

Title 34.  
Chapter 11.  
Article 5. (New)  
Domestic  
Workers'  
Wage Protections  
and Workplace  
Rights  
§§1,2,13-23  
C.34:11-69  
to 34:11-81  
§24  
Note to all  
sections

P.L. 2023, CHAPTER 262, *approved January 12, 2024*  
Senate, No. 723 (*Second Reprint*)

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.

**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:

<sup>1</sup>Senate SLA committee amendments adopted December 1, 2022.

<sup>2</sup>Senate SBA committee amendments adopted December 14, 2023.

1 e. At least 10 other states and two cities have enacted  
2 legislation to provide rights, benefits, and protections for domestic  
3 workers.

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

8

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

11 "Casual work" means work that is:

- 12 (1) irregular, uncertain, or incidental in nature and duration; and  
13 (2) different in nature from the type of paid work in which the  
14 worker is customarily engaged.

15 "Domestic services" means services of a household nature and  
16 performed by an individual in or about a private home on a  
17 permanent or temporary basis, and includes services performed by a  
18 domestic worker.

19 "Domestic worker" or "worker" means hourly and salaried  
20 employees, <sup>2</sup>[independent contractors,]<sup>2</sup> full-time and part-time  
21 individuals and temporary individuals and is narrowly construed to  
22 mean any worker who:

- 23 (1) works for one or more employers; and  
24 (2) is an individual who works in residence for the purposes of  
25 providing any of the following services: caring for a child; serving  
26 as a companion or caretaker for a sick, convalescing, or elderly  
27 person, or a person with a disability; housekeeping or house  
28 cleaning; cooking; providing food or butler service; parking cars;  
29 cleaning laundry; gardening; personal organizing, or for any other  
30 domestic service purpose; provided that the term domestic worker  
31 does not include:

32 (a) A family member, with "family member" meaning a spouse,  
33 child, parent, sibling, aunt, uncle, niece, nephew, first cousin,  
34 grandparent, grandchild, father-in-law, mother-in-law, son-in-law,  
35 daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half  
36 brother, or half sister, whether the individual is related by blood,  
37 marriage, or adoption;

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

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

42 (d) An individual whose primary work involves household  
43 repair or maintenance, such as a roofer, plumber, mason, painter or  
44 other  
45 similar contractor;

46 (e) <sup>1</sup>[A home health care worker while they are paid through  
47 public funds, such as a home health care worker while paid through

1 Medicaid or Medicare] An employee of the State or the United  
2 States<sup>1</sup>; <sup>2</sup>or<sup>2</sup>

3 (f) An individual established as a kinship legal guardian, as  
4 defined by section 2<sup>1</sup>[.]<sup>1</sup> of P.L.2001, c.250 (C.3B:12A-2), of a  
5 child who lives in the residence, or an individual who participates in  
6 the Kinship Navigator Program, as authorized by the Department of  
7 Children and Families, as a caregiver of a child who lives in the  
8 residence and receives services provided by a kinship navigator  
9 service provider<sup>2</sup>[; or

10 (g) An individual less than 18 years of age]<sup>2</sup>.

11 "Department" means the Department of Labor and Workforce  
12 Development.

13 "Employment agency" means any person or entity that procures,  
14 or attempts to procure, <sup>2</sup>[directly or indirectly through placement in  
15 a physical or virtual labor pool:

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

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

23 (a) processing or distributing or withholding workers' payment  
24 that the workers are owed from hiring entities or clients;

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

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

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

33 (e) other forms of continued involvement after procurement that  
34 evidence ongoing control] any workers for referral to a third party<sup>2</sup>.

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

44 "Live-in domestic worker" includes any individuals, who, as part  
45 of their employment, reside in the personal residence of the <sup>1</sup>[hiring  
46 entity] employer.<sup>1</sup>

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

4 (1) employees<sup>2</sup>【, independent contractors, or domestic workers  
 5 for employers or companies seeking the services of employees,  
 6 independent contractors, or domestic workers】<sup>2</sup>; and

7 (2) after the procurement does not continue involvement in the  
 8 terms of exchange of domestic services with the employees<sup>2</sup>【,  
 9 independent contractors, or domestic workers】<sup>2</sup> in any way, with  
 10 the exception of the following:

11 (a) continuing to display or host or advertise, either through  
 12 physical means or virtual means, the workers' contact information,  
 13 job qualifications, resume, image, or digital profile which  
 14 employers or clients can use to independently contact employees<sup>2</sup>【,  
 15 independent contractors, or domestic workers】<sup>2</sup> about  
 16 employment<sup>2</sup>【, independent contractor engagement, or domestic  
 17 workers about employment, independent contractor engagements,  
 18 or other jobs】<sup>2</sup>; or

19 (b) removing, either through physical means or virtual means,  
 20 the workers' contact information, job qualifications, resume, image,  
 21 or digital profile which employers or clients can use to  
 22 independently contact employees, upon the mandate of any federal,  
 23 State, or local <sup>1</sup>laws.<sup>1</sup>

24 <sup>2</sup>【"Wage"】 "Remuneration for work"<sup>2</sup> means compensation due  
 25 to the work of a domestic worker, payable in legal tender of the  
 26 United States or checks on banks convertible into cash on demand  
 27 at full face value, subject to any deductions, charges, or allowances  
 28 as may be permitted by rules of the department.

29 "Written" or "writing" means a printed or printable  
 30 communication in physical or electronic form, including a  
 31 communication that is transmitted through email, text message, or a  
 32 computer system, or is otherwise sent and maintained  
 33 electronically.

34  
 35 3. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read  
 36 as follows:

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

39 a. "Person" includes one or more individuals, partnerships,  
 40 associations, organizations, labor organizations, corporations, legal  
 41 representatives, trustees, trustees in bankruptcy, receivers, and  
 42 fiduciaries.

43 b. "Employment agency" 【includes any person undertaking to  
 44 procure employees or opportunities for others to work】 <sup>1</sup>【shall have  
 45 the same meaning as in section 2 of P.L. , c. (C. ) (pending  
 46 before the Legislature as this bill)】 includes any person undertaking  
 47 to procure employees or opportunities for others to work<sup>1</sup>.

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

1 garden, skating rink, swimming pool, amusement and recreation  
2 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
3 pool parlor, or other place of amusement; any comfort station; any  
4 dispensary, clinic, or hospital; any public library; and any  
5 kindergarten, primary and secondary school, trade or business  
6 school, high school, academy, college and university, or any  
7 educational institution under the supervision of the State Board of  
8 Education or the Commissioner of Education of the State of New  
9 Jersey. Nothing herein contained shall be construed to include or to  
10 apply to any institution, bona fide club, or place of accommodation,  
11 which is in its nature distinctly private; nor shall anything herein  
12 contained apply to any educational facility operated or maintained  
13 by a bona fide religious or sectarian institution, and the right of a  
14 natural parent or one in loco parentis to direct the education and  
15 upbringing of a child under his control is hereby affirmed; nor shall  
16 anything herein contained be construed to bar any private secondary  
17 or post-secondary school from using in good faith criteria other than  
18 race, creed, color, national origin, ancestry, gender identity, or  
19 expression or affectional or sexual orientation in the admission of  
20 students.

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

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

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

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

39       q. "Disability" means physical or sensory disability, infirmity,  
40 malformation, or disfigurement which is caused by bodily injury,  
41 birth defect, or illness including epilepsy and other seizure  
42 disorders, and which shall include, but not be limited to, any degree  
43 of paralysis, amputation, lack of physical coordination, blindness or  
44 visual impairment, deafness or hearing impairment, muteness or  
45 speech impairment, or physical reliance on a service or guide dog,  
46 wheelchair, or other remedial appliance or device, or any mental,  
47 psychological, or developmental disability, including autism  
48 spectrum disorders, resulting from anatomical, psychological,

1 physiological, or neurological conditions which prevents the typical  
2 exercise of any bodily or mental functions or is demonstrable,  
3 medically or psychologically, by accepted clinical or laboratory  
4 diagnostic techniques. Disability shall also mean AIDS or HIV  
5 infection.

6 r. "Blind person" or "person who is blind" means any  
7 individual whose central visual acuity does not exceed 20/200 in the  
8 better eye with correcting lens or whose visual acuity is better than  
9 20/200 if accompanied by a limit to the field of vision in the better  
10 eye to such a degree that its widest diameter subtends an angle of  
11 no greater than 20 degrees.

12 s. "Guide dog" means a dog used to assist persons who are  
13 deaf, or which is fitted with a special harness so as to be suitable as  
14 an aid to the mobility of a person who is blind, and is used by a  
15 person who is blind and has satisfactorily completed a specific  
16 course of training in the use of such a dog, and has been trained by  
17 an organization generally recognized by agencies involved in the  
18 rehabilitation of persons with disabilities, including, but not limited  
19 to, those persons who are blind or deaf, as reputable and competent  
20 to provide dogs with training of this type.

21 t. "Guide or service dog trainer" means any person who is  
22 employed by an organization generally recognized by agencies  
23 involved in the rehabilitation of persons with disabilities, including,  
24 but not limited to, those persons who are blind, have visual  
25 impairments, or are deaf or have hearing impairments, as reputable  
26 and competent to provide dogs with training, as defined in this  
27 section, and who is actually involved in the training process.

28 u. "Housing accommodation" means any publicly assisted  
29 housing accommodation or any real property, or portion thereof,  
30 which is used or occupied, or is intended, arranged, or designed to  
31 be used or occupied, as the home, residence, or sleeping place of  
32 one or more persons, but shall not include any single family  
33 residence the occupants of which rent, lease, or furnish for  
34 compensation not more than one room therein.

35 v. "Public facility" means any place of public accommodation  
36 and any street, highway, sidewalk, walkway, public building, and  
37 any other place or structure to which the general public is regularly,  
38 normally, or customarily permitted or invited.

39 w. "Deaf person" or "person who is deaf" means any person  
40 whose hearing is so severely impaired that the person is unable to  
41 hear and understand conversational speech through the unaided ear  
42 alone, and who must depend primarily on an assistive listening  
43 device or visual communication such as writing, lip reading, sign  
44 language, and gestures.

45 x. "Atypical hereditary cellular or blood trait" means sickle cell  
46 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
47 fibrosis trait.



1 y. "Sickle cell trait" means the condition wherein the major  
2 natural hemoglobin components present in the blood of the  
3 individual are hemoglobin A (normal) and hemoglobin S  
4 (sickle hemoglobin) as defined by standard chemical and physical  
5 analytic techniques, including electrophoresis; and the proportion of  
6 hemoglobin A is greater than the proportion of hemoglobin S or one  
7 natural parent of the individual is shown to have only normal  
8 hemoglobin components (hemoglobin A, hemoglobin A2,  
9 hemoglobin F) in the normal proportions by standard chemical and  
10 physical analytic tests.

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

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

23 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
24 which in combination with another similar gene results in the  
25 chronic hereditary disease Tay-Sachs.

26 cc. "Cystic fibrosis trait" means the presence of the cystic  
27 fibrosis gene which in combination with another similar gene  
28 results in the chronic hereditary disease cystic fibrosis.

29 dd. "Service dog" means any dog individually trained to the  
30 requirements of a person with a disability including, but not limited  
31 to minimal protection work, rescue work, pulling a wheelchair or  
32 retrieving dropped items. This term shall include a "seizure dog"  
33 trained to alert or otherwise assist persons with epilepsy or other  
34 seizure disorders.

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

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

40 gg. "HIV infection" means infection with the human  
41 immunodeficiency virus or any other related virus identified as a  
42 probable causative agent of AIDS.

43 hh. "Affectional or sexual orientation" means male or female  
44 heterosexuality, homosexuality, or bisexuality by inclination,  
45 practice, identity, or expression, having a history thereof or being  
46 perceived, presumed, or identified by others as having such an  
47 orientation.

- 1       ii. "Heterosexuality" means affectional, emotional, or physical  
2 attraction or behavior which is primarily directed towards persons  
3 of the other gender.
- 4       jj. "Homosexuality" means affectional, emotional, or physical  
5 attraction or behavior which is primarily directed towards persons  
6 of the same gender.
- 7       kk. "Bisexuality" means affectional, emotional, or physical  
8 attraction or behavior which is directed towards persons of <sup>2</sup>[either  
9 gender] multiple genders<sup>2</sup>.
- 10      ll. "Familial status" means being the natural parent of a child,  
11 the adoptive parent of a child, the resource family parent of a child,  
12 having a "parent and child relationship" with a child as defined by  
13 State law, or having sole or joint legal or physical custody, care,  
14 guardianship, or visitation with a child, or any person who is  
15 pregnant or is in the process of securing legal custody of any  
16 individual who has not attained the age of 18 years.
- 17      mm. "Housing for older persons" means housing:
- 18       (1) provided under any State program that the Attorney General  
19 determines is specifically designed and operated to assist persons  
20 who are elderly (as defined in the State program); or provided under  
21 any federal program that the United States Department of Housing  
22 and Urban Development determines is specifically designed and  
23 operated to assist persons who are elderly (as defined in the federal  
24 program); or
- 25       (2) intended for, and solely occupied by, persons 62 years of age  
26 or older; or
- 27       (3) intended and operated for occupancy by at least one person  
28 55 years of age or older per unit. In determining whether housing  
29 qualifies as housing for older persons under this paragraph, the  
30 Attorney General shall adopt regulations which require at least the  
31 following factors:
- 32       (a) the existence of significant facilities and services  
33 specifically designed to meet the physical or social needs of older  
34 persons, or if the provision of such facilities and services is not  
35 practicable, that such housing is necessary to provide important  
36 housing opportunities for older persons; and
- 37       (b) that at least 80 percent of the units are occupied by at least  
38 one person 55 years of age or older per unit; and
- 39       (c) the publication of, and adherence to, policies and procedures  
40 which demonstrate an intent by the owner or manager to provide  
41 housing for persons 55 years of age or older.
- 42      Housing shall not fail to meet the requirements for housing for  
43 older persons by reason of: persons residing in such housing as of  
44 September 13, 1988 not meeting the age requirements of this  
45 subsection, provided that new occupants of such housing meet the  
46 age requirements of this subsection; or unoccupied units, provided  
47 that such units are reserved for occupancy by persons who meet the  
48 age requirements of this subsection.

1 nn. "Genetic characteristic" means any inherited gene or  
2 chromosome, or alteration thereof, that is scientifically or medically  
3 believed to predispose an individual to a disease, disorder, or  
4 syndrome, or to be associated with a statistically significant  
5 increased risk of development of a disease, disorder, or syndrome.

6 oo. "Genetic information" means the information about genes,  
7 gene products, or inherited characteristics that may derive from an  
8 individual or family member.

9 pp. "Genetic test" means a test for determining the presence or  
10 absence of an inherited genetic characteristic in an individual,  
11 including tests of nucleic acids such as DNA, RNA, and  
12 mitochondrial DNA, chromosomes, or proteins in order to identify a  
13 predisposing genetic characteristic.

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

16 rr. "Gender identity or expression" means having or being  
17 perceived as having a gender related identity or expression whether  
18 or not stereotypically associated with a person's assigned sex at  
19 birth.

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

23 tt. <sup>2</sup>["Premium wages"] "Premium pay"<sup>2</sup> means additional  
24 remuneration for night, weekend, or holiday work, or for standby or  
25 irregular duty.

26 uu. "Premium benefit" means an employment benefit, such as  
27 seniority, group life insurance, health insurance, disability  
28 insurance, sick leave, annual leave, or an educational or pension  
29 benefit that is greater than the employment benefit due the  
30 employee for an equivalent period of work performed during the  
31 regular work schedule of the employee.

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

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

37 xx. "Family member" means a child, parent, parent-in-law,  
38 sibling, grandparent, grandchild, spouse, partner in a civil union  
39 couple, domestic partner, or any other individual related by blood to  
40 the person, and any other individual that the person shows to have a  
41 close association with the person which is the equivalent of a family  
42 relationship.

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

44

45 4. Section 2 of P.L.1965, c.164 (C.34:6A-2) is amended to read  
46 as follows:

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

- 1 (a) "Act" means this act and rules and regulations promulgated  
2 hereunder.
- 3 (b) "Board" means the Industrial Safety Board established under  
4 this act.
- 5 (c) "Bureau" means the Bureau of Engineering and Safety in the  
6 Division of Labor, Department of Labor and Industry established  
7 under this act.
- 8 (d) "Commissioner" means the Commissioner of the Department  
9 of Labor and Industry or his authorized representatives.
- 10 (e) "Committee" means the New Jersey State Industrial Safety  
11 Committee established under this act.
- 12 (f) "Department" means the Department of Labor and Industry.
- 13 (g) "Employee" means any person engaged in service to an  
14 employer for wages, salary or other compensation.
- 15 (h) "Employer" means any person or corporation, partnership,  
16 individual proprietorship, joint venture, firm, company or other  
17 similar legal entity who engages the services of an employee and  
18 who pays his wages, salary, or other compensation; and any person  
19 exercising supervision of employees on an employer's behalf  
20 <sup>1</sup>]; and includes all "hiring entities" as defined by section 2 of  
21 P.L. , c. (C. ) (pending before the Legislature as this bill)]<sup>1</sup>.
- 22 (i) "Owner" means the person possessing legal or equitable  
23 title. For the purposes of this act "Person possessing equitable title"  
24 shall mean that person or corporation, partnership, individual  
25 proprietorship, joint venture, firm, company or other legal entity  
26 that has actual control over the premises used in whole or in part as  
27 a place of employment.
- 28 (j) "Place of employment" means any building or other  
29 premises occupied by an employer in or about which an employee  
30 customarily is suffered or permitted to work.
- 31 (k) "Domestic worker" means all persons defined as a domestic  
32 worker by section 2 of P.L. , c. (C. ) (pending before the  
33 Legislature as <sup>2</sup>this<sup>2</sup> bill).
- 34 (cf: P.L.1965, c.154, s.2)
- 35
- 36 <sup>1</sup>[5. Section 6 of P.L.1965, c.154 (C.34:6A-6) is amended to  
37 read as follows:
- 38 6. a. The commissioner shall enforce the provisions of this act,  
39 make complaints against persons violating its provisions and  
40 prosecute violations of the same.
- 41 b. The commissioner shall have the power and authority,  
42 without notice or delay during regular working hours or other  
43 reasonable hours within reasonable limits and in a reasonable  
44 manner, to enter and inspect any place of employment and all  
45 pertinent conditions, structures, machinery, apparatus, devices,  
46 equipment and materials and to question privately the owner and  
47 any employer or employee.

1       c. In the case where the place of employment is a residential  
2 dwelling and the employee is a domestic worker, the commissioner  
3 or the commissioner's authorized representative shall initiate  
4 telephone contact with the hiring entity as soon as possible, but not  
5 later than 14 calendar days after receipt of a complaint charging a  
6 violation.

7       When telephone contact is successfully made, the commissioner  
8 or the authorized representative shall:

9       (1) Notify the hiring entity of the existence of any alleged  
10 unsafe or unhealthful condition;

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

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

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

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

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

30       d. A hiring entity subject to investigation shall:

31       (1) Provide the department, within 14 days of the hiring entity's  
32 receipt of the department's letter, a response describing the results  
33 of the employer's investigation of the alleged hazard and a  
34 description of all actions taken, in the process of being taken, or  
35 planned to be taken, by the hiring entity to 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 to the  
39 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  
44 while performing domestic services as defined by section 2 of  
45 P.L. , c. (C. ) (pending before the Legislature as this bill),  
46 the commissioner or the authorized representative may enter the  
47 premises with permission or with an inspection warrant issued

1 pursuant to subsection b. of this section without first initiating the  
2 telephone 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  
5 defined by section 2 of P.L. , c. (C. ) (pending before the  
6 Legislature as this bill), shall be conducted in a manner to avoid any  
7 unwarranted invasion of personal privacy and shall not contain any  
8 personal, financial, or medical information of the individuals  
9 residing in the residential dwelling that is not pertinent to the  
10 investigation of the 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  
13 duty under the provisions of this act.

14 (cf: P.L.1973, c.259, s.1)]<sup>1</sup>

15

16 <sup>1</sup>[6.] 5.<sup>1</sup> Section 9 of P.L.1965, c.154 (C.34:6A-9) is amended  
17 to read as follows:

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

22 The commissioner shall <sup>1</sup>[make and promulgate rules to ensure  
23 the requirements of section 3 of P.L.1965, c.154 (C.34:6A-3) apply  
24 to the hiring entities of domestic workers. These rules shall include  
25 the 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  
28 for the adoption of all applicable occupational standards,  
29 amendments, or changes adopted or recognized by the Secretary of  
30 Labor under the authority of the “Occupational Safety and Health  
31 Act of 1970,” which shall be applicable to domestic workers  
32 employed by individuals in the residences of the individuals<sup>1</sup>.

33 Buildings or other structures in use on the effective date of this  
34 act as a place of employment other than a place where the  
35 manufacturing of goods of any kind is carried on shall not be made  
36 to comply with the requirements of rules and regulations  
37 promulgated hereunder substantially affecting such building or  
38 other structures unless such compliance is essential to correct an  
39 unsafe or unhealthful condition which constitutes a serious and  
40 substantial threat to the health or 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  
43 its review and recommendations. Within 90 days of the receipt of  
44 said 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

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

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

26

27 <sup>1</sup>~~7.~~6.<sup>1</sup> Section 19 of P.L.1965, c.154 (C.34:6A-19) is  
28 amended to read as follows:

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

1 The commissioner is hereby authorized and empowered to  
 2 compromise and settle any claim for a penalty under this section in  
 3 such amount in the discretion of the commissioner as may appear  
 4 appropriate and equitable under all of the circumstances.

5 Nothing in this subsection shall affect the rights of employees or  
 6 any remedies available to employees provided by section 5 of  
 7 P.L.1986, c.105 (C.34:19-5) or any other provision of law.  
 8 (cf: P.L.1965, c.154, s.19)  
 9

10 <sup>1</sup>~~8.~~ <sup>1</sup>~~7.~~ Section 22 of P.L.1965, c.154 (C.34:6A-22) is  
 11 amended to read as follows:

12 22. This act is not intended to apply and shall not apply to the  
 13 following:

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

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

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

21 (d) ~~Domestic employment;~~ (Deleted by amendment, P.L. \_\_\_\_\_,  
 22 c. (pending before the Legislature as this bill)

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

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

30 (g) Schools, colleges and universities;

31 (h) Places of employment with fewer than <sup>2</sup>~~4~~ <sup>2</sup>~~four~~  
 32 employees, except places of employment <sup>1</sup>~~of~~ <sup>1</sup>~~by individuals for~~  
 33 domestic services <sup>1</sup>~~in the residences of the individuals~~  
 34 employment in which the manufacturing of goods of any kind is  
 35 carried on; and except as hereinafter provided in paragraph (o) of  
 36 this section;

37 (i) Agricultural employment;

38 (j) Banks and other financial institutions;

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

46 (l) Public utilities which own, operate, manage or control any  
 47 autobus, canal, express, railroad, street railway, traction railway,



1 subway, pipeline, gas, electric light, heat, power, water, oil, sewer,  
2 telephone or telegraph system, plant or equipment for public use,  
3 under privileges granted by the State or by any political subdivision  
4 thereof, with respect to work operations performed in connection  
5 with the plant or facilities of such public utility located in the public  
6 streets and highways, roads and alleys, private rights-of-way, or  
7 upon their customers' premises;

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

12 (n) Natural gas pipeline utilities subject to the provisions of the  
13 Natural Gas Safety Act (P.L.1952, c. 166) (N.J.S.A. 48:10-2 to  
14 48:10-9); and

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

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

19

20 <sup>1</sup>¶9. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to  
21 read as follows:

22 2. As used in this act:

23 (a) "Commissioner" means the Commissioner of Labor and  
24 Workforce Development.

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

27 (c) "Wage board" means a board created as provided in section  
28 10 of this act.

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

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

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

1 (g) "Employer" includes any individual, partnership,  
2 association, corporation, and the State and any county,  
3 municipality, or school district in the State, or any agency,  
4 authority, department, bureau, or instrumentality thereof, or any  
5 person or group of persons acting directly or indirectly in the  
6 interest of an employer in relation to an employee, and includes  
7 "hiring entities" as defined in section 2 of P.L. , c. (C. )  
8 (pending before the Legislature as this bill).

9 (h) "Employee" includes any individual employed by an  
10 employer.

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

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

16 (k) "Fair wage" means a wage fairly and reasonably  
17 commensurate with the value of the service or class of service  
18 rendered and sufficient to meet the minimum cost of living  
19 necessary for health.

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

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

41 (n) "Seasonal employment" means employment during a year by  
42 an employer that is a seasonal employer, or employment by a non-  
43 profit or government entity of an individual who is not employed by  
44 that employer outside of the period of that year commencing on  
45 May 1 and ending September 30, or employment by a governmental  
46 entity in a recreational program or service during the period  
47 commencing on May 1 and ending September 30, except that  
48 "seasonal employment" does not include employment of employees

1 engaged to labor on a farm on either a piece-rate or regular hourly  
2 rate basis.

3 (o) "Seasonal employer" means an employer who exclusively  
4 provides its services in a continuous period of not more than ten  
5 weeks during the months of June, July, August, and September, or  
6 an employer for which, during the immediately previous calendar  
7 year, not less than two thirds of the employer's gross receipts were  
8 received in a continuous period of not more than sixteen weeks or  
9 for which not less than 75 percent of the wages paid by the  
10 employer during the immediately preceding year were paid for work  
11 performed during a single calendar quarter.

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

26 (q) "Long-term care facility direct care staff member" means  
27 any health care professional licensed or certified pursuant to Title  
28 26 or Title 45 of the Revised Statutes who is employed by a long-  
29 term care facility and who provides personal care, assistance, or  
30 treatment services directly to residents of the facility in the course  
31 of the professional's regular duties.

32 (cf: P.L.2020, c.89, s.1)<sup>1</sup>

33

34 <sup>1</sup>**[10.] 8.**<sup>1</sup> Section 5 of P.L.1966, c.113 (C.34:11-56a4) is  
35 amended to read as follows:

36 5. a. Except as provided in subsections c., d., e. g., and i. of  
37 this section, each employer shall pay to each of his employees  
38 wages at a rate of not less than \$8.85 per hour as of January 1, 2019  
39 and, on January 1 of 2020 and January 1 of each subsequent year,  
40 the minimum wage shall be increased by any increase in the  
41 consumer price index for all urban wage earners and clerical  
42 workers (CPI-W) as calculated by the federal government for the 12  
43 months prior to the September 30 preceding that January 1, except  
44 that any of the following rates shall apply if it exceeds the rate  
45 determined in accordance with the applicable increase in the CPI-W  
46 for the indicated year: on July 1, 2019, the minimum wage shall be  
47 \$10.00 per hour; on January 1, 2020, the minimum wage shall be  
48 \$11.00 per hour; and on January 1 of each year from 2021 to 2024,

1 inclusive, the minimum wage shall be increased from the rate of the  
2 preceding year by \$1.00 per hour. If the federal minimum hourly  
3 wage rate set by section 6 of the federal "Fair Labor Standards Act  
4 of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a  
5 level higher than the State minimum wage rate set by this  
6 subsection, then the State minimum wage rate shall be increased to  
7 the level of the federal minimum wage rate and subsequent  
8 increases based on increases in the CPI-W pursuant to this section  
9 shall be applied to the higher minimum wage rate. If an applicable  
10 wage order has been issued by the commissioner under section 17  
11 (C.34:11-56a16) of this act, the employer shall also pay not less  
12 than the wages prescribed in said order. The wage rates fixed in  
13 this section shall not be applicable to [part-time employees  
14 primarily engaged in the care and tending of children in the home of  
15 the employer, to] persons under the age of 18 not possessing a  
16 special vocational school graduate permit issued pursuant to section  
17 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as  
18 salesmen of motor vehicles, or to persons employed as outside  
19 salesmen as such terms shall be defined and delimited in regulations  
20 adopted by the commissioner, or to persons employed in a volunteer  
21 capacity and receiving only incidental benefits at a county or other  
22 agricultural fair by a nonprofit or religious corporation or a  
23 nonprofit or religious association which conducts or participates in  
24 that fair.

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

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

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

42 c. Employees of a small employer, and employees who are  
43 engaged in seasonal employment, except for employees who  
44 customarily and regularly receive gratuities or tips who shall be  
45 subject to the provisions of subsections a. and d. of this section,  
46 shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1  
47 of 2020 and January 1 of each subsequent year, that minimum wage  
48 rate shall be increased by any increase in the consumer price index

1 for all urban wage earners and clerical workers (CPI-W) as  
2 calculated by the federal government for the 12 months prior to the  
3 September 30 preceding that January 1, except that any of the  
4 following rates shall apply if it exceeds the rate determined in  
5 accordance with the applicable increase in the CPI-W for the  
6 indicated year: on January 1, 2020, the minimum wage shall be  
7 \$10.30 per hour; and on January 1 of each year from 2021 to 2025,  
8 inclusive, the minimum wage shall be increased from the rate of the  
9 preceding year by eighty cents per hour, and, in 2026, the minimum  
10 wage shall be increased from the rate of the preceding year by  
11 seventy cents per hour, and, in each year from 2027 to 2028  
12 inclusive, the minimum wage for employees subject to this  
13 subsection c. shall be increased by the same amount as the increase  
14 for employees subject to subsection a. of this section based on  
15 CPI-W increases, plus one half of the difference between \$15.00 per  
16 hour and the minimum wage in effect in 2026 for employees  
17 pursuant to subsection a. of this section, so that, by 2028, the  
18 minimum wage for employees subject to this subsection shall be the  
19 same as the minimum wage in effect for employees subject to  
20 subsection a. of this section. If the federal minimum hourly wage  
21 rate set by section 6 of the federal "Fair Labor Standards Act of  
22 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a  
23 level higher than the State minimum wage rate set by this  
24 subsection, then the State minimum wage rate shall be increased to  
25 the level of the federal minimum wage rate and subsequent  
26 increases based on increases in the CPI-W pursuant to this  
27 subsection shall be applied to the higher minimum wage rate.

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

38 (1) on January 1, 2020, the minimum wage shall be \$10.30 per  
39 hour; on January 1, 2022, the minimum wage shall be \$10.90 per  
40 hour; and on January 1 of each year from 2023 to 2024, inclusive,  
41 the minimum wage shall be increased from the rate of the preceding  
42 year by eighty cents per hour; and

43 (2) subject to the provisions of paragraph (3) of this subsection  
44 d., minimum wage rates shall be increased as follows: on January 1  
45 of 2025, the minimum wage shall be increased to \$13.40, and on  
46 January 1 of each year from 2026 to 2027, inclusive, the minimum  
47 wage shall be increased from the rate of the preceding year by  
48 eighty cents per hour, and, in each year from 2028 to 2030

1 inclusive, the minimum wage for employees subject to this  
2 subsection d. shall be increased during that year by the same  
3 amount as the increase in that year for employees subject to  
4 subsection a. of this section based on CPI-W increases, plus one  
5 third of the difference between \$15.00 per hour and the minimum  
6 wage in effect in 2027 for employees pursuant to subsection a. of  
7 this section, so that, by 2030, the minimum wage for employees  
8 subject to this subsection shall be the same as the minimum wage in  
9 effect for employees subject to subsection a. of this section.

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

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

1 e. With respect to an employee who customarily and regularly  
2 receives gratuities or tips, every employer is entitled to a credit for  
3 the gratuities or tips received by the employee against the hourly  
4 wage rate that would otherwise be paid to the employee pursuant to  
5 subsection a. of this section of the following amounts: after  
6 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after  
7 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during  
8 calendar years 2020, 2021 and 2022, \$7.87 per hour; during  
9 calendar year 2023, \$8.87 per hour; and during calendar year 2024  
10 and subsequent calendar years, \$9.87 per hour.

11 f. Notwithstanding the provisions of this section to the  
12 contrary, every trucking industry employer shall pay to all drivers,  
13 helpers, loaders and mechanics for whom the Secretary of  
14 Transportation may prescribe maximum hours of work for the safe  
15 operation of vehicles, pursuant to section 31502(b) of the federal  
16 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less  
17 than 1 1/2 times the minimum wage required pursuant to this  
18 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking  
19 industry shall be paid no less than the minimum wage rate as  
20 provided in this section and N.J.A.C. 12:56-3.1. As used in this  
21 section, "trucking industry employer" means any business or  
22 establishment primarily operating for the purpose of conveying  
23 property from one place to another by road or highway, including  
24 the storage and warehousing of goods and property. Such an  
25 employer shall also be subject to the jurisdiction of the Secretary of  
26 Transportation pursuant to the federal Motor Carrier Act, 49  
27 U.S.C.s.31501 et seq., whose employees are exempt under section  
28 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29  
29 U.S.C. s.213(b)(1), which provides an exemption to employees  
30 regulated by section 207 of the federal "Fair Labor Standards Act of  
31 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49  
32 U.S.C. s.501 et al.

33 g. Commencing on January 1, 2020, a training wage of not less  
34 than 90 percent of the minimum wage rate otherwise set pursuant to  
35 subsection a. of this section may be paid to an employee who is  
36 enrolled in an established employer on-the-job or other training  
37 program which meets standards set by regulations adopted by the  
38 commissioner. The period during which an employer may pay the  
39 training wage to the employee shall be the first 120 hours of work  
40 after hiring the employee in employment in an occupation in which  
41 the employee has no previous similar or related experience. An  
42 employer shall not utilize any employee paid the training wage in a  
43 manner which causes, induces, encourages or assists any  
44 displacement or partial displacement of any currently employed  
45 worker, including any previous recipient of the training wage, by  
46 reducing hours of a currently employed worker, replacing a current  
47 or laid off employee with a trainee, or by relocating operations  
48 resulting in a loss of employment at a previous workplace, or in a

1 manner which replaces, supplants, competes with or duplicates any  
2 approved apprenticeship program. An employer who pays an  
3 employee a training wage shall make a good faith effort to continue  
4 to employ the employee after the period of the training wage  
5 expires and shall not hire the employee at the training wage unless  
6 there is a reasonable expectation that there will be regular  
7 employment, paying at or above the effective minimum wage, for  
8 the trainee upon the successful completion of the period of the  
9 training wage. If the commissioner determines that an employer  
10 has made repeated, knowing violations of the provisions of this  
11 subsection regarding the payment of a training wage, the  
12 commissioner shall suspend the employer's right to pay a training  
13 wage for a period set pursuant to regulations adopted by the  
14 commissioner, but not less than three years.

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

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

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

39

40 **1**[11.] **9.**<sup>1</sup> Section 1 of P.L.1952, c.9 (C.34:11-56.1) is amended  
41 to read as follows:

42 1. As used in this act:

43 a. "Employee" includes any person, either male or female,  
44 employed by an employer, but shall not include persons performing  
45 volunteer service for nonprofit organizations or corporations nor  
46 persons employed on a farm<sup>1</sup>, or in domestic service in a private  
47 home,<sup>1</sup> or in a hotel.



1 b. "Employer" includes any person acting directly or indirectly  
2 in the interest, or as agent, of an employer in relation to an  
3 employee and further includes one or more individuals,  
4 partnerships, corporations, associations, legal representatives,  
5 trustees, trustees in bankruptcy, or receivers, <sup>1</sup>and "hiring entities"  
6 as defined by section 2 of P.L. , c (C. ) (pending before the  
7 Legislature as this bill).]<sup>1</sup> such term shall not include nonprofit  
8 hospital associations or corporations.

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

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

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

15

16 <sup>1</sup>[12. R.S.34:15-36 is amended to read as follows:

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

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

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

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

45 An individual providing services for remuneration shall be  
46 regarded as an employee of an employer for the purposes of the

1 workers' compensation law, R.S.34:15-1 et seq. unless and until it is  
2 shown to the satisfaction of the division that:

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

6 (b) the service is either outside the usual course of the business  
7 for which the service is performed, or that such service is performed  
8 outside of all the places of business of the enterprise for which such  
9 service is performed; and

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

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

47 Notwithstanding any other provision of law to the contrary, no  
48 insurer or insurance producer **[as defined in section 2 of P.L.1987,**

1 c.293 (C.17:22A-2) shall be liable in an action for damages on  
2 account of the failure of a business, limited liability partnership,  
3 limited liability company or partnership to elect to obtain workers'  
4 compensation coverage for a self-employed person, limited liability  
5 partner, limited liability company member or partner, unless the  
6 insurer or insurance producer causes damage by a willful, wanton or  
7 grossly negligent act of commission or omission. Every application  
8 for workers' compensation made on or after the effective date of  
9 this amendatory act shall include notice, as approved by the  
10 Commissioner of Banking and Insurance, concerning the  
11 availability of workers' compensation coverage for self-employed  
12 persons, limited liability partners, limited liability company  
13 members or partners. That application shall also contain a notice of  
14 election of coverage and shall clearly state that coverage for self-  
15 employed persons, limited liability partners, limited liability  
16 company members and partners shall not be provided under the  
17 policy unless the application containing the notice of election is  
18 executed and filed with the insurer or insurance producer. The  
19 application containing the notice of election shall also contain a  
20 statement that the insurer or insurance producer shall not be liable  
21 in an action for damages on account of the failure of a business,  
22 limited liability partnership, limited liability company or  
23 partnership to elect to obtain workers' compensation coverage for a  
24 self-employed person, limited liability partner, limited liability  
25 company member or partner, unless the insurer or insurance  
26 producer causes damage by a willful, wanton or grossly negligent  
27 act of commission or omission. The failure of a self-employed  
28 person, limited liability partnership, limited liability company or  
29 partnership to elect to obtain workers' compensation coverage for  
30 the self-employed person, the limited liability partners, the limited  
31 liability company members or the partners shall not affect benefits  
32 available under any other accident or health policy.

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

1 responding to and returning from an emergency, shall be deemed to  
2 be in the course of employment.

3 Employment shall also be deemed to commence when an  
4 employee is traveling in a ridesharing arrangement between his or  
5 her place of residence or terminal near such place and his or her  
6 place of employment, if one of the following conditions is satisfied:  
7 the vehicle used in the ridesharing arrangement is owned, leased or  
8 contracted for by the employer, or the employee is required by the  
9 employer to travel in a ridesharing arrangement as a condition of  
10 employment.

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

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

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

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

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

45 (cf: P.L.1999, c.383. s.1)<sup>1</sup>

46

47 <sup>1</sup>10. R.S.34:15-36 is amended to read as follows:

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

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

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

23 (b) different in nature from the type of paid work in which the  
24 worker is customarily engaged,] , if in connection with the  
25 employer's business, as employment the occasion for which arises  
26 by chance or is purely accidental; or if not in connection with any  
27 business of the employer, as employment not regular, periodic or  
28 recurring;<sup>2</sup> provided, however, that forest fire wardens and forest  
29 firefighters employed by the State of New Jersey shall, in no event,  
30 be deemed casual employees.

31 A self-employed person, partners of a limited liability  
32 partnership, members of a limited liability company or partners of a  
33 partnership who actively perform services on behalf of the self-  
34 employed person's business, the limited liability partnership, limited  
35 liability company or the partnership shall be deemed an "employee"  
36 of the business, limited liability partnership, limited liability  
37 company or partnership for purposes of receipt of benefits and  
38 payment of premiums pursuant to this chapter, if the business,  
39 limited liability partnership, limited liability company or  
40 partnership elects, when the workers' compensation policy of the  
41 business, limited liability partnership, limited liability company or  
42 partnership is purchased or renewed, to obtain coverage for the  
43 person, the limited liability partners, the limited liability company  
44 members or the partners. If the business, limited liability  
45 partnership, limited liability company or partnership elects to obtain  
46 coverage for the self-employed person, limited liability partners,  
47 limited liability company members or the partners, the election may

1 only be made at purchase or at renewal and may not be withdrawn  
2 during the policy term. If the business, limited liability partnership,  
3 limited liability company or partnership performs services covered  
4 under a homeowner's policy or other policies providing  
5 comprehensive personal liability insurance for domestic **[servants]**  
6 workers, household employees or the dependents thereof, the  
7 workers' compensation policy of the business, limited liability  
8 partnership, limited liability company or partnership shall have  
9 primary responsibility for the payment of benefits. Notwithstanding  
10 the provisions of R.S.34:15-71 and 34:15-72, the business, limited  
11 liability partnership, limited liability company or partnership shall  
12 not be required to purchase a policy unless the business, limited  
13 liability partnership, limited liability company or partnership is an  
14 "employer" of a least one employee as defined in this section who is  
15 not a self-employed person, limited liability partner, limited  
16 liability company member or partner actively performing services  
17 on behalf of the business, limited liability partnership, limited  
18 liability company or partnership.

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

1 partnership to elect to obtain workers' compensation coverage for  
2 the self-employed person, the limited liability partners, the limited  
3 liability company members or the partners shall not affect benefits  
4 available under any other accident or health policy.

5 Employment shall be deemed to commence when an employee  
6 arrives at the employer's place of employment to report for work  
7 and shall terminate when the employee leaves the employer's place  
8 of employment, excluding areas not under the control of the  
9 employer; provided, however, when the employee is required by the  
10 employer to be away from the employer's place of employment, the  
11 employee shall be deemed to be in the course of employment when  
12 the employee is engaged in the direct performance of duties  
13 assigned or directed by the employer; but the employment of  
14 employee paid travel time by an employer for time spent traveling  
15 to and from a job site or of any employee who utilizes an employer  
16 authorized vehicle shall commence and terminate with the time  
17 spent traveling to and from a job site or the authorized operation of  
18 a vehicle on business authorized by the employer. Travel by a  
19 policeman, fireman, or a member of a first aid or rescue squad, in  
20 responding to and returning from an emergency, shall be deemed to  
21 be in the course of employment.

22 Employment shall also be deemed to commence when an  
23 employee is traveling in a ridesharing arrangement between his or  
24 her place of residence or terminal near such place and his or her  
25 place of employment, if one of the following conditions is satisfied:  
26 the vehicle used in the ridesharing arrangement is owned, leased or  
27 contracted for by the employer, or the employee is required by the  
28 employer to travel in a ridesharing arrangement as a condition of  
29 employment.

30 Employment shall also be deemed to commence, if an employer  
31 provides or designates a parking area for use by an employee, when  
32 an employee arrives at the parking area prior to reporting for work  
33 and shall terminate when an employee leaves the parking area at the  
34 end of a work period; provided that, if the site of the parking area is  
35 separate from the place of employment, an employee shall be  
36 deemed to be in the course of employment while the employee  
37 travels directly from the parking area to the place of employment  
38 prior to reporting for work and while the employee travels directly  
39 from the place of employment to the parking area at the end of a  
40 work period.

41 "Disability permanent in quality and partial in character" means  
42 a permanent impairment caused by a compensable accident or  
43 compensable occupational disease, based upon demonstrable  
44 objective medical evidence, which restricts the function of the body  
45 or of its members or organs; included in the criteria which shall be  
46 considered shall be whether there has been a lessening to a material  
47 degree of an employee's working ability. Subject to the above  
48 provisions, nothing in this definition shall be construed to preclude

1 benefits to a worker who returns to work following a compensable  
 2 accident even if there be no reduction in earnings. Injuries such as  
 3 minor lacerations, minor contusions, minor sprains, and scars which  
 4 do not constitute significant permanent disfigurement, and  
 5 occupational disease of a minor nature such as mild dermatitis and  
 6 mild bronchitis shall not constitute permanent disability within the  
 7 meaning of this definition.

8 "Disability permanent in quality and total in character" means a  
 9 physical or neuropsychiatric total permanent impairment caused by  
 10 a compensable accident or compensable occupational disease,  
 11 where no fundamental or marked improvement in such condition  
 12 can be reasonably expected.

13 Factors other than physical and neuropsychiatric impairments  
 14 may be considered in the determination of permanent total  
 15 disability, where such physical and neuropsychiatric impairments  
 16 constitute at least 75% or higher of total disability.

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

22 "Medical services, medical treatment, physicians' services and  
 23 physicians' treatment" shall include, but not be limited to, the  
 24 services which a chiropractor is authorized by law to perform and  
 25 which are authorized by an employer pursuant to the provisions of  
 26 R.S.34:15-1 et seq.<sup>1</sup>

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

28

29 <sup>1</sup>**[13.] 11.**<sup>1</sup> R.S.34:15-92 is amended to read as follows:

30 34:15-92. **[Each employer] Employers** <sup>1</sup>**[and hiring entities]**<sup>1</sup>  
 31 of domestic **[servants or household employees] workers** and every  
 32 stock company or mutual association affording insurance for the  
 33 liability of such employers by reason of that employment shall be  
 34 exempted from the provisions of **[ R.S. 34:15-79, and]**  
 35 **R.S. 34:15-80****].** The provisions of **]** and R.S. 34:15-81 **[shall not**  
 36 **be applicable where the insurance coverage is afforded pursuant to**  
 37 **P.L. , c. (now pending before the Legislature as Assembly Bill**  
 38 **No. 949 of 1978)]**, but <sup>1</sup>employers of domestic workers<sup>1</sup> are  
 39 required to provide written notice of insurance coverage and  
 40 cancellation of a policy.

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

42

43 <sup>1</sup>**[14.** R.S.43:21-19 is amended to read as follows:

44 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et  
 45 seq.), unless the context clearly requires otherwise:



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

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

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

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

34 With respect to a benefit year commencing on or after July 1,  
35 1995, if an individual does not have sufficient qualifying weeks or  
36 wages in his base year to qualify for benefits, the individual shall  
37 have the option of designating that his base year shall be the  
38 "alternative base year," which means the last four completed  
39 calendar quarters immediately preceding the individual's benefit  
40 year; except that, with respect to a benefit year commencing on or  
41 after October 1, 1995, if the individual also does not have sufficient  
42 qualifying weeks or wages in the last four completed calendar  
43 quarters immediately preceding his benefit year to qualify for  
44 benefits, "alternative base year" means the last three completed  
45 calendar quarters immediately preceding his benefit year and, of the  
46 calendar quarter in which the benefit year commences, the portion  
47 of the quarter which occurs before the commencing of the benefit  
48 year.

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

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

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

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

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

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

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

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

- 1 provided the employing unit had actual or constructive knowledge  
2 of the work.
- 3 (h) "Employer" means:
- 4 (1) Any employing unit which in either the current or the  
5 preceding calendar year paid remuneration for employment in the  
6 amount of \$1,000.00 or more;
- 7 (2) Any employing unit (whether or not an employing unit at the  
8 time of acquisition) which acquired the organization, trade or  
9 business, or substantially all the assets thereof, of another which, at  
10 the time of such acquisition, was an employer subject to this chapter  
11 (R.S.43:21-1 et seq.);
- 12 (3) Any employing unit which acquired the organization, trade  
13 or business, or substantially all the assets thereof, of another  
14 employing unit and which, if treated as a single unit with such other  
15 employing unit, would be an employer under paragraph (1) of this  
16 subsection;
- 17 (4) Any employing unit which together with one or more other  
18 employing units is owned or controlled (by legally enforceable  
19 means or otherwise), directly or indirectly by the same interests, or  
20 which owns or controls one or more other employing units (by  
21 legally enforceable means or otherwise), and which, if treated as a  
22 single unit with such other employing unit or interest, would be an  
23 employer under paragraph (1) of this subsection;
- 24 (5) Any employing unit for which service in employment as  
25 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December  
26 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is  
27 performed after December 31, 1977;
- 28 (6) Any employing unit for which service in employment as  
29 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,  
30 1971 and which in either the current or the preceding calendar year  
31 paid remuneration for employment in the amount of \$1,000.00 or  
32 more;
- 33 (7) Any employing unit not an employer by reason of any other  
34 paragraph of this subsection (h) for which, within either the current  
35 or preceding calendar year, service is or was performed with respect  
36 to which such employing unit is liable for any federal tax against  
37 which credit may be taken for contributions required to be paid into  
38 a state unemployment fund; or which, as a condition for approval of  
39 the "unemployment compensation law" for full tax credit against  
40 the tax imposed by the Federal Unemployment Tax Act, is required  
41 pursuant to such act to be an employer under this chapter  
42 (R.S.43:21-1 et seq.);
- 43 (8) (Deleted by amendment; P.L.1977, c.307.)
- 44 (9) (Deleted by amendment; P.L.1977, c.307.)
- 45 (10) (Deleted by amendment; P.L.1977, c.307.)
- 46 (11) Any employing unit subject to the provisions of the Federal  
47 Unemployment Tax Act within either the current or the preceding

- 1 calendar year, except for employment hereinafter excluded under  
2 paragraph (7) of subsection (i) of this section;
- 3 (12) Any employing unit for which agricultural labor in  
4 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after  
5 December 31, 1977;
- 6 (13) (a) Any employing unit for which domestic service in  
7 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after  
8 December 31, 1977 and before January 1, 2022; and
- 9 (b) Any employing unit or hiring entity for domestic services as  
10 defined in section 2 of P.L. , c. (C. )(pending before the  
11 Legislature as this bill);
- 12 (14) Any employing unit which having become an employer  
13 under the "unemployment compensation law" (R.S.43:21-1 et seq.),  
14 has not under R.S.43:21-8 ceased to be an employer; or for the  
15 effective period of its election pursuant to R.S.43:21-8, any other  
16 employing unit which has elected to become fully subject to this  
17 chapter (R.S.43:21-1 et seq.).
- 18 (i) (1) "Employment" means:
- 19 (A) Any service performed prior to January 1, 1972, which was  
20 employment as defined in the "unemployment compensation law"  
21 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other  
22 provisions of this subsection, service performed on or after January  
23 1, 1972, including service in interstate commerce, performed for  
24 remuneration or under any contract of hire, written or oral, express  
25 or implied.
- 26 (B) (i) Service performed after December 31, 1971 by an  
27 individual in the employ of this State or any of its instrumentalities  
28 or in the employ of this State and one or more other states or their  
29 instrumentalities for a hospital or institution of higher education  
30 located in this State, if such service is not excluded from  
31 "employment" under paragraph (D) below.
- 32 (ii) Service performed after December 31, 1977, in the employ  
33 of this State or any of its instrumentalities or any political  
34 subdivision thereof or any of its instrumentalities or any  
35 instrumentality of more than one of the foregoing or any  
36 instrumentality of the foregoing and one or more other states or  
37 political subdivisions, if such service is not excluded from  
38 "employment" under paragraph (D) below.
- 39 (C) Service performed after December 31, 1971 by an individual  
40 in the employ of a religious, charitable, educational, or other  
41 organization, which is excluded from "employment" as defined in  
42 the Federal Unemployment Tax Act, solely by reason of section  
43 3306 (c)(8) of that act, if such service is not excluded from  
44 "employment" under paragraph (D) below.
- 45 (D) For the purposes of paragraphs (B) and (C), the term  
46 "employment" does not apply to services performed
- 47 (i) In the employ of (I) a church or convention or association of  
48 churches, or (II) an organization, or school which is operated

- 1 primarily for religious purposes and which is operated, supervised,  
2 controlled or principally supported by a church or convention or  
3 association of churches;
- 4 (ii) By a duly ordained, commissioned, or licensed minister of a  
5 church in the exercise of his ministry or by a member of a religious  
6 order in the exercise of duties required by such order;
- 7 (iii) Prior to January 1, 1978, in the employ of a school which is  
8 not an institution of higher education, and after December 31, 1977,  
9 in the employ of a governmental entity referred to in R.S.43:21-19
- 10 (i) (1) (B), if such service is performed by an individual in the  
11 exercise of duties
- 12 (aa) as an elected official;
- 13 (bb) as a member of a legislative body, or a member of the  
14 judiciary, of a state or political subdivision;
- 15 (cc) as a member of the State National Guard or Air National  
16 Guard;
- 17 (dd) as an employee serving on a temporary basis in case of fire,  
18 storm, snow, earthquake, flood or similar emergency;
- 19 (ee) in a position which, under or pursuant to the laws of this  
20 State, is designated as a major nontenured policy making or  
21 advisory position, or a policy making or advisory position, the  
22 performance of the duties of which ordinarily does not require more  
23 than eight hours per week; or
- 24 (iv) By an individual receiving rehabilitation or remunerative  
25 work in a facility conducted for the purpose of carrying out a  
26 program of rehabilitation of individuals whose earning capacity is  
27 impaired by age or physical or mental deficiency or injury or  
28 providing remunerative work for individuals who because of their  
29 impaired physical or mental capacity cannot be readily absorbed in  
30 the competitive labor market;
- 31 (v) By an individual receiving work-relief or work-training as  
32 part of an unemployment work-relief or work-training program  
33 assisted in whole or in part by any federal agency or an agency of a  
34 state or political subdivision thereof; or
- 35 (vi) Prior to January 1, 1978, for a hospital in a State prison or  
36 other State correctional institution by an inmate of the prison or  
37 correctional institution and after December 31, 1977, by an inmate  
38 of a custodial or penal institution.
- 39 (E) The term "employment" shall include the services of an  
40 individual who is a citizen of the United States, performed outside  
41 the United States after December 31, 1971 (except in Canada and in  
42 the case of the Virgin Islands, after December 31, 1971) and prior  
43 to January 1 of the year following the year in which the U.S.  
44 Secretary of Labor approves the unemployment compensation law  
45 of the Virgin Islands, under section 3304 (a) of the Internal  
46 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an  
47 American employer (other than the service which is deemed  
48 employment under the provisions of R.S.43:21-19 (i) (2) or (5) or

1 the parallel provisions of another state's unemployment  
2 compensation law), if

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

6 (ii) Domestic services as defined by section 2 of P.L. \_\_\_\_\_,  
7 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) after  
8 December 31, 2021 in either the current or preceding calendar year  
9 paid remuneration for employment in the amount of \$1,000 or  
10 more.

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

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

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

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

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

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

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

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

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

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

4 (B) Such service is either outside the usual course of the  
5 business for which such service is performed, or that such service is  
6 performed outside of all the places of business of the enterprise for  
7 which such service is performed; and

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

10 (7) Provided that such services are also exempt under the  
11 Federal Unemployment Tax Act, as amended, or that contributions  
12 with respect to such services are not required to be paid into a state  
13 unemployment fund as a condition for a tax offset credit against the  
14 tax imposed by the Federal Unemployment Tax Act, as amended,  
15 the term "employment" shall not include:

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

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

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

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

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

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

43 (E) Service performed in the employ of any other state or its  
44 political subdivisions or of an instrumentality of any other state or  
45 states or their political subdivisions to the extent that such  
46 instrumentality is with respect to such service exempt under the  
47 Constitution of the United States from the tax imposed under the

1 Federal Unemployment Tax Act, as amended, except as provided in  
2 R.S.43:21-19 (i) (1) (B) above;

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

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

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

34 (I) Service with respect to which unemployment insurance is  
35 payable under an unemployment insurance program established by  
36 an Act of Congress;

37 (J) Service performed by agents of mutual fund brokers or  
38 dealers in the sale of mutual funds or other securities, by agents of  
39 insurance companies, exclusive of industrial insurance agents or by  
40 agents of investment companies, if the compensation to such agents  
41 for such services is wholly on a commission basis;

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

44 (L) Services performed in the employ of any veterans'  
45 organization chartered by Act of Congress or of any auxiliary  
46 thereof, no part of the net earnings of which organization, or  
47 auxiliary thereof, inures to the benefit of any private shareholder or  
48 individual;

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

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

13 (O) Services performed in the sale or distribution of merchandise  
14 by home-to-home salespersons or in-the-home demonstrators whose  
15 remuneration consists wholly of commissions or commissions and  
16 bonuses;

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

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

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

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

39 (T) Service performed in the employ of a school, college, or  
40 university if such service is performed (i) by a student enrolled at  
41 such school, college, or university on a full-time basis in an  
42 educational program or completing such educational program  
43 leading to a degree at any of the severally recognized levels, or (ii)  
44 by the spouse of such a student, if such spouse is advised at the time  
45 such spouse commences to perform such service that (I) the  
46 employment of such spouse to perform such service is provided  
47 under a program to provide financial assistance to such student by

1 such school, college, or university, and (II) such employment will  
2 not be covered by any program of unemployment insurance;

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

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

20 (W) Services performed after the effective date of this  
21 amendatory act by agents of mutual benefit associations if the  
22 compensation to such agents for such services is wholly on a  
23 commission basis;

24 (X) Services performed by operators of motor vehicles weighing  
25 18,000 pounds or more, licensed for commercial use and used for  
26 the highway movement of motor freight, who own their equipment  
27 or who lease or finance the purchase of their equipment through an  
28 entity which is not owned or controlled directly or indirectly by the  
29 entity for which the services were performed and who were  
30 compensated by receiving a percentage of the gross revenue  
31 generated by the transportation move or by a schedule of payment  
32 based on the distance and weight of the transportation move;

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

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

40 (8) If one-half or more of the services in any pay period  
41 performed by an individual for an employing unit constitutes  
42 employment, all the services of such individual shall be deemed to  
43 be employment; but if more than one-half of the service in any pay  
44 period performed by an individual for an employing unit does not  
45 constitute employment, then none of the service of such individual  
46 shall be deemed to be employment. As used in this paragraph, the  
47 term "pay period" means a period of not more than 31 consecutive

1 days for which a payment for service is ordinarily made by an  
2 employing unit to individuals in its employ.

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

7 (A) The limousine franchisee is incorporated;

8 (B) The franchisee is subject to regulation by the Interstate  
9 Commerce Commission;

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

13 (D) The franchisee registers with the Department of Labor and  
14 Workforce Development and receives an employer registration  
15 number.

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

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

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

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

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

42 (m) "Unemployment."

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

45 (A) The individual is not engaged in full-time work and with  
46 respect to which his remuneration is less than his weekly benefit  
47 rate, including any week during which he is on vacation without  
48 pay; provided such vacation is not the result of the individual's

1 voluntary action, except that for benefit years commencing on or  
2 after July 1, 1984, an officer of a corporation, or a person who has  
3 more than a 5% equitable or debt interest in the corporation, whose  
4 claim for benefits is based on wages with that corporation shall not  
5 be deemed to be unemployed in any week during the individual's  
6 term of office or ownership in the corporation; or

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

10 (2) The term "remuneration" with respect to any individual for  
11 benefit years commencing on or after July 1, 1961, and as used in  
12 this subsection, shall include only that part of the same which in  
13 any week exceeds 20% of his weekly benefit rate (fractional parts  
14 of a dollar omitted) or \$5.00, whichever is the larger, and shall not  
15 include any moneys paid to an individual by a county board of  
16 elections for work as a board worker on an election day.

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

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

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

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

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

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

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

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

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

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

12 (B) If the individual does not establish in his base year 20 or  
13 more base weeks as defined in subparagraph (A) of this paragraph  
14 (2), any calendar week of an individual's base year during which the  
15 individual earned in employment from an employer remuneration  
16 not less than an amount 20 times the minimum wage in effect  
17 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October  
18 1 of the calendar year preceding the calendar year in which the  
19 benefit year commences, which amount shall be adjusted to the next  
20 higher multiple of \$1.00 if not already a multiple thereof, except  
21 that if in any calendar week an individual subject to this  
22 subparagraph (B) is in employment with more than one employer,  
23 the individual may in that calendar week establish a base week with  
24 respect to each of the employers from whom the individual earns  
25 remuneration not less than the amount defined in this subparagraph  
26 (B) during that week.

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

41 (u) "Average weekly wage" means the amount derived by  
42 dividing an individual's total wages received during his base year  
43 base weeks (as defined in subsection (t) of this section) from that  
44 most recent base year employer with whom he has established at  
45 least 20 base weeks, by the number of base weeks in which such  
46 wages were earned. In the event that such claimant had no employer  
47 in his base year with whom he had established at least 20 base  
48 weeks, then such individual's average weekly wage shall be



1 computed as if all of his base week wages were received from one  
2 employer and as if all his base weeks of employment had been  
3 performed in the employ of one employer.

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

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

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

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

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

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

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

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

38 (2) "Institution of higher education" means an educational  
39 institution which:

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

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

45 (C) Provides an educational program for which it awards a  
46 bachelor's or higher degree, or provides a program which is  
47 acceptable for full credit toward such a degree, a program of post-  
48 graduate or post-doctoral studies, or a program of training to

1 prepare students for gainful employment in a recognized  
2 occupation; and

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

4 Notwithstanding any of the foregoing provisions of this  
5 subsection, all colleges and universities in this State are institutions  
6 of higher education for purposes of this section.

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

9 (cf: P.L.2017, c.230, s.1)]<sup>1</sup>

10

11 <sup>1</sup>12. R.S.43:21-19 is amended to read as follows:

12 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et  
13 seq.), unless the context clearly requires otherwise:

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

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

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

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

47 With respect to a benefit year commencing on or after July 1,  
48 1995, if an individual does not have sufficient qualifying weeks or

1 wages in his base year to qualify for benefits, the individual shall  
2 have the option of designating that his base year shall be the  
3 "alternative base year," which means the last four completed  
4 calendar quarters immediately preceding the individual's benefit  
5 year; except that, with respect to a benefit year commencing on or  
6 after October 1, 1995, if the individual also does not have sufficient  
7 qualifying weeks or wages in the last four completed calendar  
8 quarters immediately preceding his benefit year to qualify for  
9 benefits, "alternative base year" means the last three completed  
10 calendar quarters immediately preceding his benefit year and, of the  
11 calendar quarter in which the benefit year commences, the portion  
12 of the quarter which occurs before the commencing of the benefit  
13 year.

14 The division shall inform the individual of his options under this  
15 section as amended by P.L.1995, c.234. If information regarding  
16 weeks and wages for the calendar quarter or quarters immediately  
17 preceding the benefit year is not available to the division from the  
18 regular quarterly reports of wage information and the division is not  
19 able to obtain the information using other means pursuant to State  
20 or federal law, the division may base the determination of eligibility  
21 for benefits on the affidavit of an individual with respect to weeks  
22 and wages for that calendar quarter. The individual shall furnish  
23 payroll documentation, if available, in support of the affidavit. A  
24 determination of benefits based on an alternative base year shall be  
25 adjusted when the quarterly report of wage information from the  
26 employer is received if that information causes a change in the  
27 determination.

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

44 (3) With respect to a benefit year commencing on or after June 1,  
45 1990 for an individual who immediately preceding the benefit year  
46 was subject to a disability compensable under the provisions of the  
47 workers' compensation law (chapter 15 of Title 34 of the Revised  
48 Statutes), "base year" shall mean the first four of the last five

1 completed calendar quarters immediately preceding the individual's  
2 period of disability, if the period of disability was not longer than  
3 two years, if the employment held by the individual immediately  
4 preceding the period of disability is no longer available at the  
5 conclusion of that period and if the individual files a valid claim for  
6 unemployment benefits after the conclusion of that period. For the  
7 purposes of this paragraph, "period of disability" means the period  
8 from the time at which the individual becomes unable to work  
9 because of the compensable disability until the time that the  
10 individual becomes able to resume work and continue work on a  
11 permanent basis. An individual who files a claim under the  
12 provisions of this paragraph (3) shall not be regarded as having left  
13 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

14 (d) "Benefit year" with respect to any individual means the 364  
15 consecutive calendar days beginning with the day on, or as of,  
16 which he first files a valid claim for benefits, and thereafter  
17 beginning with the day on, or as of, which the individual next files a  
18 valid claim for benefits after the termination of his last preceding  
19 benefit year. Any claim for benefits made in accordance with  
20 subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim"  
21 for the purpose of this subsection if (1) he is unemployed for the  
22 week in which, or as of which, he files a claim for benefits; and (2)  
23 he has fulfilled the conditions imposed by subsection (e) of  
24 R.S.43:21-4.

25 (e) (1) "Division" means the Division of Unemployment and  
26 Temporary Disability Insurance of the Department of Labor and  
27 Workforce Development, and any transaction or exercise of  
28 authority by the director of the division thereunder, or under this  
29 chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by  
30 the division.

31 (2) "Controller" means the Office of the Assistant Commissioner  
32 for Finance and Controller of the Department of Labor and  
33 Workforce Development, established by the 1982 Reorganization  
34 Plan of the Department of Labor.

35 (f) "Contributions" means the money payments to the State  
36 Unemployment Compensation Fund, required by R.S.43:21-7.  
37 "Payments in lieu of contributions" means the money payments to  
38 the State Unemployment Compensation Fund by employers electing  
39 or required to make payments in lieu of contributions, as provided  
40 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or  
41 43:21-7.3).

42 (g) "Employing unit" means the State or any of its  
43 instrumentalities or any political subdivision thereof or any of its  
44 instrumentalities or any instrumentality of more than one of the  
45 foregoing or any instrumentality of any of the foregoing and one or  
46 more other states or political subdivisions or any individual or type  
47 of organization, any partnership, association, trust, estate, joint-  
48 stock company, insurance company or corporation, whether

1 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or  
2 successor thereof, or the legal representative of a deceased person,  
3 which has or subsequent to January 1, 1936, had in its employ one  
4 or more individuals performing services for it within this State. All  
5 individuals performing services within this State for any employing  
6 unit which maintains two or more separate establishments within  
7 this State shall be deemed to be employed by a single employing  
8 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each  
9 individual employed to perform or to assist in performing the work  
10 of any agent or employee of an employing unit shall be deemed to  
11 be employed by such employing unit for all the purposes of this  
12 chapter (R.S.43:21-1 et seq.), whether such individual was hired or  
13 paid directly by such employing unit or by such agent or employee;  
14 provided the employing unit had actual or constructive knowledge  
15 of the work.

16 (h) "Employer" means:

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

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

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

30 (4) Any employing unit which together with one or more other  
31 employing units is owned or controlled (by legally enforceable  
32 means or otherwise), directly or indirectly by the same interests, or  
33 which owns or controls one or more other employing units (by  
34 legally enforceable means or otherwise), and which, if treated as a  
35 single unit with such other employing unit or interest, would be an  
36 employer under paragraph (1) of this subsection;

37 (5) Any employing unit for which service in employment as  
38 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December  
39 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is  
40 performed after December 31, 1977;

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

46 (7) Any employing unit not an employer by reason of any other  
47 paragraph of this subsection (h) for which, within either the current  
48 or preceding calendar year, service is or was performed with respect

1 to which such employing unit is liable for any federal tax against  
2 which credit may be taken for contributions required to be paid into  
3 a state unemployment fund; or which, as a condition for approval of  
4 the "unemployment compensation law" for full tax credit against  
5 the tax imposed by the Federal Unemployment Tax Act, is required  
6 pursuant to such act to be an employer under this chapter  
7 (R.S.43:21-1 et seq.);

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

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

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

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

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

18 (13) Any employing unit for which domestic service in  
19 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after  
20 December 31, 1977;

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

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

28 (A) Any service performed prior to January 1, 1972, which was  
29 employment as defined in the "unemployment compensation law"  
30 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other  
31 provisions of this subsection, service performed on or after January  
32 1, 1972, including service in interstate commerce, performed for  
33 remuneration or under any contract of hire, written or oral, express  
34 or implied.

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

41 (ii) Service performed after December 31, 1977, in the employ of  
42 this State or any of its instrumentalities or any political subdivision  
43 thereof or any of its instrumentalities or any instrumentality of more  
44 than one of the foregoing or any instrumentality of the foregoing  
45 and one or more other states or political subdivisions, if such  
46 service is not excluded from "employment" under paragraph (D)  
47 below.

1 (C) Service performed after December 31, 1971 by an individual  
2 in the employ of a religious, charitable, educational, or other  
3 organization, which is excluded from "employment" as defined in  
4 the Federal Unemployment Tax Act, solely by reason of section  
5 3306 (c)(8) of that act, if such service is not excluded from  
6 "employment" under paragraph (D) below.

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

9 (i) In the employ of (I) a church or convention or association of  
10 churches, or (II) an organization, or school which is operated  
11 primarily for religious purposes and which is operated, supervised,  
12 controlled or principally supported by a church or convention or  
13 association of churches;

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

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

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

22 (aa) as an elected official;

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

25 (cc) as a member of the State National Guard or Air National  
26 Guard;

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

29 (ee) in a position which, under or pursuant to the laws of this  
30 State, is designated as a major nontenured policy making or  
31 advisory position, or a policy making or advisory position, the  
32 performance of the duties of which ordinarily does not require more  
33 than eight hours per week; or

34 (iv) By an individual receiving rehabilitation or remunerative  
35 work in a facility conducted for the purpose of carrying out a  
36 program of rehabilitation of individuals whose earning capacity is  
37 impaired by age or physical or mental deficiency or injury or  
38 providing remunerative work for individuals who because of their  
39 impaired physical or mental capacity cannot be readily absorbed in  
40 the competitive labor market;

41 (v) By an individual receiving work-relief or work-training as  
42 part of an unemployment work-relief or work-training program  
43 assisted in whole or in part by any federal agency or an agency of a  
44 state or political subdivision thereof; or

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

1 (E) The term "employment" shall include the services of an  
2 individual who is a citizen of the United States, performed outside  
3 the United States after December 31, 1971 (except in Canada and in  
4 the case of the Virgin Islands, after December 31, 1971) and prior  
5 to January 1 of the year following the year in which the U.S.  
6 Secretary of Labor approves the unemployment compensation law  
7 of the Virgin Islands, under section 3304 (a) of the Internal  
8 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an  
9 American employer (other than the service which is deemed  
10 employment under the provisions of R.S.43:21-19 (i) (2) or (5) or  
11 the parallel provisions of another state's unemployment  
12 compensation law), if

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

15 (ii) The American employer has no place of business in the  
16 United States, but (I) the American employer is an individual who  
17 is a resident of this State; or (II) the American employer is a  
18 corporation which is organized under the laws of this State; or (III)  
19 the American employer is a partnership or trust and the number of  
20 partners or trustees who are residents of this State is greater than the  
21 number who are residents of another state; or

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

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

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

42 (G) Notwithstanding any other provision of this subsection,  
43 service in this State with respect to which the taxes required to be  
44 paid under any federal law imposing a tax against which credit may  
45 be taken for contributions required to be paid into a state  
46 unemployment fund or which as a condition for full tax credit  
47 against the tax imposed by the Federal Unemployment Tax Act is



1 required to be covered under the "unemployment compensation  
2 law" (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

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

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

42 (bb) such other entity shall be treated as having paid cash  
43 remuneration to such individual in an amount equal to the amount  
44 of cash remuneration paid to such individual by the crew leader  
45 (either on his own behalf or on behalf of such other entity) for the  
46 service in agricultural labor performed for such other entity.

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

- 1 (aa) furnishes individuals to perform service in agricultural labor  
2 for any other entity;
- 3 (bb) pays (either on his own behalf or on behalf of such other  
4 entity) the individuals so furnished by him for the service in  
5 agricultural labor performed by them; and
- 6 (cc) has not entered into a written agreement with such other  
7 entity under which such individual is designated as an employee of  
8 such other entity.
- 9 (J) (i) Domestic service after December 31, 1977 and before the  
10 effective date of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the  
11 Legislature as this bill) performed in the private home of an  
12 employing unit which paid cash remuneration of \$1,000.00 or more  
13 to one or more individuals for such domestic service in any calendar  
14 quarter in the current or preceding calendar year.
- 15 (ii) Domestic services after the effective date of P.L. \_\_\_\_\_,  
16 c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill),  
17 performed in the private home of an employing unit which in either  
18 the current or preceding calendar year paid remuneration for  
19 employment in the amount of \$1,000 or more.
- 20 (2) The term "employment" shall include an individual's entire  
21 service performed within or both within and without this State if:
- 22 (A) The service is localized in this State; or
- 23 (B) The service is not localized in any state but some of the  
24 service is performed in this State, and (i) the base of operations, or,  
25 if there is no base of operations, then the place from which such  
26 service is directed or controlled, is in this State; or (ii) the base of  
27 operations or place from which such service is directed or  
28 controlled is not in any state in which some part of the service is  
29 performed, but the individual's residence is in this State.
- 30 (3) Services performed within this State but not covered under  
31 paragraph (2) of this subsection shall be deemed to be employment  
32 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not  
33 required and paid with respect to such services under an  
34 unemployment compensation law of any other state or of the federal  
35 government.
- 36 (4) Services not covered under paragraph (2) of this subsection  
37 and performed entirely without this State, with respect to no part of  
38 which contributions are required and paid under an unemployment  
39 compensation law of any other state or of the federal government,  
40 shall be deemed to be employment subject to this chapter  
41 (R.S.43:21-1 et seq.) if the individual performing such services is a  
42 resident of this State and the employing unit for whom such  
43 services are performed files with the division an election that the  
44 entire service of such individual shall be deemed to be employment  
45 subject to this chapter (R.S.43:21-1 et seq.).
- 46 (5) Service shall be deemed to be localized within a state if:
- 47 (A) The service is performed entirely within such state; or

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

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

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

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

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

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

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

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

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

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

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

46 (D) Service performed prior to January 1, 1978, in the employ of  
47 this State or of any political subdivision thereof or of any  
48 instrumentality of this State or its political subdivisions, except as

1 provided in R.S.43:21-19 (i) (1) (B) above, and service in the  
2 employ of the South Jersey Port Corporation or its successors;

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

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

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

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

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

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

- 1 (K) Services performed by real estate salesmen or brokers who  
2 are compensated wholly on a commission basis;
- 3 (L) Services performed in the employ of any veterans'  
4 organization chartered by Act of Congress or of any auxiliary  
5 thereof, no part of the net earnings of which organization, or  
6 auxiliary thereof, inures to the benefit of any private shareholder or  
7 individual;
- 8 (M) Service performed for or in behalf of the owner or operator  
9 of any theater, ballroom, amusement hall or other place of  
10 entertainment, not in excess of 10 weeks in any calendar year for  
11 the same owner or operator, by any leader or musician of a band or  
12 orchestra, commonly called a "name band," entertainer, vaudeville  
13 artist, actor, actress, singer or other entertainer;
- 14 (N) Services performed after January 1, 1973 by an individual  
15 for a labor union organization, known and recognized as a union  
16 local, as a member of a committee or committees reimbursed by the  
17 union local for time lost from regular employment, or as a part-time  
18 officer of a union local and the remuneration for such services is  
19 less than \$1,000.00 in a calendar year;
- 20 (O) Services performed in the sale or distribution of merchandise  
21 by home-to-home salespersons or in-the-home demonstrators whose  
22 remuneration consists wholly of commissions or commissions and  
23 bonuses;
- 24 (P) Service performed in the employ of a foreign government,  
25 including service as a consular, nondiplomatic representative, or  
26 other officer or employee;
- 27 (Q) Service performed in the employ of an instrumentality  
28 wholly owned by a foreign government if (i) the service is of a  
29 character similar to that performed in foreign countries by  
30 employees of the United States Government or of an instrumentality  
31 thereof, and (ii) the division finds that the United States Secretary  
32 of State has certified to the United States Secretary of the Treasury  
33 that the foreign government, with respect to whose instrumentality  
34 exemption is claimed, grants an equivalent exemption with respect  
35 to similar services performed in the foreign country by employees  
36 of the United States Government and of instrumentalities thereof;
- 37 (R) Service in the employ of an international organization  
38 entitled to enjoy the privileges, exemptions and immunities under  
39 the International Organizations Immunities Act (22 U.S.C. s.288 et  
40 seq.);
- 41 (S) Service covered by an election duly approved by an agency  
42 charged with the administration of any other state or federal  
43 unemployment compensation or employment security law, in  
44 accordance with an arrangement pursuant to R.S.43:21-21 during  
45 the effective period of such election;
- 46 (T) Service performed in the employ of a school, college, or  
47 university if such service is performed (i) by a student enrolled at  
48 such school, college, or university on a full-time basis in an

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

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

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

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

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

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

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

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

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

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

15 (A) The limousine franchisee is incorporated;

16 (B) The franchisee is subject to regulation by the Interstate  
17 Commerce Commission;

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

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

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

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

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

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

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

4 (m) "Unemployment."

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

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

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

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

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

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

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



- 1 (p) "Remuneration" means all compensation for personal  
2 services, including commission and bonuses and the cash value of  
3 all compensation in any medium other than cash.
- 4 (q) "Week" means for benefit years commencing on or after  
5 October 1, 1984, the calendar week ending at midnight Saturday, or  
6 as the division may by regulation prescribe.
- 7 (r) "Calendar quarter" means the period of three consecutive  
8 calendar months ending March 31, June 30, September 30, or  
9 December 31.
- 10 (s) "Investment company" means any company as defined in  
11 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).
- 12 (t) (1) (Deleted by amendment, P.L.2001, c.17).
- 13 (2) "Base week," commencing on or after January 1, 1996 and  
14 before January 1, 2001, means:
- 15 (A) Any calendar week during which the individual earned in  
16 employment from an employer remuneration not less than an  
17 amount which is 20% of the Statewide average weekly  
18 remuneration defined in subsection (c) of R.S.43:21-3 which  
19 amount shall be adjusted to the next higher multiple of \$1.00 if not  
20 already a multiple thereof, except that if in any calendar week an  
21 individual subject to this subparagraph (A) is in employment with  
22 more than one employer, the individual may in that calendar week  
23 establish a base week with respect to each of the employers from  
24 whom the individual earns remuneration equal to not less than the  
25 amount defined in this subparagraph (A) during that week; or
- 26 (B) If the individual does not establish in his base year 20 or  
27 more base weeks as defined in subparagraph (A) of this paragraph  
28 (2), any calendar week of an individual's base year during which the  
29 individual earned in employment from an employer remuneration  
30 not less than an amount 20 times the minimum wage in effect  
31 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October  
32 1 of the calendar year preceding the calendar year in which the  
33 benefit year commences, which amount shall be adjusted to the next  
34 higher multiple of \$1.00 if not already a multiple thereof, except  
35 that if in any calendar week an individual subject to this  
36 subparagraph (B) is in employment with more than one employer,  
37 the individual may in that calendar week establish a base week with  
38 respect to each of the employers from whom the individual earns  
39 remuneration not less than the amount defined in this subparagraph  
40 (B) during that week.
- 41 (3) "Base week," commencing on or after January 1, 2001,  
42 means any calendar week during which the individual earned in  
43 employment from an employer remuneration not less than an  
44 amount 20 times the minimum wage in effect pursuant to section 5  
45 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar  
46 year preceding the calendar year in which the benefit year  
47 commences, which amount shall be adjusted to the next higher  
48 multiple of \$1.00 if not already a multiple thereof, except that if in

1 any calendar week an individual subject to this paragraph (3) is in  
2 employment with more than one employer, the individual may in  
3 that calendar week establish a base week with respect to each of the  
4 employers from whom the individual earns remuneration equal to  
5 not less than the amount defined in this paragraph (3) during that  
6 week.

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

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

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

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

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

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

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

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

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

4 (2) "Institution of higher education" means an educational  
5 institution which:

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

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

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

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

18 Notwithstanding any of the foregoing provisions of this  
19 subsection, all colleges and universities in this State are institutions  
20 of higher education for purposes of this section.

21 (z) "Hospital" means an institution which has been licensed,  
22 certified or approved under the law of this State as a hospital.<sup>1</sup>

23 (cf: P.L.2022, c.71, s.4)

24  
25 <sup>1</sup>~~15.1~~ 13.1 (New section) <sup>1</sup>~~Except as otherwise provided, the~~  
26 following minimum terms, and such other minimum terms as may  
27 be established by the department by regulation, shall apply to a  
28 work relationship between a domestic worker and a hiring entity:<sup>1</sup>

29 a. <sup>1</sup>~~Written agreements.~~<sup>1</sup> No <sup>1</sup>~~employer~~ hiring entity<sup>1</sup> shall  
30 employ <sup>1</sup>~~or engage~~<sup>1</sup> a domestic worker, except for casual work or  
31 work of less than five hours per month, unless the engagement is  
32 governed by a written contract governing the following: a specific  
33 list of job duties; hourly wage and overtime wage; weekly schedule  
34 including number of hours per week; the manner and frequency of  
35 payment; breaks for rest and meals; paid or unpaid leave including  
36 sick time; paid holidays; any other benefits provided; modes of  
37 transportation required and whether provided; value of housing if  
38 provided; sleeping period and personal time for live-in workers; the  
39 term of the contract; and any other terms and conditions as agreed  
40 upon by the domestic worker and employer or as mandated pursuant  
41 to this act. The written agreement shall be signed and dated by all  
42 parties after ample opportunity to review.

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

1 (1) Mandatory pre-dispute arbitration agreement for claims  
2 made by a covered domestic worker against a domestic work hiring  
3 entity regarding the local rights of the worker; and

4 (2) Non-disclosure agreement, <sup>1</sup>["restrictive covenant,] non-  
5 competition<sup>1</sup> or non-disparagement agreement, limiting the ability  
6 of the covered domestic worker to seek compensation for  
7 performing domestic services after the worker ceases to receive  
8 compensation from the domestic work hiring entity for the  
9 performance of domestic services.

10 c. The agreement shall be in English and such other language  
11 as may be preferred by the worker. The hiring entity shall make  
12 reasonable efforts to determine if the worker would prefer the  
13 agreement to be in another language.

14 d. The department shall make available model contracts  
15 complying with this act shall in multiple languages on its Internet  
16 website.

17 e. A referral and employment agency shall provide domestic  
18 workers and hiring entities with information concerning the contract  
19 requirements of this act at the time a hiring entity is connected with  
20 a worker and shall make any model contracts adopted by the  
21 department available to the hiring entity.

22  
23 <sup>1</sup>["16.]" 14.<sup>1</sup> (New section) a. <sup>1</sup>["The hiring entity]" An employer  
24 of a domestic worker<sup>1</sup> shall allow the domestic worker an  
25 uninterrupted paid rest-period of not less than ten minutes for each  
26 four consecutive hours worked, unless the nature of the work  
27 prevents the domestic worker from being relieved of all duties for  
28 such period of time, such as some types of child care and caretaker  
29 work for a sick, elderly or disabled person. <sup>2</sup>In those types of work  
30 where the domestic worker is not relieved of all work duties, an  
31 "on-duty" rest period shall be provided.<sup>2</sup> The <sup>1</sup>["hiring entity]"  
32 employer<sup>1</sup> shall pay the domestic worker for the time spent on a rest  
33 break at the domestic worker's regular rate of pay.

34 b. The <sup>1</sup>["hiring entity]" employer<sup>1</sup> shall allow an uninterrupted  
35 30-minute meal break after more than five consecutive hours  
36 worked. Unless the domestic worker is relieved of all work duties  
37 during such 30-minute period <sup>2</sup>and is permitted to leave the work  
38 site during that break<sup>2</sup>, the meal period shall be considered an "on-  
39 duty" meal period and shall be paid at the domestic worker's regular  
40 rate of pay.

41 <sup>2</sup>["(1)"] c.<sup>2</sup> An "on-duty" meal <sup>2</sup>or rest<sup>2</sup> period shall be permitted  
42 only when the nature of the work prevents a domestic worker from  
43 being relieved of all duties and when, by written agreement between  
44 the parties, an "on-duty" meal <sup>2</sup>or rest<sup>2</sup> period is agreed to. The  
45 agreement may be revoked by the domestic worker, in writing, at  
46 any time. <sup>2</sup>The domestic worker may, to the extent possible given  
47 the domestic worker's duties for the employer, engage in personal

1 activities, such as resting, eating a meal, drinking a beverage,  
2 making a personal telephone call, or making other personal choices  
3 during “on-duty” meal or rest periods.<sup>2</sup>

4 <sup>2</sup>**[c.] d.**<sup>2</sup> The <sup>1</sup>**[hiring entity]** employer<sup>1</sup> shall not impede or  
5 discourage a domestic worker from taking any meal or rest breaks.

6 <sup>2</sup>**[d.]** Failure to allow a meal or rest period in accordance with this  
7 paragraph (1) shall entitle <sup>1</sup>**e.** In the case of a violation of this  
8 section, the domestic work employer involved shall be liable to<sup>2</sup> the  
9 domestic worker <sup>2</sup>for an amount equal to<sup>2</sup> to one <sup>2</sup>**[additional]**<sup>2</sup>  
10 hour of pay at the domestic worker's regular rate of compensation<sup>2</sup>,  
11 but not more than two hours of such pay.<sup>2</sup> for each workday that the  
12 meal or rest period was not provided. <sup>2</sup>**[Payment of this extra pay**  
13 **shall not excuse non-compliance with this subsection]** The  
14 department shall determine through the agency’s complaint and  
15 adjudication process whether or not violations occurred by the  
16 employer and whether or not the domestic worker is entitled to the  
17 remedy<sup>2</sup>.

18  
19 <sup>1</sup>**[17.] 15.**<sup>1</sup> (New section) A "live-in" domestic worker shall not  
20 be required to work more than six consecutive days for the same  
21 <sup>1</sup>**[hiring entity]** employer<sup>1</sup> without a 24-hour period of rest, which  
22 may be unpaid.

23  
24 <sup>1</sup>**[18.] 16.**<sup>1</sup> (New section) a. <sup>1</sup>**[The hiring entity]** An employer  
25 of a domestic worker<sup>1</sup> shall provide a minimum two-week  
26 notification period before termination of employment, and for live-  
27 in domestic workers a minimum four-week notification period  
28 before termination of employment. <sup>1</sup>**[No notification period is**  
29 **required in connection with the termination of casual work**  
30 **performed for a hiring entity.]**<sup>1</sup>

31 b. The <sup>1</sup>**[hiring entity]** employer<sup>1</sup> may terminate the  
32 employment without complying with the full notification period  
33 based on a good-faith belief <sup>2</sup>and without reckless disregard or  
34 willful ignorance of the truth<sup>2</sup> that the domestic worker has engaged  
35 in significant misconduct.

36 c. Failure to provide notification as required under this section  
37 shall entitle the domestic worker to severance pay in the amount of  
38 the worker's regular hourly rate multiplied by the regular number of  
39 hours worked over the period of time during which the required  
40 notification was not provided.

41 <sup>2</sup>d. As used in this section, the term “significant misconduct”  
42 means that the domestic worker abused, neglected, or caused any  
43 other harmful conduct against the employer, members of the  
44 employer’s family, or individuals residing in the employer’s  
45 household.

1       e. The notification requirement in this section shall not apply  
2 if:

3       (1) a domestic worker completes placement in a particular  
4 position and is not immediately placed or scheduled for another  
5 position by an employer if the employer is a temporary help service  
6 firm, employment agency, or other staffing or placement agency,  
7 health care service firm, home health agency, or hospice provider,  
8 but the domestic worker remains on the employer's payroll for  
9 future placement opportunities; or

10       (2) a domestic worker is employed by an employer that is an  
11 individual and not a temporary help service firm, employment  
12 agency, or other staffing or placement agency, health care service  
13 firm, home health agency, or hospice provider, whether or not the  
14 employer is the person receiving care from the domestic worker,  
15 and the domestic worker completes or fulfills all duties of the  
16 position, and there is no longer a practicable need for the position,  
17 including but not limited to, if the domestic worker's employer is an  
18 individual who has employed the domestic worker to care a person  
19 who is terminally ill person, and the terminally ill person passes  
20 away.<sup>2</sup>

21

22       <sup>1</sup>**[19.] 17.**<sup>1</sup> (New section) No hiring entity shall:

23       a. Keep or hold the original copies of any personal documents  
24 of a domestic worker;

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

27       (1) using any bathroom or similar facility;

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

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

31       c. Monitor, record or interfere with the private communications  
32 of a domestic worker.

33

34       <sup>1</sup>**[20.] 18.**<sup>1</sup> (New section) a. A hiring entity shall provide to a  
35 domestic worker notification of the rights of domestic workers  
36 under P.L. , c. (C. et seq.) (pending before the Legislature  
37 as this bill), and information on how to file a complaint for  
38 violation of these rights, as shall be determined by the department  
39 by regulation.

40       b. A hiring entity shall create and maintain records  
41 documenting hours worked, pay rate, meals and rest breaks, leave  
42 time earned and used, if applicable, and the existence of a written  
43 agreement, all pursuant to requirements established by regulation by  
44 the department. If a hiring entity does not maintain the required  
45 records or does not allow the department reasonable access to the  
46 records, an adverse inference may be drawn with respect to facts  
47 alleged regarding the issues about which records were not kept.

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

4  
5 <sup>1</sup>[21.] 19.<sup>1</sup> (New section) a. It shall be unlawful for a hiring  
6 entity or any other person to interfere with, restrain, or deny the  
7 exercise of, or the attempt to exercise, any right set forth in P.L. ,  
8 c. (C. et seq.) (pending before the Legislature as this bill).

9 b. The minimum requirements of sections <sup>1</sup>[15 through 20] 13  
10 through 18<sup>1</sup> of P.L. , c. (C. ) (pending before the  
11 Legislature as this bill) shall be deemed incorporated into any  
12 contract, whether actual or implied, between the employer and the  
13 domestic worker.

14 c. A material breach by a hiring entity of a contract with a  
15 domestic worker shall constitute a violation of P.L. ,  
16 c. (C. et seq.) (pending before the Legislature as this bill),  
17 without regard to whether the breach is of a provision required by  
18 this act.

19 d. No hiring entity or any other person shall take or threaten  
20 retaliatory action against any person because a domestic worker has  
21 exercised rights or pursued a claim of violation under P.L. ,  
22 c. (C. et seq.) (pending before the Legislature as this bill).  
23 These rights include the right to demand compliance with  
24 protections established by written agreement; the right to file a  
25 complaint or inform any person about an employer's alleged  
26 violation of this act; the right to cooperate with the department in  
27 any investigation pursuant to this act; and the right to inform any  
28 person of the rights established under this act.

29 e. No hiring entity or any other person shall communicate to a  
30 person exercising rights protected under P.L. c. (C. )  
31 (pending before the Legislature as this bill) the willingness or intent  
32 to contact, report to, or to make an implied or express assertion to  
33 report to a government agency regarding the suspected citizenship  
34 or immigration status of a domestic worker or family member of a  
35 domestic worker because the worker has or has expressed an intent  
36 to exercise rights protected under this act or because of a belief the  
37 worker may do so.

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

41 g. It shall be considered a rebuttable presumption of retaliation  
42 if the hiring entity or any other person takes an adverse action  
43 against a domestic worker within 90 calendar days of the worker's  
44 exercise of rights protected in P.L. c. (C. et seq.) (pending  
45 before the Legislature as this bill). However, in the case of  
46 temporary or seasonal employment that ended before the close of  
47 the 90 calendar day period, the presumption also applies if the  
48 hiring entity fails to rehire a former domestic worker at the next

1 opportunity for work in the same position. The hiring entity may  
 2 rebut the presumption with clear and convincing evidence that the  
 3 adverse action would have been taken in the absence of such  
 4 protected activity. <sup>2</sup>If a domestic worker declines to be rehired for  
 5 the same position or resigns from the position, the presumption in  
 6 this subsection g. shall not apply.<sup>2</sup>

7 h. Proof of retaliation under P.L. , c. (C. et seq.)  
 8 (pending before the Legislature as this bill) shall be sufficient upon  
 9 a showing that the hiring entity or any other person has taken an  
 10 adverse action against a person and the persons exercise or rights  
 11 protected in P.L. , c. (C. et seq.) (pending before the  
 12 Legislature as this bill) was a motivating factor in the absence of  
 13 that protected activity.

14 i. A complaint or other communication by any person triggers  
 15 the protection of P.L. , c. (C. et seq.) (pending before the  
 16 Legislature as this bill) regardless of whether the complaint or  
 17 communication is in writing or makes explicit reference to P.L. ,  
 18 c. (C. ) (pending before the Legislature as this bill).  
 19

20 <sup>1</sup>**[22.] 20.**<sup>1</sup> (New section) The department <sup>2</sup>**[is authorized to**  
 21 coordinate implementation, administration, and enforcement for  
 22 P.L. , c. (C. ) (pending before the Legislature as this bill),  
 23 and]<sup>2</sup> shall promulgate appropriate guidelines and regulations to  
 24 effectuate the purposes of <sup>2</sup>**[for]<sup>2</sup>** P.L. , c. (C. ) (pending  
 25 before the Legislature as this bill) <sup>2</sup>**[through the Domestic Workers**  
 26 **Standards and Implementation Board, established in section <sup>1</sup>[25]**  
 27 **23<sup>1</sup>** of P.L. , c. (C. )(pending before the Legislature as this  
 28 bill)<sup>2</sup>.  
 29

30 <sup>1</sup>**[23.] 21.**<sup>1</sup> (New section) a. Individuals and <sup>1</sup>**[hiring entities]**  
 31 **employers<sup>1</sup>** with an overlapping employment relationship with a  
 32 domestic worker are subject to joint and several liability, and  
 33 concurrent <sup>2</sup>**[finds] fines<sup>2</sup>** and penalties, in connection with P.L. ,  
 34 c. (C. ) (pending before the Legislature as this bill).

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

38 c. The department shall <sup>2</sup>**[collaborate with the Domestic**  
 39 **Workers Standards and Implementation Board, as established by**  
 40 **section <sup>1</sup>[25] 23<sup>1</sup>** of P.L. , c. (C. ) (pending before the  
 41 Legislature as this bill) to]<sup>2</sup> take any steps as it deems appropriate  
 42 to resolve complaints and enforce P.L. , c. (C. ) (pending  
 43 before the Legislature as this bill), including, but not limited to,  
 44 establishing a system to receive complaints regarding  
 45 noncompliance with P.L. , c. (C. ) (pending before the  
 46 Legislature as this bill), investigating alleged violations in a timely



1 manner and resolving complaints through a separate “referral”  
2 process for claims of <sup>1</sup>employees in<sup>1</sup> domestic <sup>1</sup>services<sup>1</sup>  
3 workers<sup>1</sup>.

4 d. The department shall have the power to subpoena records  
5 and testimony from any party to a complaint. The records shall be  
6 provided to the department within 30 days after receipt of the  
7 subpoena.

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

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

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

39 h. Any domestic worker or person who is aggrieved by a  
40 violation of P.L. , c. (C. ) (pending before the Legislature  
41 as this bill), or the department may bring civil action in a court of  
42 competent jurisdiction against a hiring entity <sup>1</sup>or an employer<sup>1</sup>  
43 violating P.L. , c. (C. ) (pending before the Legislature as  
44 this bill). Nothing in P.L. , c. (C. ) (pending before the  
45 Legislature as this bill) or its implementing regulations shall be  
46 construed to require a complaint to be filed with the department  
47 before bringing an action in court. Upon prevailing in an action

1 brought pursuant to this section, an aggrieved person shall be  
2 entitled to any legal or equitable relief as may be appropriate to  
3 remedy the violation, that is not duplicative of any relief provided  
4 to the person in administrative proceedings, including, without  
5 limitation, reinstatement in employment, back pay, and injunctive  
6 relief. The aggrieved person shall be entitled to an award of  
7 reasonable attorney's fees and costs.

8  
9 <sup>1</sup>[24.] 22.<sup>1</sup> (New section) a. The department shall, upon  
10 appropriation of funds to the department for purposes of this  
11 section, establish and maintain a Domestic Work Enforcement  
12 Program in collaboration with qualified organizations. P.L. ,  
13 c. (C. ) (pending before the Legislature as this bill) requires  
14 the department to issue a competitive request to community-based  
15 organizations (CBOs) to provide education and outreach services in  
16 this program and would prescribe requirements for these  
17 organizations. The CBOs would be responsible for developing and  
18 consulting with the department regarding the core education and  
19 outreach materials, as specified. The program shall increase the  
20 capacity and expertise of the department to improve education and  
21 enforcement of labor standards in the domestic work industry. The  
22 program shall include, but not be limited to, the following:

23 (1) Education and training for domestic work employees and  
24 <sup>1</sup>[hiring entities] employers<sup>1</sup> addressing minimum wage, overtime,  
25 sick leave, recordkeeping, wage adjudication, and retaliation, along  
26 with new rights extended by P.L. , c. (C. ) (pending before  
27 the Legislature as this bill);

28 (2) Training for domestic worker leaders to provide peer-to-peer  
29 support and wraparound service referrals to domestic work  
30 employees who have elected to file wage claims or take other  
31 actions seeking remedy from hiring entities <sup>1</sup>or employers<sup>1</sup>;

32 (3) Development of core training curriculum to be used in the  
33 education and training of domestic work employees and <sup>1</sup>[hiring  
34 entities] employers<sup>1</sup>;

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

38 (5) Development of an online resource hub to provide  
39 information for <sup>1</sup>[hiring entities] employers<sup>1</sup> on State labor laws  
40 and guidelines on fair employment.

41 b. Qualified organizations that collaborate under subsection a.  
42 of this section shall issue reports and meet quarterly with the  
43 department to review the implementation and success of the  
44 program.

45 c. (1) A nonprofit organization that has a minimum of five  
46 years of experience working with domestic work employees or  
47 <sup>1</sup>[hiring entities] employers<sup>1</sup>; or

1 (2) An organization that works with nonprofit organizations that  
2 has a minimum of five years of experience working with domestic  
3 work employees or <sup>1</sup>【hiring entities】 employers<sup>1</sup>.

4  
5 <sup>2</sup>【<sup>1</sup>【25.】 23.】<sup>1</sup> (New section) a. The department shall establish,  
6 within 90 days of the date of enactment of P.L. , c. (C. )  
7 (pending before the Legislature as this bill), a “Domestic Workers  
8 Standards and Implementation Board” (Board), which shall be  
9 established to provide a forum for <sup>1</sup>【hiring entities】 employers<sup>1</sup>,  
10 domestic workers, worker organizations, and the public to consider  
11 analyze, and make recommendations to the State on the legal  
12 protections, benefits, and working conditions for domestic worker  
13 industry standards. The board shall be established to permanently  
14 promote the health, safety, and well-being of domestic workers; and  
15 a living wage for domestic workers along with development of the  
16 mechanisms to support implementation of P.L. ,  
17 c. (C. ) (pending before the Legislature as this bill), including  
18 the development of regulations promulgated under P.L. ,  
19 c. (C. ) (pending before the Legislature as this bill). The  
20 board shall also make recommendations to the department regarding  
21 enforcement and implementation strategies, including the  
22 development of the Domestic Work Enforcement Program.

23 b. (1) The board shall consist of 13 members composed of  
24 members with expertise in labor standards, wage theft, law, and  
25 policy; and domestic worker industry. The board shall meet at least  
26 quarterly, and all meetings shall be open to the public. The board  
27 shall create by-laws in order to conduct and structure future  
28 meetings including, but not limited to, scheduling quarterly  
29 meetings, determining recommended timetables for submission of  
30 recommendations to the Legislature, the Department of Labor and  
31 Workforce Development, the Governor’s Office, determining term  
32 lengths and appointments of individuals to the board. All State  
33 departments, agencies, boards, commissions shall support and  
34 cooperate with the board and provide the board with any data it may  
35 need which may include logistical support in regard to translation,  
36 interpretation, and outreach to ensure equal access and equity of  
37 domestic worker representatives and <sup>1</sup>【hiring entities】 employers<sup>1</sup>  
38 on the board. The board will be comprised of various stakeholders  
39 from the private, non-profit sectors, domestic workers, <sup>1</sup>【hiring  
40 entities】 employers<sup>1</sup>, and will have representation from members of  
41 the Department of Labor and Workforce Development, and  
42 Governor’s office; and

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

44 (i) one representative from the Department of Labor and  
45 Workforce Development;

46 (ii) one representative from the National Domestic Workers  
47 Alliance;

- 1 (iii) one representative from a labor or union organization;
- 2 (iv) two representatives from a State-based community  
3 organization or worker center, which is focused on the rights of  
4 low-wage and immigrant workers;
- 5 (v) one domestic worker; and
- 6 (vi) one **‘[hiring entity] employer<sup>1</sup>**; and
- 7 (b) The Legislature shall appoint six members as follows: three  
8 members to be appointed by the President of the Senate and three  
9 members to be appointed by the Speaker of the General Assembly,  
10 as follows:
- 11 (i) four domestic workers, two each selected respectively by the  
12 President of the Senate and the Speaker of the General Assembly;  
13 and
- 14 (ii) two **‘[hiring entities] employers<sup>1</sup>**, one each selected  
15 respectively by the President of the Senate and the Speaker of the  
16 General Assembly.
- 17 c. The board’s responsibilities include, but are not limited to,  
18 providing a forum for **‘[hiring entities] employers<sup>1</sup>**, domestic  
19 workers, worker organizations, and other affected parties to share  
20 information, insights, and experiences on the working conditions of  
21 domestic workers, and recommendations on how the working  
22 conditions can be changed to meet the needs of domestic workers  
23 and **‘[hiring entities] employers<sup>1</sup>**. These recommendations shall  
24 include:
- 25 (1) possible legislation or policy changes;
- 26 (2) wage standards for the industry;
- 27 (3) development and advancement of enforcement and  
28 implementation efforts in collaboration with the department; and
- 29 (4) the promulgation of regulations to enforce P.L. ,  
30 c. (C. ) (pending before the Legislature as this bill).
- 31 d. The board, in consultation with the department and other  
32 State agencies, within six months after all members have been  
33 established, shall submit to the Governor, and Legislature, pursuant  
34 to section 2 of P.L.1991, c.164 (C.52:14-19.1), with oversight by  
35 the department, a work plan identifying the topics the board will  
36 address in the first two years. The board in consultation with the  
37 department and other relevant State agencies, shall submit an  
38 updated work plan every two years. The board’s first  
39 recommendation shall be submitted to the Governor and Legislature  
40 by the end of the first quarter of the year following the year in  
41 which the work plan has been submitted.
- 42 Within 120 days from the date of receipt of any work plan  
43 submitted by the board, the Legislature, through its committees that  
44 consider labor subject matter, shall consider and respond to the  
45 board’s work plan. The response shall include proposed legislation  
46 and policies, requests for additional information needed from the  
47 board, requests for alternative plans from the board, reasons **‘[fro]**

1 for<sup>1</sup> rejection of any plan submitted by the board, or an explanation  
 2 of why additional time is needed to submit a response to the board's  
 3 plan. Additionally, the Legislature, sua sponte, may notify the  
 4 board of any policies or legislation it may introduce for enactment,  
 5 request further information from the board, request that the board  
 6 develop alternatives, or take any other action that it deems  
 7 appropriate.

8 e. The board shall make recommendations to the Legislature on  
 9 the following subjects:

10 (1) Wage standards, such as industry standards, overtime, and  
 11 pay differentials;

12 (2) Training for <sup>1</sup>**[hiring entities]** employers<sup>1</sup> and domestic  
 13 workers on federal, State, and local labor laws, benefits, and  
 14 protections, discrimination, and sexual harassment, workplace  
 15 health; and safety standards;

16 (3) Jobs skills and professional development opportunities;

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

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

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

22 (7) Outreach and enforcement strategies to ensure compliance  
 23 with P.L. , c. (C. ) (pending before the Legislature as this  
 24 bill), and to provide effective information to both <sup>1</sup>**[hiring entities]**  
 25 employers<sup>1</sup> and domestic workers; and

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

28 f. Members of the board shall serve without compensation but  
 29 shall be reimbursed for the reasonable travel and other out-of-  
 30 pocket expenses incurred in the performance of their duties. **]**<sup>2</sup>

31

32 <sup>1</sup>**[26.]** <sup>2</sup>**[24.1]** 23.<sup>2</sup> (New section) a. Nothing in P.L. ,  
 33 c. (C. ) (pending before the Legislature as this bill) shall be  
 34 construed to diminish any rights or protections granted to domestic  
 35 workers by any other law.

36 b. If any provision of P.L. , c. (C. ) (pending before the  
 37 Legislature as this bill) or its application to any person or  
 38 circumstance is held invalid, the invalidity does not affect other  
 39 provisions or applications of P.L. , c. (C. ) (pending before  
 40 the Legislature as this bill) which can be given effect without the  
 41 invalid provision or application, and to this end the provisions of  
 42 P.L. , c. (C. ) (pending before the Legislature as this bill)  
 43 are severable.

1       <sup>1</sup>~~[27.]~~ <sup>2</sup>~~[25.1]~~ 24.<sup>2</sup> This act shall take effect on the first day of  
2 the sixth month next following enactment, except that the  
3 commissioner may take any anticipatory action as may be necessary  
4 to effectuate the purposes of this act.

5

6

7

8

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