If the federal minimum hourly wage rate set by section 6 of
36 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or
37 a successor federal law, is raised to a level higher than the State
38 minimum wage rate set by this subsection, then the State minimum
39 wage rate shall be increased to the level of the federal minimum
40 wage rate and subsequent increases based on increases in the CPI-
41 W pursuant to this subsection shall be applied to the higher
42 minimum wage rate.

43 e. With respect to an employee who customarily and regularly
44 receives gratuities or tips, every employer is entitled to a credit for
45 the gratuities or tips received by the employee against the hourly
46 wage rate that would otherwise be paid to the employee pursuant to
47 subsection a. of this section of the following amounts: after
48 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after

1 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during
2 calendar years 2020, 2021 and 2022, \$7.87 per hour; during
3 calendar year 2023, \$8.87 per hour; and during calendar year 2024
4 and subsequent calendar years, \$9.87 per hour.

5 f. Notwithstanding the provisions of this section to the
6 contrary, every trucking industry employer shall pay to all drivers,
7 helpers, loaders and mechanics for whom the Secretary of
8 Transportation may prescribe maximum hours of work for the safe
9 operation of vehicles, pursuant to section 31502(b) of the federal
10 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less
11 than 1 1/2 times the minimum wage required pursuant to this
12 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking
13 industry shall be paid no less than the minimum wage rate as
14 provided in this section and N.J.A.C. 12:56-3.1. As used in this
15 section, "trucking industry employer" means any business or
16 establishment primarily operating for the purpose of conveying
17 property from one place to another by road or highway, including
18 the storage and warehousing of goods and property. Such an
19 employer shall also be subject to the jurisdiction of the Secretary of
20 Transportation pursuant to the federal Motor Carrier Act, 49
21 U.S.C.s.31501 et seq., whose employees are exempt under section
22 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29
23 U.S.C. s.213(b)(1), which provides an exemption to employees
24 regulated by section 207 of the federal "Fair Labor Standards Act of
25 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49
26 U.S.C. s.501 et al.

27 g. Commencing on January 1, 2020, a training wage of not less
28 than 90 percent of the minimum wage rate otherwise set pursuant to
29 subsection a. of this section may be paid to an employee who is
30 enrolled in an established employer on-the-job or other training
31 program which meets standards set by regulations adopted by the
32 commissioner. The period during which an employer may pay the
33 training wage to the employee shall be the first 120 hours of work
34 after hiring the employee in employment in an occupation in which
35 the employee has no previous similar or related experience. An
36 employer shall not utilize any employee paid the training wage in a
37 manner which causes, induces, encourages or assists any
38 displacement or partial displacement of any currently employed
39 worker, including any previous recipient of the training wage, by
40 reducing hours of a currently employed worker, replacing a current
41 or laid off employee with a trainee, or by relocating operations
42 resulting in a loss of employment at a previous workplace, or in a
43 manner which replaces, supplants, competes with or duplicates any
44 approved apprenticeship program. An employer who pays an
45 employee a training wage shall make a good faith effort to continue
46 to employ the employee after the period of the training wage
47 expires and shall not hire the employee at the training wage unless
48 there is a reasonable expectation that there will be regular

1 employment, paying at or above the effective minimum wage, for
2 the trainee upon the successful completion of the period of the
3 training wage. If the commissioner determines that an employer
4 has made repeated, knowing violations of the provisions of this
5 subsection regarding the payment of a training wage, the
6 commissioner shall suspend the employer's right to pay a training
7 wage for a period set pursuant to regulations adopted by the
8 commissioner, but not less than three years.

9 h. The provisions of this section shall not be construed as
10 prohibiting any political subdivision of the State from adopting an
11 ordinance, resolution, regulation or rule, or entering into any
12 agreement, establishing any standard for vendors, contractors and
13 subcontractors of the subdivision regarding wage rates or overtime
14 compensation which is higher than the standards provided for in
15 this section, and no provision of any other State or federal law
16 establishing a minimum standard regarding wages or other terms
17 and conditions of employment shall be construed as preventing a
18 political subdivision of the State from adopting an ordinance,
19 resolution, regulation or rule, or entering into any agreement,
20 establishing a standard for vendors, contractors and subcontractors
21 of the subdivision which is higher than the State or federal law or
22 which otherwise provides greater protections or rights to employees
23 of the vendors, contractors and subcontractors of the subdivision,
24 unless the State or federal law expressly prohibits the subdivision
25 from adopting the ordinance, resolution, regulation or rule, or
26 entering into the agreement.

27 i. Effective on the first day of the second month next following
28 the effective date of P.L.2020, c.89 (C.30:4D-7cc et al.), the
29 minimum wage for long-term care facility direct care staff members
30 shall be in an amount that is \$3 higher than the prevailing minimum
31 wage established pursuant to subsection a. of this section.

32 (cf: P.L.2020, c.89, s.2)

33
34 ¹[11.] ²[10.¹] 9.² Section 1 of P.L.1952, c.9 (C.34:11-56.1) is
35 amended to read as follows:

36 1. As used in this act:

37 a. "Employee" includes any person, either male or female,
38 employed by an employer, but shall not include persons performing
39 volunteer service for nonprofit organizations or corporations nor
40 persons employed on a farm¹, or in domestic service in a private
41 home,¹ or in a hotel.

42 b. "Employer" includes any person acting directly or indirectly in
43 the interest, or as agent, of an employer in relation to an employee and
44 further includes one or more individuals, partnerships, corporations,
45 associations, legal representatives, trustees, trustees in bankruptcy, or
46 receivers, ¹[and "hiring entities" as defined by section 2 of P.L.],

1 c (C.) (pending before the Legislature as this bill).¹ such term
2 shall not include nonprofit hospital associations or corporations.

3 c. "Employ" includes to suffer or permit to work.

4 d. "Occupation" includes any industry, trade, business or branch
5 thereof, or any employment or class of employment.

6 e. "Commissioner" means the Commissioner of Labor and
7 **Industry Workforce Development** of the State of New Jersey.
8 (cf: P.L.1952, c.9, s.1)
9

10 ¹**[12.]** ²**[11.]** ¹ R.S.34:15-36 is amended to read as follows:

11 34:15-36. "Willful negligence" within the intent of this chapter
12 shall consist of (1) deliberate act or deliberate failure to act, or (2) such
13 conduct as evidences reckless indifference to safety, or (3)
14 intoxication, operating as the proximate cause of injury, or (4)
15 unlawful use of a controlled dangerous substance as defined in the
16 "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226
17 (C.24:21-1 et seq.).

18 "Employer" **is** declared to be synonymous with master, and
19 includes natural persons, partnerships, **and** ¹and¹ corporations¹,
20 and "hiring entities" as defined by section 2 of P.L. , c. (C.)
21 (pending before the Legislature as this bill)¹; "employee" **is**
22 synonymous with servant, and **includes** all natural persons, including
23 officers of corporations, who perform service for an employer for
24 financial consideration, exclusive of (1) employees eligible under the
25 federal "Longshore and Harbor Workers' Compensation Act," 44 Stat.
26 1424 (33 U.S.C.s.901 et seq.), for benefits payable with respect to
27 accidental death or injury, or occupational disease or infection; and (2)
28 casual employments, which shall be defined¹, if in connection with the
29 employer's business, as employment the occasion for which arises by
30 chance or is purely accidental; or if not in connection with any
31 business of the employer, as employment not regular, periodic or
32 recurring;¹ **as work that is:**

33 (a) irregular, uncertain, or incidental in nature or duration; and

34 (b) different in nature from the type of paid work in which the
35 worker is customarily engaged, provided, however, that forest fire
36 wardens and forest firefighters employed by the State of New Jersey
37 shall, in no event, be deemed casual employees.

38 An individual providing services for remuneration shall be
39 regarded as an employee of an employer for the purposes of the
40 workers' compensation law, R.S.34:15-1 et seq. unless and until it is
41 shown to the satisfaction of the division that:

42 (a) the individual has been and will continue to be free from
43 control or direction over the performance of such service, both under
44 his contract of service and in fact; and

45 (b) the service is either outside the usual course of the business for
46 which the service is performed, or that such service is performed

1 outside of all the places of business of the enterprise for which such
2 service is performed; and

3 (c) the individual is customarily engaged in an independently
4 established trade, occupation, profession, or business.

5 A self-employed person, partners of a limited liability partnership,
6 members of a limited liability company or partners of a partnership
7 who actively perform services on behalf of the self-employed person's
8 business, the limited liability partnership, limited liability company or
9 the partnership shall be deemed an "employee" of the business, limited
10 liability partnership, limited liability company or partnership for
11 purposes of receipt of benefits and payment of premiums pursuant to
12 this chapter, if the business, limited liability partnership, limited
13 liability company or partnership elects, when the workers'
14 compensation policy of the business, limited liability partnership,
15 limited liability company or partnership is purchased or renewed, to
16 obtain coverage for the person, the limited liability partners, the
17 limited liability company members or the partners. If the business,
18 limited liability partnership, limited liability company or partnership
19 elects to obtain coverage for the self-employed person, limited liability
20 partners, limited liability company members or the partners, the
21 election may only be made at purchase or at renewal and may not be
22 withdrawn during the policy term. If the business, limited liability
23 partnership, limited liability company or partnership performs services
24 covered under a homeowner's policy or other policies providing
25 comprehensive personal liability insurance for domestic **【servants】**
26 employees, household employees or the dependents thereof, the
27 workers' compensation policy of the business, limited liability
28 partnership, limited liability company or partnership shall have
29 primary responsibility for the payment of benefits. Notwithstanding
30 the provisions of R.S.34:15-71 and 34:15-72, the business, limited
31 liability partnership, limited liability company or partnership shall not
32 be required to purchase a policy unless the business, limited liability
33 partnership, limited liability company or partnership is an "employer"
34 of a least one employee as defined in this section who is not a self-
35 employed person, limited liability partner, limited liability company
36 member or partner actively performing services on behalf of the
37 business, limited liability partnership, limited liability company or
38 partnership.

39 Notwithstanding any other provision of law to the contrary, no
40 insurer or insurance producer as defined in section **【2 of P.L.1987,**
41 **c.293 (C.17:22A-2)】** 3 of P.L.2001, c.210 (c.17:22A-28) shall be
42 liable in an action for damages on account of the failure of a business,
43 limited liability partnership, limited liability company or partnership to
44 elect to obtain workers' compensation coverage for a self-employed
45 person, limited liability partner, limited liability company member or
46 partner, unless the insurer or insurance producer causes damage by a
47 willful, wanton or grossly negligent act of commission or omission.
48 Every application for workers' compensation made on or after the

1 effective date of this amendatory act shall include notice, as approved
2 by the Commissioner of Banking and Insurance, concerning the
3 availability of workers' compensation coverage for self-employed
4 persons, limited liability partners, limited liability company members
5 or partners. That application shall also contain a notice of election of
6 coverage and shall clearly state that coverage for self-employed
7 persons, limited liability partners, limited liability company members
8 and partners shall not be provided under the policy unless the
9 application containing the notice of election is executed and filed with
10 the insurer or insurance producer. The application containing the
11 notice of election shall also contain a statement that the insurer or
12 insurance producer shall not be liable in an action for damages on
13 account of the failure of a business, limited liability partnership,
14 limited liability company or partnership to elect to obtain workers'
15 compensation coverage for a self-employed person, limited liability
16 partner, limited liability company member or partner, unless the
17 insurer or insurance producer causes damage by a willful, wanton or
18 grossly negligent act of commission or omission. The failure of a self-
19 employed person, limited liability partnership, limited liability
20 company or partnership to elect to obtain workers' compensation
21 coverage for the self-employed person, the limited liability partners,
22 the limited liability company members or the partners shall not affect
23 benefits available under any other accident or health policy.

24 Employment shall be deemed to commence when an employee
25 arrives at the employer's place of employment to report for work and
26 shall terminate when the employee leaves the employer's place of
27 employment, excluding areas not under the control of the employer;
28 provided, however, when the employee is required by the employer to
29 be away from the employer's place of employment, the employee shall
30 be deemed to be in the course of employment when the employee is
31 engaged in the direct performance of duties assigned or directed by the
32 employer; but the employment of employee paid travel time by an
33 employer for time spent traveling to and from a job site or of any
34 employee who utilizes an employer authorized vehicle shall
35 commence and terminate with the time spent traveling to and from a
36 job site or the authorized operation of a vehicle on business authorized
37 by the employer. Travel by a policeman, fireman, or a member of a
38 first aid or rescue squad, in responding to and returning from an
39 emergency, shall be deemed to be in the course of employment.

40 Employment shall also be deemed to commence when an
41 employee is traveling in a ridesharing arrangement between his or her
42 place of residence or terminal near such place and his or her place of
43 employment, if one of the following conditions is satisfied: the vehicle
44 used in the ridesharing arrangement is owned, leased or contracted for
45 by the employer, or the employee is required by the employer to travel
46 in a ridesharing arrangement as a condition of employment.

47 Employment shall also be deemed to commence, if an employer
48 provides or designates a parking area for use by an employee, when an

1 employee arrives at the parking area prior to reporting for work and
2 shall terminate when an employee leaves the parking area at the end of
3 a work period; provided that, if the site of the parking area is separate
4 from the place of employment, an employee shall be deemed to be in
5 the course of employment while the employee travels directly from the
6 parking area to the place of employment prior to reporting for work
7 and while the employee travels directly from the place of employment
8 to the parking area at the end of a work period.

9 "Disability permanent in quality and partial in character" means a
10 permanent impairment caused by a compensable accident or
11 compensable occupational disease, based upon demonstrable objective
12 medical evidence, which restricts the function of the body or of its
13 members or organs; included in the criteria which shall be considered
14 shall be whether there has been a lessening to a material degree of an
15 employee's working ability. Subject to the above provisions, nothing
16 in this definition shall be construed to preclude benefits to a worker
17 who returns to work following a compensable accident even if there be
18 no reduction in earnings. Injuries such as minor lacerations, minor
19 contusions, minor sprains, and scars which do not constitute
20 significant permanent disfigurement, and occupational disease of a
21 minor nature such as mild dermatitis and mild bronchitis shall not
22 constitute permanent disability within the meaning of this definition.

23 "Disability permanent in quality and total in character" means a
24 physical or neuropsychiatric total permanent impairment caused by a
25 compensable accident or compensable occupational disease, where no
26 fundamental or marked improvement in such condition can be
27 reasonably expected.

28 Factors other than physical and neuropsychiatric impairments may
29 be considered in the determination of permanent total disability, where
30 such physical and neuropsychiatric impairments constitute at least
31 75% or higher of total disability.

32 "Ridesharing" means the transportation of persons in a motor
33 vehicle, with a maximum carrying capacity of not more than 15
34 passengers, including the driver, where such transportation is
35 incidental to the purpose of the driver. This term shall include such
36 ridesharing arrangements known as carpools and vanpools.

37 "Medical services, medical treatment, physicians' services and
38 physicians' treatment" shall include, but not be limited to, the services
39 which a chiropractor is authorized by law to perform and which are
40 authorized by an employer pursuant to the provisions of R.S.34:15-1 et
41 seq.

42 (cf: P.L.2021, c.334. s.1)]²

43
44 ²10. R.S.34:15-36 is amended to read as follows:

45 34:15-36. "Willful negligence" within the intent of this chapter
46 shall consist of (1) deliberate act or deliberate failure to act, or (2)
47 such conduct as evidences reckless indifference to safety, or (3)
48 intoxication, operating as the proximate cause of injury, or (4)

1 unlawful use of a controlled dangerous substance as defined in the
2 "New Jersey Controlled Dangerous Substances Act," P.L.1970,
3 c.226 (C.24:21-1 et seq.).

4 "Employer" [is declared to be synonymous with master, and]
5 includes natural persons, partnerships, and corporations;
6 "employee" [is synonymous with servant, and] includes all natural
7 persons, including officers of corporations, who perform service for
8 an employer for financial consideration, exclusive of (1) employees
9 eligible under the federal "Longshore and Harbor Workers'
10 Compensation Act," 44 Stat. 1424 (33 U.S.C.s.901 et seq.), for
11 benefits payable with respect to accidental death or injury, or
12 occupational disease or infection; and (2) casual employments,
13 which shall be defined[, if in connection with the employer's
14 business, as employment the occasion for which arises by chance or
15 is purely accidental; or if not in connection with any business of the
16 employer, as employment not regular, periodic or recurring;] as
17 work that is:

18 (a) irregular, uncertain, or incidental in nature or duration; and

19 (b) different in nature from the type of paid work in which the
20 worker is customarily engaged, provided, however, that forest fire
21 wardens and forest firefighters employed by the State of New Jersey
22 shall, in no event, be deemed casual employees.

23 A self-employed person, partners of a limited liability
24 partnership, members of a limited liability company or partners of a
25 partnership who actively perform services on behalf of the self-
26 employed person's business, the limited liability partnership, limited
27 liability company or the partnership shall be deemed an "employee"
28 of the business, limited liability partnership, limited liability
29 company or partnership for purposes of receipt of benefits and
30 payment of premiums pursuant to this chapter, if the business,
31 limited liability partnership, limited liability company or
32 partnership elects, when the workers' compensation policy of the
33 business, limited liability partnership, limited liability company or
34 partnership is purchased or renewed, to obtain coverage for the
35 person, the limited liability partners, the limited liability company
36 members or the partners. If the business, limited liability
37 partnership, limited liability company or partnership elects to obtain
38 coverage for the self-employed person, limited liability partners,
39 limited liability company members or the partners, the election may
40 only be made at purchase or at renewal and may not be withdrawn
41 during the policy term. If the business, limited liability partnership,
42 limited liability company or partnership performs services covered
43 under a homeowner's policy or other policies providing
44 comprehensive personal liability insurance for domestic [servants]
45 workers, household employees or the dependents thereof, the
46 workers' compensation policy of the business, limited liability
47 partnership, limited liability company or partnership shall have

1 primary responsibility for the payment of benefits. Notwithstanding
2 the provisions of R.S.34:15-71 and 34:15-72, the business, limited
3 liability partnership, limited liability company or partnership shall
4 not be required to purchase a policy unless the business, limited
5 liability partnership, limited liability company or partnership is an
6 "employer" of a least one employee as defined in this section who is
7 not a self-employed person, limited liability partner, limited
8 liability company member or partner actively performing services
9 on behalf of the business, limited liability partnership, limited
10 liability company or partnership.

11 Notwithstanding any other provision of law to the contrary, no
12 insurer or insurance producer as defined in section 3 of P.L.2001,
13 c.210 (C.17:22A-28) shall be liable in an action for damages on
14 account of the failure of a business, limited liability partnership,
15 limited liability company or partnership to elect to obtain workers'
16 compensation coverage for a self-employed person, limited liability
17 partner, limited liability company member or partner, unless the
18 insurer or insurance producer causes damage by a willful, wanton or
19 grossly negligent act of commission or omission. Every application
20 for workers' compensation made on or after the effective date of
21 this amendatory act shall include notice, as approved by the
22 Commissioner of Banking and Insurance, concerning the
23 availability of workers' compensation coverage for self-employed
24 persons, limited liability partners, limited liability company
25 members or partners. That application shall also contain a notice of
26 election of coverage and shall clearly state that coverage for self-
27 employed persons, limited liability partners, limited liability
28 company members and partners shall not be provided under the
29 policy unless the application containing the notice of election is
30 executed and filed with the insurer or insurance producer. The
31 application containing the notice of election shall also contain a
32 statement that the insurer or insurance producer shall not be liable
33 in an action for damages on account of the failure of a business,
34 limited liability partnership, limited liability company or
35 partnership to elect to obtain workers' compensation coverage for a
36 self-employed person, limited liability partner, limited liability
37 company member or partner, unless the insurer or insurance
38 producer causes damage by a willful, wanton or grossly negligent
39 act of commission or omission. The failure of a self-employed
40 person, limited liability partnership, limited liability company or
41 partnership to elect to obtain workers' compensation coverage for
42 the self-employed person, the limited liability partners, the limited
43 liability company members or the partners shall not affect benefits
44 available under any other accident or health policy.

45 Employment shall be deemed to commence when an employee
46 arrives at the employer's place of employment to report for work
47 and shall terminate when the employee leaves the employer's place
48 of employment, excluding areas not under the control of the

1 employer; provided, however, when the employee is required by the
2 employer to be away from the employer's place of employment, the
3 employee shall be deemed to be in the course of employment when
4 the employee is engaged in the direct performance of duties
5 assigned or directed by the employer; but the employment of
6 employee paid travel time by an employer for time spent traveling
7 to and from a job site or of any employee who utilizes an employer
8 authorized vehicle shall commence and terminate with the time
9 spent traveling to and from a job site or the authorized operation of
10 a vehicle on business authorized by the employer. Travel by a
11 policeman, fireman, or a member of a first aid or rescue squad, in
12 responding to and returning from an emergency, shall be deemed to
13 be in the course of employment.

14 Employment shall also be deemed to commence when an
15 employee is traveling in a ridesharing arrangement between his or
16 her place of residence or terminal near such place and his or her
17 place of employment, if one of the following conditions is satisfied:
18 the vehicle used in the ridesharing arrangement is owned, leased or
19 contracted for by the employer, or the employee is required by the
20 employer to travel in a ridesharing arrangement as a condition of
21 employment.

22 Employment shall also be deemed to commence, if an employer
23 provides or designates a parking area for use by an employee, when
24 an employee arrives at the parking area prior to reporting for work
25 and shall terminate when an employee leaves the parking area at the
26 end of a work period; provided that, if the site of the parking area is
27 separate from the place of employment, an employee shall be
28 deemed to be in the course of employment while the employee
29 travels directly from the parking area to the place of employment
30 prior to reporting for work and while the employee travels directly
31 from the place of employment to the parking area at the end of a
32 work period.

33 "Disability permanent in quality and partial in character" means
34 a permanent impairment caused by a compensable accident or
35 compensable occupational disease, based upon demonstrable
36 objective medical evidence, which restricts the function of the body
37 or of its members or organs; included in the criteria which shall be
38 considered shall be whether there has been a lessening to a material
39 degree of an employee's working ability. Subject to the above
40 provisions, nothing in this definition shall be construed to preclude
41 benefits to a worker who returns to work following a compensable
42 accident even if there be no reduction in earnings. Injuries such as
43 minor lacerations, minor contusions, minor sprains, and scars which
44 do not constitute significant permanent disfigurement, and
45 occupational disease of a minor nature such as mild dermatitis and
46 mild bronchitis shall not constitute permanent disability within the
47 meaning of this definition.

1 "Disability permanent in quality and total in character" means a
 2 physical or neuropsychiatric total permanent impairment caused by
 3 a compensable accident or compensable occupational disease,
 4 where no fundamental or marked improvement in such condition
 5 can be reasonably expected.

6 Factors other than physical and neuropsychiatric impairments
 7 may be considered in the determination of permanent total
 8 disability, where such physical and neuropsychiatric impairments
 9 constitute at least 75% or higher of total disability.

10 "Ridesharing" means the transportation of persons in a motor
 11 vehicle, with a maximum carrying capacity of not more than 15
 12 passengers, including the driver, where such transportation is
 13 incidental to the purpose of the driver. This term shall include such
 14 ridesharing arrangements known as carpools and vanpools.

15 "Medical services, medical treatment, physicians' services and
 16 physicians' treatment" shall include, but not be limited to, the
 17 services which a chiropractor is authorized by law to perform and
 18 which are authorized by an employer pursuant to the provisions of
 19 R.S.34:15-1 et seq.²

20 (cf: P.L.2021, c.334. s.1)

21

22 ¹~~13.~~ ²~~12.1~~ 11.² R.S.34:15-92 is amended to read as follows:

23 34:15-92. ~~Each employer~~ Employers ¹~~and hiring entities~~¹
 24 of domestic ~~servants or household employees~~ workers and every
 25 stock company or mutual association affording insurance for the
 26 liability of such employers by reason of that employment shall be
 27 exempted from the provisions of ~~R.S. 34:15-79, and~~ R.S. 34:15-
 28 80~~].~~ The provisions of ~~and~~ R.S. 34:15-81 ~~shall not be~~
 29 applicable where the insurance coverage is afforded pursuant to
 30 P.L., c. (now pending before the Legislature as Assembly
 31 Bill No. 949 of 1978)~~], but~~ ²employers of domestic workers² are
 32 required to provide written notice of insurance coverage and
 33 cancellation of a policy.

34 (cf: P.L.1979, c.380, s.3)

35

36 ¹~~14.~~ R.S.43:21-19 is amended to read as follows:

37 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
 38 seq.), unless the context clearly requires otherwise:

39 (a) (1) "Annual payroll" means the total amount of wages paid
 40 during a calendar year (regardless of when earned) by an employer
 41 for employment.

42 (2) "Average annual payroll" means the average of the annual
 43 payrolls of any employer for the last three or five preceding
 44 calendar years, whichever average is higher, except that any year or
 45 years throughout which an employer has had no "annual payroll"
 46 because of military service shall be deleted from the reckoning; the
 47 "average annual payroll" in such case is to be determined on the

1 basis of the prior three or five calendar years in each of which the
2 employer had an "annual payroll" in the operation of his business, if
3 the employer resumes his business within 12 months after
4 separation, discharge or release from such service, under conditions
5 other than dishonorable, and makes application to have his "average
6 annual payroll" determined on the basis of such deletion within 12
7 months after he resumes his business; provided, however, that
8 "average annual payroll" solely for the purposes of paragraph (3) of
9 subsection (e) of R.S.43:21-7 means the average of the annual
10 payrolls of any employer on which he paid contributions to the
11 State disability benefits fund for the last three or five preceding
12 calendar years, whichever average is higher; provided further that
13 only those wages be included on which employer contributions have
14 been paid on or before January 31 (or the next succeeding day if
15 such January 31 is a Saturday or Sunday) immediately preceding
16 the beginning of the 12-month period for which the employer's
17 contribution rate is computed.

18 (b) "Benefits" means the money payments payable to an
19 individual, as provided in this chapter (R.S.43:21-1 et seq.), with
20 respect to his unemployment.

21 (c) (1) "Base year" with respect to benefit years commencing
22 on or after July 1, 1986, shall mean the first four of the last five
23 completed calendar quarters immediately preceding an individual's
24 benefit year.

25 With respect to a benefit year commencing on or after July 1,
26 1995, if an individual does not have sufficient qualifying weeks or
27 wages in his base year to qualify for benefits, the individual shall
28 have the option of designating that his base year shall be the
29 "alternative base year," which means the last four completed
30 calendar quarters immediately preceding the individual's benefit
31 year; except that, with respect to a benefit year commencing on or
32 after October 1, 1995, if the individual also does not have sufficient
33 qualifying weeks or wages in the last four completed calendar
34 quarters immediately preceding his benefit year to qualify for
35 benefits, "alternative base year" means the last three completed
36 calendar quarters immediately preceding his benefit year and, of the
37 calendar quarter in which the benefit year commences, the portion
38 of the quarter which occurs before the commencing of the benefit
39 year.

40 The division shall inform the individual of his options under this
41 section as amended by P.L.1995, c.234. If information regarding
42 weeks and wages for the calendar quarter or quarters immediately
43 preceding the benefit year is not available to the division from the
44 regular quarterly reports of wage information and the division is not
45 able to obtain the information using other means pursuant to State
46 or federal law, the division may base the determination of eligibility
47 for benefits on the affidavit of an individual with respect to weeks
48 and wages for that calendar quarter. The individual shall furnish

1 payroll documentation, if available, in support of the affidavit. A
2 determination of benefits based on an alternative base year shall be
3 adjusted when the quarterly report of wage information from the
4 employer is received if that information causes a change in the
5 determination.

6 (2) With respect to a benefit year commencing on or after June
7 1, 1990 for an individual who immediately preceding the benefit
8 year was subject to a disability compensable under the provisions of
9 the "Temporary Disability Benefits Law," P.L.1948, c.110
10 (C.43:21-25 et seq.), "base year" shall mean the first four of the last
11 five completed calendar quarters immediately preceding the
12 individual's period of disability, if the employment held by the
13 individual immediately preceding the period of disability is no
14 longer available at the conclusion of that period and the individual
15 files a valid claim for unemployment benefits after the conclusion
16 of that period. For the purposes of this paragraph, "period of
17 disability" means the period defined as a period of disability by
18 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
19 c.110 (C.43:21-27). An individual who files a claim under the
20 provisions of this paragraph (2) shall not be regarded as having left
21 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

22 (3) With respect to a benefit year commencing on or after June
23 1, 1990 for an individual who immediately preceding the benefit
24 year was subject to a disability compensable under the provisions of
25 the workers' compensation law (chapter 15 of Title 34 of the
26 Revised Statutes), "base year" shall mean the first four of the last
27 five completed calendar quarters immediately preceding the
28 individual's period of disability, if the period of disability was not
29 longer than two years, if the employment held by the individual
30 immediately preceding the period of disability is no longer
31 available at the conclusion of that period and if the individual files a
32 valid claim for unemployment benefits after the conclusion of that
33 period. For the purposes of this paragraph, "period of disability"
34 means the period from the time at which the individual becomes
35 unable to work because of the compensable disability until the time
36 that the individual becomes able to resume work and continue work
37 on a permanent basis. An individual who files a claim under the
38 provisions of this paragraph (3) shall not be regarded as having left
39 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

40 (d) "Benefit year" with respect to any individual means the 364
41 consecutive calendar days beginning with the day on, or as of,
42 which he first files a valid claim for benefits, and thereafter
43 beginning with the day on, or as of, which the individual next files a
44 valid claim for benefits after the termination of his last preceding
45 benefit year. Any claim for benefits made in accordance with
46 subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim"
47 for the purpose of this subsection if (1) he is unemployed for the
48 week in which, or as of which, he files a claim for benefits; and (2)

1 he has fulfilled the conditions imposed by subsection (e) of
2 R.S.43:21-4.

3 (e) (1) "Division" means the Division of Unemployment and
4 Temporary Disability Insurance of the Department of Labor and
5 Workforce Development, and any transaction or exercise of
6 authority by the director of the division thereunder, or under this
7 chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by
8 the division.

9 (2) "Controller" means the Office of the Assistant
10 Commissioner for Finance and Controller of the Department of
11 Labor and Workforce Development, established by the 1982
12 Reorganization Plan of the Department of Labor.

13 (f) "Contributions" means the money payments to the State
14 Unemployment Compensation Fund, required by R.S.43:21-7.
15 "Payments in lieu of contributions" means the money payments to
16 the State Unemployment Compensation Fund by employers electing
17 or required to make payments in lieu of contributions, as provided
18 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-
19 7.3).

20 (g) "Employing unit" means the State or any of its
21 instrumentalities or any political subdivision thereof or any of its
22 instrumentalities or any instrumentality of more than one of the
23 foregoing or any instrumentality of any of the foregoing and one or
24 more other states or political subdivisions or any individual or type
25 of organization, any partnership, association, trust, estate, joint-
26 stock company, insurance company or corporation, whether
27 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
28 successor thereof, or the legal representative of a deceased person,
29 which has or subsequent to January 1, 1936, had in its employ one
30 or more individuals performing services for it within this State. All
31 individuals performing services within this State for any employing
32 unit which maintains two or more separate establishments within
33 this State shall be deemed to be employed by a single employing
34 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each
35 individual employed to perform or to assist in performing the work
36 of any agent or employee of an employing unit shall be deemed to
37 be employed by such employing unit for all the purposes of this
38 chapter (R.S.43:21-1 et seq.), whether such individual was hired or
39 paid directly by such employing unit or by such agent or employee;
40 provided the employing unit had actual or constructive knowledge
41 of the work.

42 (h) "Employer" means:

43 (1) Any employing unit which in either the current or the
44 preceding calendar year paid remuneration for employment in the
45 amount of \$1,000.00 or more;

46 (2) Any employing unit (whether or not an employing unit at the
47 time of acquisition) which acquired the organization, trade or
48 business, or substantially all the assets thereof, of another which, at

1 the time of such acquisition, was an employer subject to this chapter
2 (R.S.43:21-1 et seq.);

3 (3) Any employing unit which acquired the organization, trade
4 or business, or substantially all the assets thereof, of another
5 employing unit and which, if treated as a single unit with such other
6 employing unit, would be an employer under paragraph (1) of this
7 subsection;

8 (4) Any employing unit which together with one or more other
9 employing units is owned or controlled (by legally enforceable
10 means or otherwise), directly or indirectly by the same interests, or
11 which owns or controls one or more other employing units (by
12 legally enforceable means or otherwise), and which, if treated as a
13 single unit with such other employing unit or interest, would be an
14 employer under paragraph (1) of this subsection;

15 (5) Any employing unit for which service in employment as
16 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
17 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
18 performed after December 31, 1977;

19 (6) Any employing unit for which service in employment as
20 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
21 1971 and which in either the current or the preceding calendar year
22 paid remuneration for employment in the amount of \$1,000.00 or
23 more;

24 (7) Any employing unit not an employer by reason of any other
25 paragraph of this subsection (h) for which, within either the current
26 or preceding calendar year, service is or was performed with respect
27 to which such employing unit is liable for any federal tax against
28 which credit may be taken for contributions required to be paid into
29 a state unemployment fund; or which, as a condition for approval of
30 the "unemployment compensation law" for full tax credit against
31 the tax imposed by the Federal Unemployment Tax Act, is required
32 pursuant to such act to be an employer under this chapter
33 (R.S.43:21-1 et seq.);

34 (8) (Deleted by amendment; P.L.1977, c.307.)

35 (9) (Deleted by amendment; P.L.1977, c.307.)

36 (10) (Deleted by amendment; P.L.1977, c.307.)

37 (11) Any employing unit subject to the provisions of the Federal
38 Unemployment Tax Act within either the current or the preceding
39 calendar year, except for employment hereinafter excluded under
40 paragraph (7) of subsection (i) of this section;

41 (12) Any employing unit for which agricultural labor in
42 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
43 December 31, 1977;

44 (13) (a) Any employing unit for which domestic service in
45 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
46 December 31, 1977 and before January 1, 2022; and

1 (b) Any employing unit or hiring entity for domestic services as
2 defined in section 2 of P.L. , c. (C.)(pending before the
3 Legislature as this bill);

4 (14) Any employing unit which having become an employer
5 under the "unemployment compensation law" (R.S.43:21-1 et seq.),
6 has not under R.S.43:21-8 ceased to be an employer; or for the
7 effective period of its election pursuant to R.S.43:21-8, any other
8 employing unit which has elected to become fully subject to this
9 chapter (R.S.43:21-1 et seq.).

10 (i) (1) "Employment" means:

11 (A) Any service performed prior to January 1, 1972, which was
12 employment as defined in the "unemployment compensation law"
13 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
14 provisions of this subsection, service performed on or after January
15 1, 1972, including service in interstate commerce, performed for
16 remuneration or under any contract of hire, written or oral, express
17 or implied.

18 (B) (i) Service performed after December 31, 1971 by an
19 individual in the employ of this State or any of its instrumentalities
20 or in the employ of this State and one or more other states or their
21 instrumentalities for a hospital or institution of higher education
22 located in this State, if such service is not excluded from
23 "employment" under paragraph (D) below.

24 (ii) Service performed after December 31, 1977, in the employ
25 of this State or any of its instrumentalities or any political
26 subdivision thereof or any of its instrumentalities or any
27 instrumentality of more than one of the foregoing or any
28 instrumentality of the foregoing and one or more other states or
29 political subdivisions, if such service is not excluded from
30 "employment" under paragraph (D) below.

31 (C) Service performed after December 31, 1971 by an individual
32 in the employ of a religious, charitable, educational, or other
33 organization, which is excluded from "employment" as defined in
34 the Federal Unemployment Tax Act, solely by reason of section
35 3306 (c)(8) of that act, if such service is not excluded from
36 "employment" under paragraph (D) below.

37 (D) For the purposes of paragraphs (B) and (C), the term
38 "employment" does not apply to services performed

39 (i) In the employ of (I) a church or convention or association of
40 churches, or (II) an organization, or school which is operated
41 primarily for religious purposes and which is operated, supervised,
42 controlled or principally supported by a church or convention or
43 association of churches;

44 (ii) By a duly ordained, commissioned, or licensed minister of a
45 church in the exercise of his ministry or by a member of a religious
46 order in the exercise of duties required by such order;

47 (iii) Prior to January 1, 1978, in the employ of a school which is
48 not an institution of higher education, and after December 31, 1977,

1 in the employ of a governmental entity referred to in R.S.43:21-19
2 (i) (1) (B), if such service is performed by an individual in the
3 exercise of duties
4 (aa) as an elected official;
5 (bb) as a member of a legislative body, or a member of the
6 judiciary, of a state or political subdivision;
7 (cc) as a member of the State National Guard or Air National
8 Guard;
9 (dd) as an employee serving on a temporary basis in case of fire,
10 storm, snow, earthquake, flood or similar emergency;
11 (ee) in a position which, under or pursuant to the laws of this
12 State, is designated as a major nontenured policy making or
13 advisory position, or a policy making or advisory position, the
14 performance of the duties of which ordinarily does not require more
15 than eight hours per week; or
16 (iv) By an individual receiving rehabilitation or remunerative
17 work in a facility conducted for the purpose of carrying out a
18 program of rehabilitation of individuals whose earning capacity is
19 impaired by age or physical or mental deficiency or injury or
20 providing remunerative work for individuals who because of their
21 impaired physical or mental capacity cannot be readily absorbed in
22 the competitive labor market;
23 (v) By an individual receiving work-relief or work-training as
24 part of an unemployment work-relief or work-training program
25 assisted in whole or in part by any federal agency or an agency of a
26 state or political subdivision thereof; or
27 (vi) Prior to January 1, 1978, for a hospital in a State prison or
28 other State correctional institution by an inmate of the prison or
29 correctional institution and after December 31, 1977, by an inmate
30 of a custodial or penal institution.
31 (E) The term "employment" shall include the services of an
32 individual who is a citizen of the United States, performed outside
33 the United States after December 31, 1971 (except in Canada and in
34 the case of the Virgin Islands, after December 31, 1971) and prior
35 to January 1 of the year following the year in which the U.S.
36 Secretary of Labor approves the unemployment compensation law
37 of the Virgin Islands, under section 3304 (a) of the Internal
38 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an
39 American employer (other than the service which is deemed
40 employment under the provisions of R.S.43:21-19 (i) (2) or (5) or
41 the parallel provisions of another state's unemployment
42 compensation law), if
43 (i) The American employer's principal place of business in the
44 United States is located in this State; or
45 (ii) The American employer has no place of business in the
46 United States, but (I) the American employer is an individual who
47 is a resident of this State; or (II) the American employer is a
48 corporation which is organized under the laws of this State; or (III)

1 the American employer is a partnership or trust and the number of
2 partners or trustees who are residents of this State is greater than the
3 number who are residents of another state; or

4 (iii) None of the criteria of divisions (i) and (ii) of this
5 subparagraph (E) is met but the American employer has elected to
6 become an employer subject to the "unemployment compensation
7 law" (R.S.43:21-1 et seq.) in this State, or the American employer
8 having failed to elect to become an employer in any state, the
9 individual has filed a claim for benefits, based on such service,
10 under the law of this State;

11 (iv) An "American employer," for the purposes of this
12 subparagraph (E), means (I) an individual who is a resident of the
13 United States; or (II) a partnership, if two-thirds or more of the
14 partners are residents of the United States; or (III) a trust, if all the
15 trustees are residents of the United States; or (IV) a corporation
16 organized under the laws of the United States or of any state.

17 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed
18 after January 1, 1972 by an officer or member of the crew of an
19 American vessel or American aircraft on or in connection with such
20 vessel or aircraft, if the operating office from which the operations
21 of such vessel or aircraft operating within, or within and without,
22 the United States are ordinarily and regularly supervised, managed,
23 directed, and controlled, is within this State.

24 (G) Notwithstanding any other provision of this subsection,
25 service in this State with respect to which the taxes required to be
26 paid under any federal law imposing a tax against which credit may
27 be taken for contributions required to be paid into a state
28 unemployment fund or which as a condition for full tax credit
29 against the tax imposed by the Federal Unemployment Tax Act is
30 required to be covered under the "unemployment compensation
31 law" (R.S.43:21-1 et seq.).

32 (H) The term "United States" when used in a geographical sense
33 in subsection R.S.43:21-19 (i) includes the states, the District of
34 Columbia, the Commonwealth of Puerto Rico and, effective on the
35 day after the day on which the U.S. Secretary of Labor approves for
36 the first time under section 3304 (a) of the Internal Revenue Code
37 of 1986 (26 U.S.C. s.3304 (a)) an unemployment compensation law
38 submitted to the Secretary by the Virgin Islands for such approval,
39 the Virgin Islands.

40 (I) (i) Service performed after December 31, 1977 in
41 agricultural labor in a calendar year for an entity which is an
42 employer as defined in the "unemployment compensation law,"
43 (R.S.43:21-1 et seq.) as of January 1 of such year; or for an
44 employing unit which

45 (aa) during any calendar quarter in either the current or the
46 preceding calendar year paid remuneration in cash of \$20,000.00 or
47 more for individuals employed in agricultural labor, or

1 (bb) for some portion of a day in each of 20 different calendar
2 weeks, whether or not such weeks were consecutive, in either the
3 current or the preceding calendar year, employed in agricultural
4 labor 10 or more individuals, regardless of whether they were
5 employed at the same moment in time.

6 (ii) for the purposes of this subsection any individual who is a
7 member of a crew furnished by a crew leader to perform service in
8 agricultural labor for any other entity shall be treated as an
9 employee of such crew leader

10 (aa) if such crew leader holds a certification of registration
11 under the Migrant and Seasonal Agricultural Worker Protection
12 Act, Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
13 (C.34:8A-7 et seq.); or substantially all the members of such crew
14 operate or maintain tractors, mechanized harvesting or cropdusting
15 equipment, or any other mechanized equipment, which is provided
16 by such crew leader; and

17 (bb) if such individual is not an employee of such other person
18 for whom services were performed.

19 (iii) For the purposes of subparagraph (I) (i) in the case of any
20 individual who is furnished by a crew leader to perform service in
21 agricultural labor or any other entity and who is not treated as an
22 employee of such crew leader under (I) (ii)

23 (aa) such other entity and not the crew leader shall be treated as
24 the employer of such individual; and

25 (bb) such other entity shall be treated as having paid cash
26 remuneration to such individual in an amount equal to the amount
27 of cash remuneration paid to such individual by the crew leader
28 (either on his own behalf or on behalf of such other entity) for the
29 service in agricultural labor performed for such other entity.

30 (iv) For the purpose of subparagraph (I)(ii), the term "crew
31 leader" means an individual who

32 (aa) furnishes individuals to perform service in agricultural
33 labor for any other entity;

34 (bb) pays (either on his own behalf or on behalf of such other
35 entity) the individuals so furnished by him for the service in
36 agricultural labor performed by them; and

37 (cc) has not entered into a written agreement with such other
38 entity under which such individual is designated as an employee of
39 such other entity.

40 (J) (i) Domestic service after December 31, 1977 and before
41 January 1, 2022 performed in the private home of an employing unit
42 which paid cash remuneration of \$1,000.00 or more to one or more
43 individuals for such domestic service in any calendar quarter in the
44 current or preceding calendar year.

45 (ii) Domestic services as defined by section 2 of P.L. _____,
46 c. (C. _____) (pending before the Legislature as this bill) after
47 December 31, 2021 in either the current or preceding calendar year

1 paid remuneration for employment in the amount of \$1,000 or
2 more.

3 (2) The term "employment" shall include an individual's entire
4 service performed within or both within and without this State if:

5 (A) The service is localized in this State; or

6 (B) The service is not localized in any state but some of the
7 service is performed in this State, and (i) the base of operations, or,
8 if there is no base of operations, then the place from which such
9 service is directed or controlled, is in this State; or (ii) the base of
10 operations or place from which such service is directed or
11 controlled is not in any state in which some part of the service is
12 performed, but the individual's residence is in this State.

13 (3) Services performed within this State but not covered under
14 paragraph (2) of this subsection shall be deemed to be employment
15 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
16 required and paid with respect to such services under an
17 unemployment compensation law of any other state or of the federal
18 government.

19 (4) Services not covered under paragraph (2) of this subsection
20 and performed entirely without this State, with respect to no part of
21 which contributions are required and paid under an unemployment
22 compensation law of any other state or of the federal government,
23 shall be deemed to be employment subject to this chapter
24 (R.S.43:21-1 et seq.) if the individual performing such services is a
25 resident of this State and the employing unit for whom such
26 services are performed files with the division an election that the
27 entire service of such individual shall be deemed to be employment
28 subject to this chapter (R.S.43:21-1 et seq.).

29 (5) Service shall be deemed to be localized within a state if:

30 (A) The service is performed entirely within such state; or

31 (B) The service is performed both within and without such state,
32 but the service performed without such state is incidental to the
33 individual's service within the state; for example, is temporary or
34 transitory in nature or consists of isolated transactions.

35 (6) Services performed by an individual for remuneration shall
36 be deemed to be employment subject to this chapter (R.S.43:21-1 et
37 seq.) unless and until it is shown to the satisfaction of the division
38 that:

39 (A) Such individual has been and will continue to be free from
40 control or direction over the performance of such service, both
41 under his contract of service and in fact; and

42 (B) Such service is either outside the usual course of the
43 business for which such service is performed, or that such service is
44 performed outside of all the places of business of the enterprise for
45 which such service is performed; and

46 (C) Such individual is customarily engaged in an independently
47 established trade, occupation, profession or business.

1 (7) Provided that such services are also exempt under the
2 Federal Unemployment Tax Act, as amended, or that contributions
3 with respect to such services are not required to be paid into a state
4 unemployment fund as a condition for a tax offset credit against the
5 tax imposed by the Federal Unemployment Tax Act, as amended,
6 the term "employment" shall not include:

7 (A) Agricultural labor performed prior to January 1, 1978; and
8 after December 31, 1977, only if performed in a calendar year for
9 an entity which is not an employer as defined in the "unemployment
10 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
11 calendar year; or unless performed for an employing unit which

12 (i) during a calendar quarter in either the current or the
13 preceding calendar year paid remuneration in cash of \$20,000.00 or
14 more to individuals employed in agricultural labor, or

15 (ii) for some portion of a day in each of 20 different calendar
16 weeks, whether or not such weeks were consecutive, in either the
17 current or the preceding calendar year, employed in agricultural
18 labor 10 or more individuals, regardless of whether they were
19 employed at the same moment in time;

20 (B) Domestic service in a private home performed prior to
21 January 1, 1978; and after December 31, 1977, unless performed in
22 the private home of an employing unit which paid cash
23 remuneration of \$1,000.00 or more to one or more individuals for
24 such domestic service in any calendar quarter in the current or
25 preceding calendar year;

26 (C) Service performed by an individual in the employ of his son,
27 daughter or spouse, and service performed by a child under the age
28 of 18 in the employ of his father or mother;

29 (D) Service performed prior to January 1, 1978, in the employ of
30 this State or of any political subdivision thereof or of any
31 instrumentality of this State or its political subdivisions, except as
32 provided in R.S.43:21-19 (i) (1) (B) above, and service in the
33 employ of the South Jersey Port Corporation or its successors;

34 (E) Service performed in the employ of any other state or its
35 political subdivisions or of an instrumentality of any other state or
36 states or their political subdivisions to the extent that such
37 instrumentality is with respect to such service exempt under the
38 Constitution of the United States from the tax imposed under the
39 Federal Unemployment Tax Act, as amended, except as provided in
40 R.S.43:21-19 (i) (1) (B) above;

41 (F) Service performed in the employ of the United States
42 Government or of any instrumentality of the United States exempt
43 under the Constitution of the United States from the contributions
44 imposed by the "unemployment compensation law," except that to
45 the extent that the Congress of the United States shall permit states
46 to require any instrumentalities of the United States to make
47 payments into an unemployment fund under a state unemployment
48 compensation law, all of the provisions of this act shall be

1 applicable to such instrumentalities, and to service performed for
2 such instrumentalities, in the same manner, to the same extent and
3 on the same terms as to all other employers, employing units,
4 individuals and services; provided that if this State shall not be
5 certified for any year by the Secretary of Labor of the United States
6 under section 3304 of the federal Internal Revenue Code of 1986
7 (26 U.S.C. s.3304), the payments required of such instrumentalities
8 with respect to such year shall be refunded by the division from the
9 fund in the same manner and within the same period as is provided
10 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
11 or collected by the division;

12 (G) Services performed in the employ of fraternal beneficiary
13 societies, orders, or associations operating under the lodge system
14 or for the exclusive benefit of the members of a fraternity itself
15 operating under the lodge system and providing for the payment of
16 life, sick, accident, or other benefits to the members of such society,
17 order, or association, or their dependents;

18 (H) Services performed as a member of the board of directors, a
19 board of trustees, a board of managers, or a committee of any bank,
20 building and loan, or savings and loan association, incorporated or
21 organized under the laws of this State or of the United States, where
22 such services do not constitute the principal employment of the
23 individual;

24 (I) Service with respect to which unemployment insurance is
25 payable under an unemployment insurance program established by
26 an Act of Congress;

27 (J) Service performed by agents of mutual fund brokers or
28 dealers in the sale of mutual funds or other securities, by agents of
29 insurance companies, exclusive of industrial insurance agents or by
30 agents of investment companies, if the compensation to such agents
31 for such services is wholly on a commission basis;

32 (K) Services performed by real estate salesmen or brokers who
33 are compensated wholly on a commission basis;

34 (L) Services performed in the employ of any veterans'
35 organization chartered by Act of Congress or of any auxiliary
36 thereof, no part of the net earnings of which organization, or
37 auxiliary thereof, inures to the benefit of any private shareholder or
38 individual;

39 (M) Service performed for or in behalf of the owner or operator
40 of any theater, ballroom, amusement hall or other place of
41 entertainment, not in excess of 10 weeks in any calendar year for
42 the same owner or operator, by any leader or musician of a band or
43 orchestra, commonly called a "name band," entertainer, vaudeville
44 artist, actor, actress, singer or other entertainer;

45 (N) Services performed after January 1, 1973 by an individual
46 for a labor union organization, known and recognized as a union
47 local, as a member of a committee or committees reimbursed by the
48 union local for time lost from regular employment, or as a part-time

1 officer of a union local and the remuneration for such services is
2 less than \$1,000.00 in a calendar year;

3 (O) Services performed in the sale or distribution of merchandise
4 by home-to-home salespersons or in-the-home demonstrators whose
5 remuneration consists wholly of commissions or commissions and
6 bonuses;

7 (P) Service performed in the employ of a foreign government,
8 including service as a consular, nondiplomatic representative, or
9 other officer or employee;

10 (Q) Service performed in the employ of an instrumentality
11 wholly owned by a foreign government if (i) the service is of a
12 character similar to that performed in foreign countries by
13 employees of the United States Government or of an instrumentality
14 thereof, and (ii) the division finds that the United States Secretary
15 of State has certified to the United States Secretary of the Treasury
16 that the foreign government, with respect to whose instrumentality
17 exemption is claimed, grants an equivalent exemption with respect
18 to similar services performed in the foreign country by employees
19 of the United States Government and of instrumentalities thereof;

20 (R) Service in the employ of an international organization
21 entitled to enjoy the privileges, exemptions and immunities under
22 the International Organizations Immunities Act (22 U.S.C. s.288 et
23 seq.);

24 (S) Service covered by an election duly approved by an agency
25 charged with the administration of any other state or federal
26 unemployment compensation or employment security law, in
27 accordance with an arrangement pursuant to R.S.43:21-21 during
28 the effective period of such election;

29 (T) Service performed in the employ of a school, college, or
30 university if such service is performed (i) by a student enrolled at
31 such school, college, or university on a full-time basis in an
32 educational program or completing such educational program
33 leading to a degree at any of the severally recognized levels, or (ii)
34 by the spouse of such a student, if such spouse is advised at the time
35 such spouse commences to perform such service that (I) the
36 employment of such spouse to perform such service is provided
37 under a program to provide financial assistance to such student by
38 such school, college, or university, and (II) such employment will
39 not be covered by any program of unemployment insurance;

40 (U) Service performed by an individual who is enrolled at a
41 nonprofit or public educational institution which normally
42 maintains a regular faculty and curriculum and normally has a
43 regularly organized body of students in attendance at the place
44 where its educational activities are carried on, as a student in a full-
45 time program, taken for credit at such institution, which combines
46 academic instruction with work experience, if such service is an
47 integral part of such program, and such institution has so certified
48 to the employer, except that this subparagraph shall not apply to

1 service performed in a program established for or on behalf of an
2 employer or group of employers;

3 (V) Service performed in the employ of a hospital, if such
4 service is performed by a patient of the hospital; service performed
5 as a student nurse in the employ of a hospital or a nurses' training
6 school by an individual who is enrolled and regularly attending
7 classes in a nurses' training school approved under the laws of this
8 State;

9 (W) Services performed after the effective date of this
10 amendatory act by agents of mutual benefit associations if the
11 compensation to such agents for such services is wholly on a
12 commission basis;

13 (X) Services performed by operators of motor vehicles weighing
14 18,000 pounds or more, licensed for commercial use and used for
15 the highway movement of motor freight, who own their equipment
16 or who lease or finance the purchase of their equipment through an
17 entity which is not owned or controlled directly or indirectly by the
18 entity for which the services were performed and who were
19 compensated by receiving a percentage of the gross revenue
20 generated by the transportation move or by a schedule of payment
21 based on the distance and weight of the transportation move;

22 (Y) (Deleted by amendment, P.L.2009, c.211.)

23 (Z) Services performed, using facilities provided by a travel
24 agent, by a person, commonly known as an outside travel agent,
25 who acts as an independent contractor, is paid on a commission
26 basis, sets his own work schedule and receives no benefits, sick
27 leave, vacation or other leave from the travel agent owning the
28 facilities.

29 (8) If one-half or more of the services in any pay period
30 performed by an individual for an employing unit constitutes
31 employment, all the services of such individual shall be deemed to
32 be employment; but if more than one-half of the service in any pay
33 period performed by an individual for an employing unit does not
34 constitute employment, then none of the service of such individual
35 shall be deemed to be employment. As used in this paragraph, the
36 term "pay period" means a period of not more than 31 consecutive
37 days for which a payment for service is ordinarily made by an
38 employing unit to individuals in its employ.

39 (9) Services performed by the owner of a limousine franchise
40 (franchisee) shall not be deemed to be employment subject to the
41 "unemployment compensation law," R.S.43:21-1 et seq., with
42 regard to the franchisor if:

43 (A) The limousine franchisee is incorporated;

44 (B) The franchisee is subject to regulation by the Interstate
45 Commerce Commission;

46 (C) The limousine franchise exists pursuant to a written
47 franchise arrangement between the franchisee and the franchisor as
48 defined by section 3 of P.L.1971, c.356 (C.56:10-3); and

1 (D) The franchisee registers with the Department of Labor and
2 Workforce Development and receives an employer registration
3 number.

4 (10) Services performed by a legal transcriber, or certified court
5 reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.),
6 shall not be deemed to be employment subject to the
7 "unemployment compensation law," R.S.43:21-1 et seq., if those
8 services are provided to a third party by the transcriber or reporter
9 who is referred to the third party pursuant to an agreement with
10 another legal transcriber or legal transcription service, or certified
11 court reporter or court reporting service, on a freelance basis,
12 compensation for which is based upon a fee per transcript page, flat
13 attendance fee, or other flat minimum fee, or combination thereof,
14 set forth in the agreement.

15 For purposes of this paragraph (10): "legal transcription service"
16 and "legal transcribing" mean making use, by audio, video or voice
17 recording, of a verbatim record of court proceedings, depositions,
18 other judicial proceedings, meetings of boards, agencies,
19 corporations, or other bodies or groups, and causing that record to
20 be printed in readable form or produced on a computer screen in
21 readable form; and "legal transcriber" means a person who engages
22 in "legal transcribing."

23 (j) "Employment office" means a free public employment
24 office, or branch thereof operated by this State or maintained as a
25 part of a State-controlled system of public employment offices.

26 (k) (Deleted by amendment, P.L.1984, c.24.)

27 (l) "State" includes, in addition to the states of the United States
28 of America, the District of Columbia, the Virgin Islands and Puerto
29 Rico.

30 (m) "Unemployment."

31 (1) An individual shall be deemed "unemployed" for any week
32 during which:

33 (A) The individual is not engaged in full-time work and with
34 respect to which his remuneration is less than his weekly benefit
35 rate, including any week during which he is on vacation without
36 pay; provided such vacation is not the result of the individual's
37 voluntary action, except that for benefit years commencing on or
38 after July 1, 1984, an officer of a corporation, or a person who has
39 more than a 5% equitable or debt interest in the corporation, whose
40 claim for benefits is based on wages with that corporation shall not
41 be deemed to be unemployed in any week during the individual's
42 term of office or ownership in the corporation; or

43 (B) The individual is eligible for and receiving a self-
44 employment assistance allowance pursuant to the requirements of
45 P.L.1995, c.394 (C.43:21-67 et al.).

46 (2) The term "remuneration" with respect to any individual for
47 benefit years commencing on or after July 1, 1961, and as used in
48 this subsection, shall include only that part of the same which in

1 any week exceeds 20% of his weekly benefit rate (fractional parts
2 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
3 include any moneys paid to an individual by a county board of
4 elections for work as a board worker on an election day.

5 (3) An individual's week of unemployment shall be deemed to
6 commence only after the individual has filed a claim at an
7 unemployment insurance claims office, except as the division may
8 by regulation otherwise prescribe.

9 (n) "Unemployment compensation administration fund" means
10 the unemployment compensation administration fund established by
11 this chapter (R.S.43:21-1 et seq.), from which administrative
12 expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.

13 (o) "Wages" means remuneration paid by employers for
14 employment. If a worker receives gratuities regularly in the course
15 of his employment from other than his employer, his "wages" shall
16 also include the gratuities so received, if reported in writing to his
17 employer in accordance with regulations of the division, and if not
18 so reported, his "wages" shall be determined in accordance with the
19 minimum wage rates prescribed under any labor law or regulation
20 of this State or of the United States, or the amount of remuneration
21 actually received by the employee from his employer, whichever is
22 the higher.

23 (p) "Remuneration" means all compensation for personal
24 services, including commission and bonuses and the cash value of
25 all compensation in any medium other than cash.

26 (q) "Week" means for benefit years commencing on or after
27 October 1, 1984, the calendar week ending at midnight Saturday, or
28 as the division may by regulation prescribe.

29 (r) "Calendar quarter" means the period of three consecutive
30 calendar months ending March 31, June 30, September 30, or
31 December 31.

32 (s) "Investment company" means any company as defined in
33 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

34 (t) (1) (Deleted by amendment, P.L.2001, c.17).

35 (2) "Base week," commencing on or after January 1, 1996 and
36 before January 1, 2001, means:

37 (A) Any calendar week during which the individual earned in
38 employment from an employer remuneration not less than an
39 amount which is 20% of the Statewide average weekly
40 remuneration defined in subsection (c) of R.S.43:21-3 which
41 amount shall be adjusted to the next higher multiple of \$1.00 if not
42 already a multiple thereof, except that if in any calendar week an
43 individual subject to this subparagraph (A) is in employment with
44 more than one employer, the individual may in that calendar week
45 establish a base week with respect to each of the employers from
46 whom the individual earns remuneration equal to not less than the
47 amount defined in this subparagraph (A) during that week; or

1 (B) If the individual does not establish in his base year 20 or
2 more base weeks as defined in subparagraph (A) of this paragraph
3 (2), any calendar week of an individual's base year during which the
4 individual earned in employment from an employer remuneration
5 not less than an amount 20 times the minimum wage in effect
6 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
7 1 of the calendar year preceding the calendar year in which the
8 benefit year commences, which amount shall be adjusted to the next
9 higher multiple of \$1.00 if not already a multiple thereof, except
10 that if in any calendar week an individual subject to this
11 subparagraph (B) is in employment with more than one employer,
12 the individual may in that calendar week establish a base week with
13 respect to each of the employers from whom the individual earns
14 remuneration not less than the amount defined in this subparagraph
15 (B) during that week.

16 (3) "Base week," commencing on or after January 1, 2001,
17 means any calendar week during which the individual earned in
18 employment from an employer remuneration not less than an
19 amount 20 times the minimum wage in effect pursuant to section 5
20 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
21 year preceding the calendar year in which the benefit year
22 commences, which amount shall be adjusted to the next higher
23 multiple of \$1.00 if not already a multiple thereof, except that if in
24 any calendar week an individual subject to this paragraph (3) is in
25 employment with more than one employer, the individual may in
26 that calendar week establish a base week with respect to each of the
27 employers from whom the individual earns remuneration equal to
28 not less than the amount defined in this paragraph (3) during that
29 week.

30 (u) "Average weekly wage" means the amount derived by
31 dividing an individual's total wages received during his base year
32 base weeks (as defined in subsection (t) of this section) from that
33 most recent base year employer with whom he has established at
34 least 20 base weeks, by the number of base weeks in which such
35 wages were earned. In the event that such claimant had no employer
36 in his base year with whom he had established at least 20 base
37 weeks, then such individual's average weekly wage shall be
38 computed as if all of his base week wages were received from one
39 employer and as if all his base weeks of employment had been
40 performed in the employ of one employer.

41 For the purpose of computing the average weekly wage, the
42 monetary alternative in subparagraph (B) of paragraph (2) of
43 subsection (e) of R.S.43:21-4 shall only apply in those instances
44 where the individual did not have at least 20 base weeks in the base
45 year. For benefit years commencing on or after July 1, 1986,
46 "average weekly wage" means the amount derived by dividing an
47 individual's total base year wages by the number of base weeks
48 worked by the individual during the base year; provided that for the

1 purpose of computing the average weekly wage, the maximum
2 number of base weeks used in the divisor shall be 52.

3 (v) "Initial determination" means, subject to the provisions of
4 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as
5 measured by an eligible individual's base year employment with a
6 single employer covering all periods of employment with that
7 employer during the base year.

8 (w) "Last date of employment" means the last calendar day in
9 the base year of an individual on which he performed services in
10 employment for a given employer.

11 (x) "Most recent base year employer" means that employer with
12 whom the individual most recently, in point of time, performed
13 service in employment in the base year.

14 (y) (1) "Educational institution" means any public or other
15 nonprofit institution (including an institution of higher education):

16 (A) In which participants, trainees, or students are offered an
17 organized course of study or training designed to transfer to them
18 knowledge, skills, information, doctrines, attitudes or abilities from,
19 by or under the guidance of an instructor or teacher;

20 (B) Which is approved, licensed or issued a permit to operate as
21 a school by the State Department of Education or other government
22 agency that is authorized within the State to approve, license or
23 issue a permit for the operation of a school; and

24 (C) Which offers courses of study or training which may be
25 academic, technical, trade, or preparation for gainful employment in
26 a recognized occupation.

27 (2) "Institution of higher education" means an educational
28 institution which:

29 (A) Admits as regular students only individuals having a
30 certificate of graduation from a high school, or the recognized
31 equivalent of such a certificate;

32 (B) Is legally authorized in this State to provide a program of
33 education beyond high school;

34 (C) Provides an educational program for which it awards a
35 bachelor's or higher degree, or provides a program which is
36 acceptable for full credit toward such a degree, a program of post-
37 graduate or post-doctoral studies, or a program of training to
38 prepare students for gainful employment in a recognized
39 occupation; and

40 (D) Is a public or other nonprofit institution.

41 Notwithstanding any of the foregoing provisions of this
42 subsection, all colleges and universities in this State are institutions
43 of higher education for purposes of this section.

44 (z) "Hospital" means an institution which has been licensed,
45 certified or approved under the law of this State as a hospital.

46 (cf: P.L.2017, c.230, s.1)]¹

47

48 ²[¹13.] 12.² R.S.43:21-19 is amended to read as follows:

1 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
2 seq.), unless the context clearly requires otherwise:

3 (a) (1) "Annual payroll" means the total amount of wages paid
4 during a calendar year (regardless of when earned) by an employer
5 for employment.

6 (2) "Average annual payroll" means the average of the annual
7 payrolls of any employer for the last three or five preceding
8 calendar years, whichever average is higher, except that any year or
9 years throughout which an employer has had no "annual payroll"
10 because of military service shall be deleted from the reckoning; the
11 "average annual payroll" in such case is to be determined on the
12 basis of the prior three or five calendar years in each of which the
13 employer had an "annual payroll" in the operation of his business, if
14 the employer resumes his business within 12 months after
15 separation, discharge or release from such service, under conditions
16 other than dishonorable, and makes application to have his "average
17 annual payroll" determined on the basis of such deletion within 12
18 months after he resumes his business; provided, however, that
19 "average annual payroll" solely for the purposes of paragraph (3) of
20 subsection (e) of R.S.43:21-7 means the average of the annual
21 payrolls of any employer on which he paid contributions to the
22 State disability benefits fund for the last three or five preceding
23 calendar years, whichever average is higher; provided further that
24 only those wages be included on which employer contributions have
25 been paid on or before January 31 (or the next succeeding day if
26 such January 31 is a Saturday or Sunday) immediately preceding
27 the beginning of the 12-month period for which the employer's
28 contribution rate is computed.

29 (b) "Benefits" means the money payments payable to an
30 individual, as provided in this chapter (R.S.43:21-1 et seq.), with
31 respect to his unemployment.

32 (c) (1) "Base year" with respect to benefit years commencing on
33 or after July 1, 1986, shall mean the first four of the last five
34 completed calendar quarters immediately preceding an individual's
35 benefit year.

36 With respect to a benefit year commencing on or after July 1,
37 1995, if an individual does not have sufficient qualifying weeks or
38 wages in his base year to qualify for benefits, the individual shall
39 have the option of designating that his base year shall be the
40 "alternative base year," which means the last four completed
41 calendar quarters immediately preceding the individual's benefit
42 year; except that, with respect to a benefit year commencing on or
43 after October 1, 1995, if the individual also does not have sufficient
44 qualifying weeks or wages in the last four completed calendar
45 quarters immediately preceding his benefit year to qualify for
46 benefits, "alternative base year" means the last three completed
47 calendar quarters immediately preceding his benefit year and, of the
48 calendar quarter in which the benefit year commences, the portion

1 of the quarter which occurs before the commencing of the benefit
2 year.

3 The division shall inform the individual of his options under this
4 section as amended by P.L.1995, c.234. If information regarding
5 weeks and wages for the calendar quarter or quarters immediately
6 preceding the benefit year is not available to the division from the
7 regular quarterly reports of wage information and the division is not
8 able to obtain the information using other means pursuant to State
9 or federal law, the division may base the determination of eligibility
10 for benefits on the affidavit of an individual with respect to weeks
11 and wages for that calendar quarter. The individual shall furnish
12 payroll documentation, if available, in support of the affidavit. A
13 determination of benefits based on an alternative base year shall be
14 adjusted when the quarterly report of wage information from the
15 employer is received if that information causes a change in the
16 determination.

17 (2) With respect to a benefit year commencing on or after June
18 1, 1990 for an individual who immediately preceding the benefit
19 year was subject to a disability compensable under the provisions of
20 the "Temporary Disability Benefits Law," P.L.1948, c.110
21 (C.43:21-25 et seq.), "base year" shall mean the first four of the last
22 five completed calendar quarters immediately preceding the
23 individual's period of disability, if the employment held by the
24 individual immediately preceding the period of disability is no
25 longer available at the conclusion of that period and the individual
26 files a valid claim for unemployment benefits after the conclusion
27 of that period. For the purposes of this paragraph, "period of
28 disability" means the period defined as a period of disability by
29 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
30 c.110 (C.43:21-27). An individual who files a claim under the
31 provisions of this paragraph (2) shall not be regarded as having left
32 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

33 (3) With respect to a benefit year commencing on or after June
34 1, 1990 for an individual who immediately preceding the benefit
35 year was subject to a disability compensable under the provisions of
36 the workers' compensation law (chapter 15 of Title 34 of the
37 Revised Statutes), "base year" shall mean the first four of the last
38 five completed calendar quarters immediately preceding the
39 individual's period of disability, if the period of disability was not
40 longer than two years, if the employment held by the individual
41 immediately preceding the period of disability is no longer
42 available at the conclusion of that period and if the individual files a
43 valid claim for unemployment benefits after the conclusion of that
44 period. For the purposes of this paragraph, "period of disability"
45 means the period from the time at which the individual becomes
46 unable to work because of the compensable disability until the time
47 that the individual becomes able to resume work and continue work
48 on a permanent basis. An individual who files a claim under the

1 provisions of this paragraph (3) shall not be regarded as having left
2 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

3 (d) "Benefit year" with respect to any individual means the 364
4 consecutive calendar days beginning with the day on, or as of,
5 which he first files a valid claim for benefits, and thereafter
6 beginning with the day on, or as of, which the individual next files a
7 valid claim for benefits after the termination of his last preceding
8 benefit year. Any claim for benefits made in accordance with
9 subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim"
10 for the purpose of this subsection if (1) he is unemployed for the
11 week in which, or as of which, he files a claim for benefits; and (2)
12 he has fulfilled the conditions imposed by subsection (e) of
13 R.S.43:21-4.

14 (e) (1) "Division" means the Division of Unemployment and
15 Temporary Disability Insurance of the Department of Labor and
16 Workforce Development, and any transaction or exercise of
17 authority by the director of the division thereunder, or under this
18 chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by
19 the division.

20 (2) "Controller" means the Office of the Assistant
21 Commissioner for Finance and Controller of the Department of
22 Labor and Workforce Development, established by the 1982
23 Reorganization Plan of the Department of Labor.

24 (f) "Contributions" means the money payments to the State
25 Unemployment Compensation Fund, required by R.S.43:21-7.
26 "Payments in lieu of contributions" means the money payments to
27 the State Unemployment Compensation Fund by employers electing
28 or required to make payments in lieu of contributions, as provided
29 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-
30 7.3).

31 (g) "Employing unit" means the State or any of its
32 instrumentalities or any political subdivision thereof or any of its
33 instrumentalities or any instrumentality of more than one of the
34 foregoing or any instrumentality of any of the foregoing and one or
35 more other states or political subdivisions or any individual or type
36 of organization, any partnership, association, trust, estate, joint-
37 stock company, insurance company or corporation, whether
38 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
39 successor thereof, or the legal representative of a deceased person,
40 which has or subsequent to January 1, 1936, had in its employ one
41 or more individuals performing services for it within this State. All
42 individuals performing services within this State for any employing
43 unit which maintains two or more separate establishments within
44 this State shall be deemed to be employed by a single employing
45 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each
46 individual employed to perform or to assist in performing the work
47 of any agent or employee of an employing unit shall be deemed to
48 be employed by such employing unit for all the purposes of this

1 chapter (R.S.43:21-1 et seq.), whether such individual was hired or
2 paid directly by such employing unit or by such agent or employee;
3 provided the employing unit had actual or constructive knowledge
4 of the work.

5 (h) "Employer" means:

6 (1) Any employing unit which in either the current or the
7 preceding calendar year paid remuneration for employment in the
8 amount of \$1,000.00 or more;

9 (2) Any employing unit (whether or not an employing unit at the
10 time of acquisition) which acquired the organization, trade or
11 business, or substantially all the assets thereof, of another which, at
12 the time of such acquisition, was an employer subject to this chapter
13 (R.S.43:21-1 et seq.);

14 (3) Any employing unit which acquired the organization, trade
15 or business, or substantially all the assets thereof, of another
16 employing unit and which, if treated as a single unit with such other
17 employing unit, would be an employer under paragraph (1) of this
18 subsection;

19 (4) Any employing unit which together with one or more other
20 employing units is owned or controlled (by legally enforceable
21 means or otherwise), directly or indirectly by the same interests, or
22 which owns or controls one or more other employing units (by
23 legally enforceable means or otherwise), and which, if treated as a
24 single unit with such other employing unit or interest, would be an
25 employer under paragraph (1) of this subsection;

26 (5) Any employing unit for which service in employment as
27 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
28 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
29 performed after December 31, 1977;

30 (6) Any employing unit for which service in employment as
31 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
32 1971 and which in either the current or the preceding calendar year
33 paid remuneration for employment in the amount of \$1,000.00 or
34 more;

35 (7) Any employing unit not an employer by reason of any other
36 paragraph of this subsection (h) for which, within either the current
37 or preceding calendar year, service is or was performed with respect
38 to which such employing unit is liable for any federal tax against
39 which credit may be taken for contributions required to be paid into
40 a state unemployment fund; or which, as a condition for approval of
41 the "unemployment compensation law" for full tax credit against
42 the tax imposed by the Federal Unemployment Tax Act, is required
43 pursuant to such act to be an employer under this chapter
44 (R.S.43:21-1 et seq.);

45 (8) (Deleted by amendment, P.L.1977, c.307.)

46 (9) (Deleted by amendment, P.L.1977, c.307.)

47 (10) (Deleted by amendment, P.L.1977, c.307.)

1 (11) Any employing unit subject to the provisions of the Federal
2 Unemployment Tax Act within either the current or the preceding
3 calendar year, except for employment hereinafter excluded under
4 paragraph (7) of subsection (i) of this section;

5 (12) Any employing unit for which agricultural labor in
6 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
7 December 31, 1977;

8 (13) ²[(a)]² Any employing unit for which domestic service in
9 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
10 December 31, 1977² and before January 1, 2023²; ²and

11 (b) Any employer for domestic services as defined in section 2
12 of P.L. , c. (C.)(pending before the Legislature as this
13 bill);²

14 (14) Any employing unit which having become an employer
15 under the "unemployment compensation law" (R.S.43:21-1 et seq.),
16 has not under R.S.43:21-8 ceased to be an employer; or for the
17 effective period of its election pursuant to R.S.43:21-8, any other
18 employing unit which has elected to become fully subject to this
19 chapter (R.S.43:21-1 et seq.).

20 (i) (1) "Employment" means:

21 (A) Any service performed prior to January 1, 1972, which was
22 employment as defined in the "unemployment compensation law"
23 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
24 provisions of this subsection, service performed on or after January
25 1, 1972, including service in interstate commerce, performed for
26 remuneration or under any contract of hire, written or oral, express
27 or implied.

28 (B) (i) Service performed after December 31, 1971 by an
29 individual in the employ of this State or any of its instrumentalities
30 or in the employ of this State and one or more other states or their
31 instrumentalities for a hospital or institution of higher education
32 located in this State, if such service is not excluded from
33 "employment" under paragraph (D) below.

34 (ii) Service performed after December 31, 1977, in the employ
35 of this State or any of its instrumentalities or any political
36 subdivision thereof or any of its instrumentalities or any
37 instrumentality of more than one of the foregoing or any
38 instrumentality of the foregoing and one or more other states or
39 political subdivisions, if such service is not excluded from
40 "employment" under paragraph (D) below.

41 (C) Service performed after December 31, 1971 by an individual
42 in the employ of a religious, charitable, educational, or other
43 organization, which is excluded from "employment" as defined in
44 the Federal Unemployment Tax Act, solely by reason of section
45 3306 (c)(8) of that act, if such service is not excluded from
46 "employment" under paragraph (D) below.

47 (D) For the purposes of paragraphs (B) and (C), the term
48 "employment" does not apply to services performed

1 (i) In the employ of (I) a church or convention or association of
2 churches, or (II) an organization, or school which is operated
3 primarily for religious purposes and which is operated, supervised,
4 controlled or principally supported by a church or convention or
5 association of churches;

6 (ii) By a duly ordained, commissioned, or licensed minister of a
7 church in the exercise of his ministry or by a member of a religious
8 order in the exercise of duties required by such order;

9 (iii) Prior to January 1, 1978, in the employ of a school which is
10 not an institution of higher education, and after December 31, 1977,
11 in the employ of a governmental entity referred to in R.S.43:21-19

12 (i) (1) (B), if such service is performed by an individual in the
13 exercise of duties

14 (aa) as an elected official;

15 (bb) as a member of a legislative body, or a member of the
16 judiciary, of a state or political subdivision;

17 (cc) as a member of the State National Guard or Air National
18 Guard;

19 (dd) as an employee serving on a temporary basis in case of fire,
20 storm, snow, earthquake, flood or similar emergency;

21 (ee) in a position which, under or pursuant to the laws of this
22 State, is designated as a major nontenured policy making or
23 advisory position, or a policy making or advisory position, the
24 performance of the duties of which ordinarily does not require more
25 than eight hours per week; or

26 (iv) By an individual receiving rehabilitation or remunerative
27 work in a facility conducted for the purpose of carrying out a
28 program of rehabilitation of individuals whose earning capacity is
29 impaired by age or physical or mental deficiency or injury or
30 providing remunerative work for individuals who because of their
31 impaired physical or mental capacity cannot be readily absorbed in
32 the competitive labor market;

33 (v) By an individual receiving work-relief or work-training as
34 part of an unemployment work-relief or work-training program
35 assisted in whole or in part by any federal agency or an agency of a
36 state or political subdivision thereof; or

37 (vi) Prior to January 1, 1978, for a hospital in a State prison or
38 other State correctional institution by an inmate of the prison or
39 correctional institution and after December 31, 1977, by an inmate
40 of a custodial or penal institution.

41 (E) The term "employment" shall include the services of an
42 individual who is a citizen of the United States, performed outside
43 the United States after December 31, 1971 (except in Canada and in
44 the case of the Virgin Islands, after December 31, 1971) and prior
45 to January 1 of the year following the year in which the U.S.
46 Secretary of Labor approves the unemployment compensation law
47 of the Virgin Islands, under section 3304 (a) of the Internal
48 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an

1 American employer (other than the service which is deemed
2 employment under the provisions of R.S.43:21-19 (i) (2) or (5) or
3 the parallel provisions of another state's unemployment
4 compensation law), if

5 (i) The American employer's principal place of business in the
6 United States is located in this State; or

7 (ii) The American employer has no place of business in the
8 United States, but (I) the American employer is an individual who
9 is a resident of this State; or (II) the American employer is a
10 corporation which is organized under the laws of this State; or (III)
11 the American employer is a partnership or trust and the number of
12 partners or trustees who are residents of this State is greater than the
13 number who are residents of another state; or

14 (iii) None of the criteria of divisions (i) and (ii) of this
15 subparagraph (E) is met but the American employer has elected to
16 become an employer subject to the "unemployment compensation
17 law" (R.S.43:21-1 et seq.) in this State, or the American employer
18 having failed to elect to become an employer in any state, the
19 individual has filed a claim for benefits, based on such service,
20 under the law of this State;

21 (iv) An "American employer," for the purposes of this
22 subparagraph (E), means (I) an individual who is a resident of the
23 United States; or (II) a partnership, if two-thirds or more of the
24 partners are residents of the United States; or (III) a trust, if all the
25 trustees are residents of the United States; or (IV) a corporation
26 organized under the laws of the United States or of any state.

27 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed
28 after January 1, 1972 by an officer or member of the crew of an
29 American vessel or American aircraft on or in connection with such
30 vessel or aircraft, if the operating office from which the operations
31 of such vessel or aircraft operating within, or within and without,
32 the United States are ordinarily and regularly supervised, managed,
33 directed, and controlled, is within this State.

34 (G) Notwithstanding any other provision of this subsection,
35 service in this State with respect to which the taxes required to be
36 paid under any federal law imposing a tax against which credit may
37 be taken for contributions required to be paid into a state
38 unemployment fund or which as a condition for full tax credit
39 against the tax imposed by the Federal Unemployment Tax Act is
40 required to be covered under the "unemployment compensation
41 law" (R.S.43:21-1 et seq.).

42 (H) The term "United States" when used in a geographical sense
43 in subsection R.S.43:21-19 (i) includes the states, the District of
44 Columbia, the Commonwealth of Puerto Rico and, effective on the
45 day after the day on which the U.S. Secretary of Labor approves for
46 the first time under section 3304 (a) of the Internal Revenue Code
47 of 1986 (26 U.S.C. s.3304 (a)) an unemployment compensation law

1 submitted to the Secretary by the Virgin Islands for such approval,
2 the Virgin Islands.

3 (I) (i) Service performed after December 31, 1977 in
4 agricultural labor in a calendar year for an entity which is an
5 employer as defined in the "unemployment compensation law,"
6 (R.S.43:21-1 et seq.) as of January 1 of such year; or for an
7 employing unit which

8 (aa) during any calendar quarter in either the current or the
9 preceding calendar year paid remuneration in cash of \$20,000.00 or
10 more for individuals employed in agricultural labor, or

11 (bb) for some portion of a day in each of 20 different calendar
12 weeks, whether or not such weeks were consecutive, in either the
13 current or the preceding calendar year, employed in agricultural
14 labor 10 or more individuals, regardless of whether they were
15 employed at the same moment in time.

16 (ii) for the purposes of this subsection any individual who is a
17 member of a crew furnished by a crew leader to perform service in
18 agricultural labor for any other entity shall be treated as an
19 employee of such crew leader

20 (aa) if such crew leader holds a certification of registration
21 under the Migrant and Seasonal Agricultural Worker Protection
22 Act, Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
23 (C.34:8A-7 et seq.); or substantially all the members of such crew
24 operate or maintain tractors, mechanized harvesting or cropdusting
25 equipment, or any other mechanized equipment, which is provided
26 by such crew leader; and

27 (bb) if such individual is not an employee of such other person
28 for whom services were performed.

29 (iii) For the purposes of subparagraph (I) (i) in the case of any
30 individual who is furnished by a crew leader to perform service in
31 agricultural labor or any other entity and who is not treated as an
32 employee of such crew leader under (I) (ii)

33 (aa) such other entity and not the crew leader shall be treated as
34 the employer of such individual; and

35 (bb) such other entity shall be treated as having paid cash
36 remuneration to such individual in an amount equal to the amount
37 of cash remuneration paid to such individual by the crew leader
38 (either on his own behalf or on behalf of such other entity) for the
39 service in agricultural labor performed for such other entity.

40 (iv) For the purpose of subparagraph (I)(ii), the term "crew
41 leader" means an individual who

42 (aa) furnishes individuals to perform service in agricultural
43 labor for any other entity;

44 (bb) pays (either on his own behalf or on behalf of such other
45 entity) the individuals so furnished by him for the service in
46 agricultural labor performed by them; and

(cc) has not entered into a written agreement with such other entity under which such individual is designated as an employee of such other entity.

(J) (i) Domestic service after December 31, 1977 and before ²[January 1, 2023] the effective date of P.L. , c. (C.) (pending before the Legislature as this bill)² performed in the private home of an employing unit which paid cash remuneration of \$1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year.

(ii) Domestic services ²[as defined by section 2 of P.L. , c. (C.) (pending before the Legislature as this bill)]² after ²[December 31, 2022] the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), performed in the private home of an employing unit which² in either the current or preceding calendar year paid remuneration for employment in the amount of \$1,000 or more.

(2) The term "employment" shall include an individual's entire service performed within or both within and without this State if:

(A) The service is localized in this State; or

(B) The service is not localized in any state but some of the service is performed in this State, and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(3) Services performed within this State but not covered under paragraph (2) of this subsection shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

(4) Services not covered under paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if the individual performing such services is a resident of this State and the employing unit for whom such services are performed files with the division an election that the entire service of such individual shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.).

(5) Service shall be deemed to be localized within a state if:

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the

1 individual's service within the state; for example, is temporary or
2 transitory in nature or consists of isolated transactions.

3 (6) Services performed by an individual for remuneration shall
4 be deemed to be employment subject to this chapter (R.S.43:21-1 et
5 seq.) unless and until it is shown to the satisfaction of the division
6 that:

7 (A) Such individual has been and will continue to be free from
8 control or direction over the performance of such service, both
9 under his contract of service and in fact; and

10 (B) Such service is either outside the usual course of the
11 business for which such service is performed, or that such service is
12 performed outside of all the places of business of the enterprise for
13 which such service is performed; and

14 (C) Such individual is customarily engaged in an independently
15 established trade, occupation, profession or business.

16 (7) Provided that such services are also exempt under the
17 Federal Unemployment Tax Act, as amended, or that contributions
18 with respect to such services are not required to be paid into a state
19 unemployment fund as a condition for a tax offset credit against the
20 tax imposed by the Federal Unemployment Tax Act, as amended,
21 the term "employment" shall not include:

22 (A) Agricultural labor performed prior to January 1, 1978; and
23 after December 31, 1977, only if performed in a calendar year for
24 an entity which is not an employer as defined in the "unemployment
25 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
26 calendar year; or unless performed for an employing unit which

27 (i) during a calendar quarter in either the current or the
28 preceding calendar year paid remuneration in cash of \$20,000.00 or
29 more to individuals employed in agricultural labor, or

30 (ii) for some portion of a day in each of 20 different calendar
31 weeks, whether or not such weeks were consecutive, in either the
32 current or the preceding calendar year, employed in agricultural
33 labor 10 or more individuals, regardless of whether they were
34 employed at the same moment in time;

35 (B) Domestic service in a private home performed prior to
36 January 1, 1978; and after December 31, 1977, unless performed in
37 the private home of an employing unit which paid cash
38 remuneration of \$1,000.00 or more to one or more individuals for
39 such domestic service in any calendar quarter in the current or
40 preceding calendar year;

41 (C) Service performed by an individual in the employ of his son,
42 daughter or spouse, and service performed by a child under the age
43 of 18 in the employ of his father or mother;

44 (D) Service performed prior to January 1, 1978, in the employ of
45 this State or of any political subdivision thereof or of any
46 instrumentality of this State or its political subdivisions, except as
47 provided in R.S.43:21-19 (i) (1) (B) above, and service in the
48 employ of the South Jersey Port Corporation or its successors;

1 (E) Service performed in the employ of any other state or its
2 political subdivisions or of an instrumentality of any other state or
3 states or their political subdivisions to the extent that such
4 instrumentality is with respect to such service exempt under the
5 Constitution of the United States from the tax imposed under the
6 Federal Unemployment Tax Act, as amended, except as provided in
7 R.S.43:21-19 (i) (1) (B) above;

8 (F) Service performed in the employ of the United States
9 Government or of any instrumentality of the United States exempt
10 under the Constitution of the United States from the contributions
11 imposed by the "unemployment compensation law," except that to
12 the extent that the Congress of the United States shall permit states
13 to require any instrumentalities of the United States to make
14 payments into an unemployment fund under a state unemployment
15 compensation law, all of the provisions of this act shall be
16 applicable to such instrumentalities, and to service performed for
17 such instrumentalities, in the same manner, to the same extent and
18 on the same terms as to all other employers, employing units,
19 individuals and services; provided that if this State shall not be
20 certified for any year by the Secretary of Labor of the United States
21 under section 3304 of the federal Internal Revenue Code of 1986
22 (26 U.S.C. s.3304), the payments required of such instrumentalities
23 with respect to such year shall be refunded by the division from the
24 fund in the same manner and within the same period as is provided
25 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
26 or collected by the division;

27 (G) Services performed in the employ of fraternal beneficiary
28 societies, orders, or associations operating under the lodge system
29 or for the exclusive benefit of the members of a fraternity itself
30 operating under the lodge system and providing for the payment of
31 life, sick, accident, or other benefits to the members of such society,
32 order, or association, or their dependents;

33 (H) Services performed as a member of the board of directors, a
34 board of trustees, a board of managers, or a committee of any bank,
35 building and loan, or savings and loan association, incorporated or
36 organized under the laws of this State or of the United States, where
37 such services do not constitute the principal employment of the
38 individual;

39 (I) Service with respect to which unemployment insurance is
40 payable under an unemployment insurance program established by
41 an Act of Congress;

42 (J) Service performed by agents of mutual fund brokers or
43 dealers in the sale of mutual funds or other securities, by agents of
44 insurance companies, exclusive of industrial insurance agents or by
45 agents of investment companies, if the compensation to such agents
46 for such services is wholly on a commission basis;

47 (K) Services performed by real estate salesmen or brokers who
48 are compensated wholly on a commission basis;

1 (L) Services performed in the employ of any veterans'
2 organization chartered by Act of Congress or of any auxiliary
3 thereof, no part of the net earnings of which organization, or
4 auxiliary thereof, inures to the benefit of any private shareholder or
5 individual;

6 (M) Service performed for or in behalf of the owner or operator
7 of any theater, ballroom, amusement hall or other place of
8 entertainment, not in excess of 10 weeks in any calendar year for
9 the same owner or operator, by any leader or musician of a band or
10 orchestra, commonly called a "name band," entertainer, vaudeville
11 artist, actor, actress, singer or other entertainer;

12 (N) Services performed after January 1, 1973 by an individual
13 for a labor union organization, known and recognized as a union
14 local, as a member of a committee or committees reimbursed by the
15 union local for time lost from regular employment, or as a part-time
16 officer of a union local and the remuneration for such services is
17 less than \$1,000.00 in a calendar year;

18 (O) Services performed in the sale or distribution of
19 merchandise by home-to-home salespersons or in-the-home
20 demonstrators whose remuneration consists wholly of commissions
21 or commissions and bonuses;

22 (P) Service performed in the employ of a foreign government,
23 including service as a consular, nondiplomatic representative, or
24 other officer or employee;

25 (Q) Service performed in the employ of an instrumentality
26 wholly owned by a foreign government if (i) the service is of a
27 character similar to that performed in foreign countries by
28 employees of the United States Government or of an instrumentality
29 thereof, and (ii) the division finds that the United States Secretary
30 of State has certified to the United States Secretary of the Treasury
31 that the foreign government, with respect to whose instrumentality
32 exemption is claimed, grants an equivalent exemption with respect
33 to similar services performed in the foreign country by employees
34 of the United States Government and of instrumentalities thereof;

35 (R) Service in the employ of an international organization
36 entitled to enjoy the privileges, exemptions and immunities under
37 the International Organizations Immunities Act (22 U.S.C. s.288 et
38 seq.);

39 (S) Service covered by an election duly approved by an agency
40 charged with the administration of any other state or federal
41 unemployment compensation or employment security law, in
42 accordance with an arrangement pursuant to R.S.43:21-21 during
43 the effective period of such election;

44 (T) Service performed in the employ of a school, college, or
45 university if such service is performed (i) by a student enrolled at
46 such school, college, or university on a full-time basis in an
47 educational program or completing such educational program
48 leading to a degree at any of the severally recognized levels, or (ii)

1 by the spouse of such a student, if such spouse is advised at the time
2 such spouse commences to perform such service that (I) the
3 employment of such spouse to perform such service is provided
4 under a program to provide financial assistance to such student by
5 such school, college, or university, and (II) such employment will
6 not be covered by any program of unemployment insurance;

7 (U) Service performed by an individual who is enrolled at a
8 nonprofit or public educational institution which normally
9 maintains a regular faculty and curriculum and normally has a
10 regularly organized body of students in attendance at the place
11 where its educational activities are carried on, as a student in a full-
12 time program, taken for credit at such institution, which combines
13 academic instruction with work experience, if such service is an
14 integral part of such program, and such institution has so certified
15 to the employer, except that this subparagraph shall not apply to
16 service performed in a program established for or on behalf of an
17 employer or group of employers;

18 (V) Service performed in the employ of a hospital, if such
19 service is performed by a patient of the hospital; service performed
20 as a student nurse in the employ of a hospital or a nurses' training
21 school by an individual who is enrolled and regularly attending
22 classes in a nurses' training school approved under the laws of this
23 State;

24 (W) Services performed after the effective date of this
25 amendatory act by agents of mutual benefit associations if the
26 compensation to such agents for such services is wholly on a
27 commission basis;

28 (X) Services performed by operators of motor vehicles weighing
29 18,000 pounds or more, licensed for commercial use and used for
30 the highway movement of motor freight, who own their equipment
31 or who lease or finance the purchase of their equipment through an
32 entity which is not owned or controlled directly or indirectly by the
33 entity for which the services were performed and who were
34 compensated by receiving a percentage of the gross revenue
35 generated by the transportation move or by a schedule of payment
36 based on the distance and weight of the transportation move;

37 (Y) (Deleted by amendment, P.L.2009, c.211.)

38 (Z) Services performed, using facilities provided by a travel
39 agent, by a person, commonly known as an outside travel agent,
40 who acts as an independent contractor, is paid on a commission
41 basis, sets his own work schedule and receives no benefits, sick
42 leave, vacation or other leave from the travel agent owning the
43 facilities.

44 (AA) Services provided by a commercial fisherman whose
45 compensation is comprised solely of a percentage of fish caught or
46 a percentage of the proceeds from the sale of the catch.

47 (8) If one-half or more of the services in any pay period
48 performed by an individual for an employing unit constitutes

1 employment, all the services of such individual shall be deemed to
2 be employment; but if more than one-half of the service in any pay
3 period performed by an individual for an employing unit does not
4 constitute employment, then none of the service of such individual
5 shall be deemed to be employment. As used in this paragraph, the
6 term "pay period" means a period of not more than 31 consecutive
7 days for which a payment for service is ordinarily made by an
8 employing unit to individuals in its employ.

9 (9) Services performed by the owner of a limousine franchise
10 (franchisee) shall not be deemed to be employment subject to the
11 "unemployment compensation law," R.S.43:21-1 et seq., with
12 regard to the franchisor if:

13 (A) The limousine franchisee is incorporated;

14 (B) The franchisee is subject to regulation by the Interstate
15 Commerce Commission;

16 (C) The limousine franchise exists pursuant to a written
17 franchise arrangement between the franchisee and the franchisor as
18 defined by section 3 of P.L.1971, c.356 (C.56:10-3); and

19 (D) The franchisee registers with the Department of Labor and
20 Workforce Development and receives an employer registration
21 number.

22 (10) Services performed by a legal transcriber, or certified court
23 reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.),
24 shall not be deemed to be employment subject to the
25 "unemployment compensation law," R.S.43:21-1 et seq., if those
26 services are provided to a third party by the transcriber or reporter
27 who is referred to the third party pursuant to an agreement with
28 another legal transcriber or legal transcription service, or certified
29 court reporter or court reporting service, on a freelance basis,
30 compensation for which is based upon a fee per transcript page, flat
31 attendance fee, or other flat minimum fee, or combination thereof,
32 set forth in the agreement.

33 For purposes of this paragraph (10): "legal transcription service"
34 and "legal transcribing" mean making use, by audio, video or voice
35 recording, of a verbatim record of court proceedings, depositions,
36 other judicial proceedings, meetings of boards, agencies,
37 corporations, or other bodies or groups, and causing that record to
38 be printed in readable form or produced on a computer screen in
39 readable form; and "legal transcriber" means a person who engages
40 in "legal transcribing."

41 (j) "Employment office" means a free public employment
42 office, or branch thereof operated by this State or maintained as a
43 part of a State-controlled system of public employment offices.

44 (k) (Deleted by amendment, P.L.1984, c.24.)

45 (l) "State" includes, in addition to the states of the United States
46 of America, the District of Columbia, the Virgin Islands and Puerto
47 Rico.

48 (m) "Unemployment."

1 (1) An individual shall be deemed "unemployed" for any week
2 during which:

3 (A) The individual is not engaged in full-time work and with
4 respect to which his remuneration is less than his weekly benefit
5 rate, including any week during which he is on vacation without
6 pay; provided such vacation is not the result of the individual's
7 voluntary action, except that for benefit years commencing on or
8 after July 1, 1984, an officer of a corporation, or a person who has
9 more than a 5% equitable or debt interest in the corporation, whose
10 claim for benefits is based on wages with that corporation shall not
11 be deemed to be unemployed in any week during the individual's
12 term of office or ownership in the corporation; or

13 (B) The individual is eligible for and receiving a self-
14 employment assistance allowance pursuant to the requirements of
15 P.L.1995, c.394 (C.43:21-67 et al.).

16 (2) The term "remuneration" with respect to any individual for
17 benefit years commencing on or after July 1, 1961, and as used in
18 this subsection, shall include only that part of the same which in
19 any week exceeds 20% of his weekly benefit rate (fractional parts
20 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
21 include any moneys paid to an individual by a county board of
22 elections for work as a board worker on an election day ²or for
23 work pursuant to subsection d. of section 1 of P.L.2021, c.40
24 (C.19:15A-1) during the early voting period².

25 (3) An individual's week of unemployment shall be deemed to
26 commence only after the individual has filed a claim at an
27 unemployment insurance claims office, except as the division may
28 by regulation otherwise prescribe.

29 (n) "Unemployment compensation administration fund" means
30 the unemployment compensation administration fund established by
31 this chapter (R.S.43:21-1 et seq.), from which administrative
32 expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.

33 (o) "Wages" means remuneration paid by employers for
34 employment. If a worker receives gratuities regularly in the course
35 of his employment from other than his employer, his "wages" shall
36 also include the gratuities so received, if reported in writing to his
37 employer in accordance with regulations of the division, and if not
38 so reported, his "wages" shall be determined in accordance with the
39 minimum wage rates prescribed under any labor law or regulation
40 of this State or of the United States, or the amount of remuneration
41 actually received by the employee from his employer, whichever is
42 the higher.

43 (p) "Remuneration" means all compensation for personal
44 services, including commission and bonuses and the cash value of
45 all compensation in any medium other than cash.

46 (q) "Week" means for benefit years commencing on or after
47 October 1, 1984, the calendar week ending at midnight Saturday, or
48 as the division may by regulation prescribe.

1 (r) "Calendar quarter" means the period of three consecutive
2 calendar months ending March 31, June 30, September 30, or
3 December 31.

4 (s) "Investment company" means any company as defined in
5 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

6 (t) (1) (Deleted by amendment, P.L.2001, c.17).

7 (2) "Base week," commencing on or after January 1, 1996 and
8 before January 1, 2001, means:

9 (A) Any calendar week during which the individual earned in
10 employment from an employer remuneration not less than an
11 amount which is 20% of the Statewide average weekly
12 remuneration defined in subsection (c) of R.S.43:21-3 which
13 amount shall be adjusted to the next higher multiple of \$1.00 if not
14 already a multiple thereof, except that if in any calendar week an
15 individual subject to this subparagraph (A) is in employment with
16 more than one employer, the individual may in that calendar week
17 establish a base week with respect to each of the employers from
18 whom the individual earns remuneration equal to not less than the
19 amount defined in this subparagraph (A) during that week; or

20 (B) If the individual does not establish in his base year 20 or
21 more base weeks as defined in subparagraph (A) of this paragraph
22 (2), any calendar week of an individual's base year during which the
23 individual earned in employment from an employer remuneration
24 not less than an amount 20 times the minimum wage in effect
25 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
26 1 of the calendar year preceding the calendar year in which the
27 benefit year commences, which amount shall be adjusted to the next
28 higher multiple of \$1.00 if not already a multiple thereof, except
29 that if in any calendar week an individual subject to this
30 subparagraph (B) is in employment with more than one employer,
31 the individual may in that calendar week establish a base week with
32 respect to each of the employers from whom the individual earns
33 remuneration not less than the amount defined in this subparagraph
34 (B) during that week.

35 (3) "Base week," commencing on or after January 1, 2001,
36 means any calendar week during which the individual earned in
37 employment from an employer remuneration not less than an
38 amount 20 times the minimum wage in effect pursuant to section 5
39 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
40 year preceding the calendar year in which the benefit year
41 commences, which amount shall be adjusted to the next higher
42 multiple of \$1.00 if not already a multiple thereof, except that if in
43 any calendar week an individual subject to this paragraph (3) is in
44 employment with more than one employer, the individual may in
45 that calendar week establish a base week with respect to each of the
46 employers from whom the individual earns remuneration equal to
47 not less than the amount defined in this paragraph (3) during that
48 week.

1 (u) "Average weekly wage" means the amount derived by
2 dividing an individual's total wages received during his base year
3 base weeks (as defined in subsection (t) of this section) from that
4 most recent base year employer with whom he has established at
5 least 20 base weeks, by the number of base weeks in which such
6 wages were earned. In the event that such claimant had no employer
7 in his base year with whom he had established at least 20 base
8 weeks, then such individual's average weekly wage shall be
9 computed as if all of his base week wages were received from one
10 employer and as if all his base weeks of employment had been
11 performed in the employ of one employer.

12 For the purpose of computing the average weekly wage, the
13 monetary alternative in subparagraph (B) of paragraph (2) of
14 subsection (e) of R.S.43:21-4 shall only apply in those instances
15 where the individual did not have at least 20 base weeks in the base
16 year. For benefit years commencing on or after July 1, 1986,
17 "average weekly wage" means the amount derived by dividing an
18 individual's total base year wages by the number of base weeks
19 worked by the individual during the base year; provided that for the
20 purpose of computing the average weekly wage, the maximum
21 number of base weeks used in the divisor shall be 52.

22 (v) "Initial determination" means, subject to the provisions of
23 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as
24 measured by an eligible individual's base year employment with a
25 single employer covering all periods of employment with that
26 employer during the base year.

27 (w) "Last date of employment" means the last calendar day in
28 the base year of an individual on which he performed services in
29 employment for a given employer.

30 (x) "Most recent base year employer" means that employer with
31 whom the individual most recently, in point of time, performed
32 service in employment in the base year.

33 (y) (1) "Educational institution" means any public or other
34 nonprofit institution (including an institution of higher education):

35 (A) In which participants, trainees, or students are offered an
36 organized course of study or training designed to transfer to them
37 knowledge, skills, information, doctrines, attitudes or abilities from,
38 by or under the guidance of an instructor or teacher;

39 (B) Which is approved, licensed or issued a permit to operate as
40 a school by the State Department of Education or other government
41 agency that is authorized within the State to approve, license or
42 issue a permit for the operation of a school; and

43 (C) Which offers courses of study or training which may be
44 academic, technical, trade, or preparation for gainful employment in
45 a recognized occupation.

46 (2) "Institution of higher education" means an educational
47 institution which:

1 (A) Admits as regular students only individuals having a
 2 certificate of graduation from a high school, or the recognized
 3 equivalent of such a certificate;

4 (B) Is legally authorized in this State to provide a program of
 5 education beyond high school;

6 (C) Provides an educational program for which it awards a
 7 bachelor's or higher degree, or provides a program which is
 8 acceptable for full credit toward such a degree, a program of post-
 9 graduate or post-doctoral studies, or a program of training to
 10 prepare students for gainful employment in a recognized
 11 occupation; and

12 (D) Is a public or other nonprofit institution.

13 Notwithstanding any of the foregoing provisions of this
 14 subsection, all colleges and universities in this State are institutions
 15 of higher education for purposes of this section.

16 (z) "Hospital" means an institution which has been licensed,
 17 certified or approved under the law of this State as a hospital.

18 ²[(cf: P.L.2021, c.346, s.1)¹] (cf: P.L.2022, c.71, s.4)²

19

20 ¹[15.] ²[14.¹] ^{13.}² (New section) ²[Except as otherwise
 21 provided, the following minimum terms, and such other minimum
 22 terms as may be established by the department by regulation, shall
 23 apply to a work relationship between a domestic worker and ¹[a
 24 hiring entity] an employer¹:²

25 a. ²[Written agreements.]² No ²[employer] hiring entity² shall
 26 employ ²or engage² a domestic worker, except for casual work or
 27 work of less than five hours per month, unless the engagement is
 28 governed by a written contract governing the following: a specific
 29 list of job duties; hourly wage and overtime wage; weekly schedule
 30 including number of hours per week; the manner and frequency of
 31 payment; breaks for rest and meals; paid or unpaid leave including
 32 sick time; paid holidays; any other benefits provided; modes of
 33 transportation required and whether provided; value of housing if
 34 provided; sleeping period and personal time for live-in workers; the
 35 term of the contract; and any other terms and conditions as agreed
 36 upon by the domestic worker and employer or as mandated pursuant
 37 to this act. The written agreement shall be signed and dated by all
 38 parties after ample opportunity to review.

39 b. The written agreement required under this section shall not
 40 be construed to waive the protections of domestic workers under
 41 federal, State, and local laws and shall not contain any:

42 (1) Mandatory pre-dispute arbitration agreement for claims
 43 made by a covered domestic worker against a domestic work
 44 ¹[hiring entity] ²[employer¹] hiring entity² regarding the local
 45 rights of the worker; and

46 (2) Non-disclosure agreement, ²[restrictive covenant,] non-
 47 competition² or non-disparagement agreement, limiting the ability

1 of the covered domestic worker to seek compensation for
2 performing domestic services after the worker ceases to receive
3 compensation from the domestic work ¹["hiring entity"]
4 ²["employer¹"] hiring entity² for the performance of domestic
5 services.

6 c. The agreement shall be in English and such other language
7 as may be preferred by the worker. The ¹["hiring entity"]
8 ²["employer¹"] hiring entity² shall make reasonable efforts to
9 determine if the worker would prefer the agreement to be in another
10 language.

11 d. The department shall make available model contracts
12 complying with this act shall in multiple languages on its Internet
13 website.

14 e. A referral and employment agency shall provide domestic
15 workers and ¹["hiring entities"] ²["employers¹"] hiring entities² with
16 information concerning the contract requirements of this act at the
17 time ¹["a hiring entity"] ²["an employer¹"] a hiring entity² is
18 connected with a worker and shall make any model contracts
19 adopted by the department available to the ¹["hiring entity"]
20 ²["employer¹"] hiring entity².

21

22 ¹["16."] ²["15.¹"] 14.² (New section) a. ²["The"]² ¹["hiring entity"]
23 ²["An"]² employer¹ ²["of a domestic worker"]² shall allow the domestic
24 worker an uninterrupted paid rest-period of not less than ten
25 minutes for each four consecutive hours worked, unless the nature
26 of the work prevents the domestic worker from being relieved of all
27 duties for such period of time, such as some types of child care and
28 caretaker work for a sick, elderly or disabled person. The ¹["hiring
29 entity"] employer¹ shall pay the domestic worker for the time spent
30 on a rest break at the domestic worker's regular rate of pay.

31 b. The ¹["hiring entity"] employer¹ shall allow an uninterrupted
32 30-minute meal break after more than five consecutive hours
33 worked. Unless the domestic worker is relieved of all work duties
34 during such 30-minute period, the meal period shall be considered
35 an "on-duty" meal period and shall be paid at the domestic worker's
36 regular rate of pay.

37 (1) An "on-duty" meal period shall be permitted only when the
38 nature of the work prevents a domestic worker from being relieved
39 of all duties and when, by written agreement between the parties, an
40 "on-duty" meal period is agreed to. The agreement may be revoked
41 by the domestic worker, in writing, at any time.

42 c. The ¹["hiring entity"] employer¹ shall not impede or
43 discourage a domestic worker from taking any meal or rest breaks.

44 d. Failure to allow a meal or rest period in accordance with this
45 paragraph (1) shall entitle the domestic worker to one additional
46 hour of pay at the domestic worker's regular rate of compensation
47 for each workday that the meal or rest period was not provided.

1 Payment of this extra pay shall not excuse non-compliance with this
2 subsection.

3

4 ¹[17.] ²[16.¹] ^{15.}² (New section) A "live-in" domestic worker
5 shall not be required to work more than six consecutive days for the
6 same ¹[hiring entity] employer¹ without a 24-hour period of rest,
7 which may be unpaid.

8

9 ¹[18.] ²[17.¹] ^{16.}² (New section) a. ²[The]² ¹[hiring entity]
10 ²An² employer¹ ²of a domestic worker² shall provide a minimum
11 two-week notification period before termination of employment,
12 and for live-in domestic workers a minimum four-week notification
13 period before termination of employment. ²[No notification period
14 is required in connection with the termination of casual work
15 performed for ¹[a hiring entity] an employer¹.]²

16 b. The ¹[hiring entity] employer¹ may terminate the
17 employment without complying with the full notification period
18 based on a good-faith belief that the domestic worker has engaged
19 in significant misconduct.

20 c. Failure to provide notification as required under this section
21 shall entitle the domestic worker to severance pay in the amount of
22 the worker's regular hourly rate multiplied by the regular number of
23 hours worked over the period of time during which the required
24 notification was not provided.

25

26 ¹[19.] ²[18.¹] ^{17.}² (New section) No ¹[hiring entity]
27 ²[employer¹] hiring entity² shall:

28 a. Keep or hold the original copies of any personal documents
29 of a domestic worker;

30 b. Monitor or record, through any means, the activities of a
31 domestic worker:

32 (1) using any bathroom or similar facility;

33 (2) in the living quarters of a domestic worker; or

34 (3) while the worker is engaged in any activities associated with
35 dressing or changing clothes; or

36 c. Monitor, record or interfere with the private communications
37 of a domestic worker.

38

39 ¹[20.] ²[19.¹] ^{18.}² (New section) a. ¹[A hiring entity] ²[An
40 employer¹] A hiring entity² shall provide to a domestic worker
41 notification of the rights of domestic workers under P.L. ,

42 c. (C. et seq.) (pending before the Legislature as this bill),
43 and information on how to file a complaint for violation of these
44 rights, as shall be determined by the department by regulation.

45 b. ¹[A hiring entity] ²[An employer¹] A hiring entity² shall
46 create and maintain records documenting hours worked, pay rate,
47 meals and rest breaks, leave time earned and used, if applicable, and

1 the existence of a written agreement, all pursuant to requirements
 2 established by regulation by the department. If ¹['a hiring entity']
 3 ²['an employer¹'] a hiring entity² does not maintain the required
 4 records or does not allow the department reasonable access to the
 5 records, an adverse inference may be drawn with respect to facts
 6 alleged regarding the issues about which records were not kept.

7 c. The department shall maintain the confidentiality of all
 8 records it obtains in connection with enforcement activities to the
 9 full extent permitted by law.

10
 11 ¹['21.'] ²['20.1'] 19.² (New section) a. It shall be unlawful for ¹['a
 12 hiring entity'] ²['an employer¹'] a hiring entity² or any other person
 13 to interfere with, restrain, or deny the exercise of, or the attempt to
 14 exercise, any right set forth in P.L. , c. (C. et seq.)
 15 (pending before the Legislature as this bill).

16 b. The minimum requirements of sections ¹['15 through 20']
 17 ²['14 through 19¹'] 13 through 18² of P.L. , c. (C.)
 18 (pending before the Legislature as this bill) shall be deemed
 19 incorporated into any contract, whether actual or implied, between
 20 the employer and the domestic worker.

21 c. A material breach by ¹['a hiring entity'] ²['an employer¹'] a
 22 hiring entity² of a contract with a domestic worker shall constitute a
 23 violation of P.L. , c. (C. et seq.) (pending before the
 24 Legislature as this bill), without regard to whether the breach is of a
 25 provision required by this act.

26 d. No ¹['hiring entity'] ²['employer¹'] hiring entity² or any other
 27 person shall take or threaten retaliatory action against any person
 28 because a domestic worker has exercised rights or pursued a claim
 29 of violation under P.L. , c. (C. et seq.) (pending before the
 30 Legislature as this bill). These rights include the right to demand
 31 compliance with protections established by written agreement; the
 32 right to file a complaint or inform any person about an employer's
 33 alleged violation of this act; the right to cooperate with the
 34 department in any investigation pursuant to this act; and the right to
 35 inform any person of the rights established under this act.

36 e. No ¹['hiring entity'] ²['employer¹'] hiring entity² or any other
 37 person shall communicate to a person exercising rights protected
 38 under P.L. c. (C.) (pending before the Legislature as this
 39 bill) the willingness or intent to contact, report to, or to make an
 40 implied or express assertion to report to a government agency
 41 regarding the suspected citizenship or immigration status of a
 42 domestic worker or family member of a domestic worker because
 43 the worker has or has expressed an intent to exercise rights
 44 protected under this act or because of a belief the worker may do so.

45 f. The protections of this section shall apply to any person who
 46 mistakenly but in good faith alleges a violation of P.L. ,
 47 c. (C. et seq.) (pending before the Legislature as this bill).

1 g. It shall be considered a rebuttable presumption of retaliation
 2 if the ¹['hiring entity'] ²['employer¹'] hiring entity² or any other
 3 person takes an adverse action against a domestic worker within 90
 4 calendar days of the worker's exercise of rights protected in
 5 P.L. c. (C. et seq.) (pending before the Legislature as this
 6 bill). However, in the case of temporary or seasonal employment
 7 that ended before the close of the 90 calendar day period, the
 8 presumption also applies if the ¹['hiring entity'] ²['employer¹'] hiring
 9 entity² fails to rehire a former domestic worker at the next
 10 opportunity for work in the same position. The ¹['hiring entity']
 11 ²['employer¹'] hiring entity² may rebut the presumption with clear
 12 and convincing evidence that the adverse action would have been
 13 taken in the absence of such protected activity.

14 h. Proof of retaliation under P.L. , c. (C. et seq.)
 15 (pending before the Legislature as this bill) shall be sufficient upon
 16 a showing that the ¹['hiring entity'] ²['employer¹'] hiring entity² or
 17 any other person has taken an adverse action against a person and
 18 the persons exercise or rights protected in P.L. , c. (C. et
 19 seq.) (pending before the Legislature as this bill) was a motivating
 20 factor in the absence of that protected activity.

21 i. A complaint or other communication by any person triggers
 22 the protection of P.L. , c. (C. et seq.) (pending before the
 23 Legislature as this bill) regardless of whether the complaint or
 24 communication is in writing or makes explicit reference to P.L. ,
 25 c. (C.) (pending before the Legislature as this bill).
 26

27 ¹['22.'] ²['21.¹'] 20.² (New section) The department is authorized
 28 to coordinate implementation, administration, and enforcement for
 29 P.L. , c. (C.) (pending before the Legislature as this bill),
 30 and shall promulgate appropriate guidelines and regulations to
 31 effectuate the purposes of for P.L. , c. (C.) (pending before
 32 the Legislature as this bill) through the Domestic Workers
 33 Standards and Implementation Board, established in section
 34 ¹['25']²['24'] 23.² of P.L. , c. (C.) (pending before the
 35 Legislature as this bill).
 36

37 ¹['23.'] ²['22.¹'] 21.² (New section) a. Individuals and ¹['hiring
 38 entities'] employers¹ with an overlapping employment relationship
 39 with a domestic worker are subject to joint and several liability, and
 40 concurrent finds and penalties, in connection with P.L. ,
 41 c. (C.) (pending before the Legislature as this bill).

42 b. A domestic worker or other person representing a domestic
 43 worker may report to the department any suspected violation of
 44 P.L. , c. (C.) (pending before the Legislature as this bill).

45 c. The department shall collaborate with the Domestic Workers
 46 Standards and Implementation Board, as established by section
 47 ¹['25'] ²['24'] 23.² of P.L. , c. (C.) (pending before the

1 Legislature as this bill) to take any steps as it deems appropriate to
 2 resolve complaints and enforce P.L. , c. (C.) (pending
 3 before the Legislature as this bill), including, but not limited to,
 4 establishing a system to receive complaints regarding
 5 noncompliance with P.L. , c. (C.) (pending before the
 6 Legislature as this bill), investigating alleged violations in a timely
 7 manner and resolving complaints through a separate “referral”
 8 process for claims of ²employees in² domestic ²services
 9 workers².

10 d. The department shall have the power to subpoena records
 11 and testimony from any party to a complaint. The records shall be
 12 provided to the department within 30 days after receipt of the
 13 subpoena.

14 e. Any person alleging a violation of P.L. , c. (C.)
 15 (pending before the Legislature as this bill) shall file a complaint
 16 with the department within two years of the date that the person
 17 knew or should have known of the alleged violation.

18 f. Upon establishment of a system of administrative
 19 adjudication, the department shall have the power to impose the
 20 penalties and fines for a violation of P.L. , c. (C.) (pending
 21 before the Legislature as this bill), and to provide or obtain
 22 appropriate relief. Remedies may include reinstatement and full
 23 restitution to the domestic worker for lost wages and benefits,
 24 including presumed damages to be awarded to a domestic worker
 25 for the ¹hiring entity’s ²hiring entity’s or ²employer’s¹ violation
 26 of P.L. , c. (C.) (pending before the Legislature as this bill).
 27 The department shall determine by regulation an amount of
 28 presumed damages.

29 g. ¹A hiring entity ²[An] A hiring entity or an ²employer¹
 30 who knowingly retaliates against an employee for any activity
 31 protected under P.L. , c. (C.) (pending before the
 32 Legislature as this bill), or any other knowing violation of P.L. ,
 33 c. (C.) (pending before the Legislature as this bill), shall be a
 34 crime of the fourth degree. Otherwise, it shall be a disorderly
 35 persons offense and the ¹hiring entity ²hiring entity or ²employer¹
 36 shall, upon conviction for a violation, be punished by a
 37 fine of not less than \$100 not more than \$2,000 for an initial
 38 violation and not less than \$200 nor more than \$4,000 for each
 39 subsequent violation. Each day during which any violation of
 40 P.L. , c. (C.) (pending before the Legislature as this bill)
 41 continues shall constitute a separate and distinct offense, and the
 42 employment of any domestic worker in violation of P.L. ,
 43 c. (C.) (pending before the Legislature as this bill), shall,
 44 with respect to each domestic worker employed, constitute a
 45 separate and violation.

46 h. Any domestic worker or person who is aggrieved by a
 47 violation of P.L. , c. (C.) (pending before the Legislature

as this bill), or the department may bring civil action in a court of competent jurisdiction against ¹[a hiring entity] ²a hiring entity or² an employer¹ violating P.L. , c. (C.) (pending before the Legislature as this bill). Nothing in P.L. , c. (C.) (pending before the Legislature as this bill) or its implementing regulations shall be construed to require a complaint to be filed with the department before bringing an action in court. Upon prevailing in an action brought pursuant to this section, an aggrieved person shall be entitled to any legal or equitable relief as may be appropriate to remedy the violation, that is not duplicative of any relief provided to the person in administrative proceedings, including, without limitation, reinstatement in employment, back pay, and injunctive relief. The aggrieved person shall be entitled to an award of reasonable attorney's fees and costs.

¹[24.] ²[23.¹] 22.² (New section) a. The department shall, upon appropriation of funds to the department for purposes of this section, establish and maintain a Domestic Work Enforcement Program in collaboration with qualified organizations. P.L. , c. (C.) (pending before the Legislature as this bill) requires the department to issue a competitive request to community-based organizations (CBOs) to provide education and outreach services in this program and would prescribe requirements for these organizations. The CBOs would be responsible for developing and consulting with the department regarding the core education and outreach materials, as specified. The program shall increase the capacity and expertise of the department to improve education and enforcement of labor standards in the domestic work industry. The program shall include, but not be limited to, the following:

(1) Education and training for domestic work employees and ¹[hiring entities] employers¹ addressing minimum wage, overtime, sick leave, recordkeeping, wage adjudication, and retaliation, along with new rights extended by P.L. , c. (C.) (pending before the Legislature as this bill);

(2) Training for domestic worker leaders to provide peer-to-peer support and wraparound service referrals to domestic work employees who have elected to file wage claims or take other actions seeking remedy from ¹[hiring entities] ²hiring entities or² employers¹;

(3) Development of core training curriculum to be used in the education and training of domestic work employees and ¹[hiring entities] employers¹;

(4) Provision of technical and legal assistance to domestic work employees through a Statewide telephone help line and the promotion of the help line to domestic worker populations; and

1 (5) Development of an online resource hub to provide
2 information for ¹~~["hiring entities"]~~ employers¹ on State labor laws
3 and guidelines on fair employment.

4 b. Qualified organizations that collaborate under subsection a.
5 of this section shall issue reports and meet quarterly with the
6 department to review the implementation and success of the
7 program.

8 c. (1) A nonprofit organization that has a minimum of five
9 years of experience working with domestic work employees or
10 ¹~~["hiring entities"]~~ employers¹; or

11 (2) An organization that works with nonprofit organizations that
12 has a minimum of five years of experience working with domestic
13 work employees or ¹~~["hiring entities"]~~ employers¹.
14

15 ¹~~["25.1"]~~ ²~~["24.1"]~~ 23.2 (New section) a. The department shall
16 establish, within 90 days of the date of enactment of P.L. ,
17 c. (C.) (pending before the Legislature as this bill), a "Domestic
18 Workers Standards and Implementation Board" (Board), which shall
19 be established to provide a forum for ¹~~["hiring entities"]~~ employers¹,
20 domestic workers, worker organizations, and the public to consider
21 analyze, and make recommendations to the State on the legal
22 protections, benefits, and working conditions for domestic worker
23 industry standards. The board shall be established to permanently
24 promote the health, safety, and well-being of domestic workers; and a
25 living wage for domestic workers along with development of the
26 mechanisms to support implementation of P.L. ,
27 c. (C.) (pending before the Legislature as this bill), including the
28 development of regulations promulgated under P.L. ,
29 c. (C.) (pending before the Legislature as this bill). The board
30 shall also make recommendations to the department regarding
31 enforcement and implementation strategies, including the development
32 of the Domestic Work Enforcement Program.

33 b. (1) The board shall consist of 13 members composed of
34 members with expertise in labor standards, wage theft, law, and
35 policy; and domestic worker industry. The board shall meet at least
36 quarterly, and all meetings shall be open to the public. The board shall
37 create by-laws in order to conduct and structure future meetings
38 including, but not limited to, scheduling quarterly meetings,
39 determining recommended timetables for submission of
40 recommendations to the Legislature, the Department of Labor and
41 Workforce Development, the Governor's Office, determining term
42 lengths and appointments of individuals to the board. All State
43 departments, agencies, boards, commissions shall support and
44 cooperate with the board and provide the board with any data it may
45 need which may include logistical support in regard to translation,
46 interpretation, and outreach to ensure equal access and equity of
47 domestic worker representatives and ¹~~["hiring entities"]~~ employers¹ on

1 the board. The board will be comprised of various stakeholders from
2 the private, non-profit sectors, domestic workers, ¹['hiring entities]
3 employers¹, and will have representation from members of the
4 Department of Labor and Workforce Development, and Governor's
5 office; and

6 (2) (a) The Governor shall appoint seven members as follows:

7 (i) one representative from the Department of Labor and
8 Workforce Development;

9 (ii) one representative from the National Domestic Workers
10 Alliance;

11 (iii) one representative from a labor or union organization;

12 (iv) two representatives from a State-based community
13 organization or worker center, which is focused on the rights of low-
14 wage and immigrant workers;

15 (v) one domestic worker; and

16 (vi) one ¹['hiring entity] employer¹; and

17 (b) The Legislature shall appoint six members as follows: three
18 members to be appointed by the President of the Senate and three
19 members to be appointed by the Speaker of the General Assembly, as
20 follows:

21 (i) four domestic workers, two each selected respectively by the
22 President of the Senate and the Speaker of the General Assembly; and

23 (ii) two ¹['hiring entities] employers¹, one each selected
24 respectively by the President of the Senate and the Speaker of the
25 General Assembly.

26 c. The board's responsibilities include, but are not limited to,
27 providing a forum for ¹['hiring entities] employers¹, domestic
28 workers, worker organizations, and other affected parties to share
29 information, insights, and experiences on the working conditions of
30 domestic workers, and recommendations on how the working
31 conditions can be changed to meet the needs of domestic workers and
32 ¹['hiring entities] employers¹. These recommendations shall include:

33 (1) possible legislation or policy changes;

34 (2) wage standards for the industry;

35 (3) development and advancement of enforcement and
36 implementation efforts in collaboration with the department; and

37 (4) the promulgation of regulations to enforce P.L. ,

38 c. (C.) (pending before the Legislature as this bill).

39 d. The board, in consultation with the department and other State
40 agencies, within six months after all members have been established,
41 shall submit to the Governor, and Legislature, pursuant to section 2 of
42 P.L.1991, c.164 (C.52:14-19.1), with oversight by the department, a
43 work plan identifying the topics the board will address in the first two
44 years. The board in consultation with the department and other
45 relevant State agencies, shall submit an updated work plan every two
46 years. The board's first recommendation shall be submitted to the

1 Governor and Legislature by the end of the first quarter of the year
2 following the year in which the work plan has been submitted.

3 Within 120 days from the date of receipt of any work plan
4 submitted by the board, the Legislature, through its committees that
5 consider labor subject matter, shall consider and respond to the board's
6 work plan. The response shall include proposed legislation and
7 policies, requests for additional information needed from the board,
8 requests for alternative plans from the board, reasons ¹~~["fro"]~~ for¹
9 rejection of any plan submitted by the board, or an explanation of why
10 additional time is needed to submit a response to the board's plan.
11 Additionally, the Legislature, sua sponte, may notify the board of any
12 policies or legislation it may introduce for enactment, request further
13 information from the board, request that the board develop
14 alternatives, or take any other action that it deems appropriate.

15 e. The board shall make recommendations to the Legislature on
16 the following subjects:

17 (1) Wage standards, such as industry standards, overtime, and pay
18 differentials;

19 (2) Training for ¹~~["hiring entities"]~~ employers¹ and domestic
20 workers on federal, State, and local labor laws, benefits, and
21 protections, discrimination, and sexual harassment, workplace health;
22 and safety standards;

23 (3) Jobs skills and professional development opportunities;

24 (4) Access to portable benefits, such as paid time off, retirement
25 pensions, health benefits, and paid family and disability leave;

26 (5) Workers' compensation and temporary disability benefits;

27 (6) Development and advancement of written agreement, including
28 notice of rights and recordkeeping templates;

29 (7) Outreach and enforcement strategies to ensure compliance with
30 P.L. , c. (C.) (pending before the Legislature as this bill), and
31 to provide effective information to both ¹~~["hiring entities"]~~ employers¹
32 and domestic workers; and

33 (8) Any other emerging issues the board wishes to include in its
34 work plan.

35 f. Members of the board shall serve without compensation but
36 shall be reimbursed for the reasonable travel and other out-of-pocket
37 expenses incurred in the performance of their duties.

38

39 ¹~~["26.1"]~~ ²~~["25.1"]~~ 24.2 (New section) a. Nothing in P.L. ,
40 c. (C.) (pending before the Legislature as this bill) shall be
41 construed to diminish any rights or protections granted to domestic
42 workers by any other law.

43 b. If any provision of P.L. , c. (C.) (pending before the
44 Legislature as this bill) or its application to any person or
45 circumstance is held invalid, the invalidity does not affect other
46 provisions or applications of P.L. , c. (C.) (pending before
47 the Legislature as this bill) which can be given effect without the
48 invalid provision or application, and to this end the provisions of

1 P.L. , c. (C.) (pending before the Legislature as this bill)
2 are severable.

3

4 ¹~~27.~~ ²~~26.1~~ 25.² This act shall take effect on the first day of
5 the sixth month next following enactment, except that the
6 commissioner may take any anticipatory action as may be necessary
7 to effectuate the purposes of this act.