

[First Reprint]

**SENATE, No. 723**

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**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Co-Sponsored by:**

**Senators Gill, Cryan, Ruiz, Pou, Cruz-Perez, Turner, Burgess, Zwicker,  
Stack and Johnson**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As reported by the Senate Labor Committee on December 1, 2022, with amendments.



**(Sponsorship Updated As Of: 11/27/2023)**

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

3

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

6

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

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

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

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

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

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

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

35

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

38       “Casual work” means work that is:

39       (1) irregular, uncertain, or incidental in nature and duration; and

40       (2) different in nature from the type of paid work in which the  
41 worker is customarily engaged.

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

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

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

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

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

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

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

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

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

28 (e) <sup>1</sup>~~["A home health care worker while they are paid through~~  
29 ~~public funds, such as a home health care worker while paid through~~  
30 ~~Medicaid or Medicare]~~ An employee of the State or the United  
31 States<sup>1</sup>;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (2) after the procurement does not continue involvement in the  
36 terms of exchange of domestic services with the employees,  
37 independent contractors, or domestic workers in any way, with the  
38 exception of the following:

39 (a) continuing to display or host or advertise, either through  
40 physical means or virtual means, the workers' contact information,  
41 job qualifications, resume, image, or digital profile which  
42 employers or clients can use to independently contact employees,  
43 independent contractors, or domestic workers about employment,  
44 independent contractor engagement, or domestic workers about  
45 employment, independent contractor engagements, or other jobs; or

46 (b) removing, either through physical means or virtual means,  
47 the workers' contact information, job qualifications, resume, image,  
48 or digital profile which employers or clients can use to

1 independently contact employees, upon the mandate of any federal,  
2 State, or local <sup>1</sup>laws.<sup>1</sup>

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

8 "Written" or "writing" means a printed or printable  
9 communication in physical or electronic form, including a  
10 communication that is transmitted through email, text message, or a  
11 computer system, or is otherwise sent and maintained  
12 electronically.

13

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

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

18 a. "Person" includes one or more individuals, partnerships,  
19 associations, organizations, labor organizations, corporations, legal  
20 representatives, trustees, trustees in bankruptcy, receivers, and  
21 fiduciaries.

22 b. "Employment agency" **includes any person undertaking to**  
23 **procure employees or opportunities for others to work** <sup>1</sup>**shall have**  
24 **the same meaning as in section 2 of P.L. , c. (C. ) (pending**  
25 **before the Legislature as this bill)** **includes any person undertaking**  
26 **to procure employees or opportunities for others to work**<sup>1</sup>.

27 c. "Labor organization" includes any organization which exists  
28 and is constituted for the purpose, in whole or in part, of collective  
29 bargaining, or of dealing with employers concerning grievances,  
30 terms or conditions of employment, or of other mutual aid or  
31 protection in connection with employment.

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

35 e. "Employer" includes all persons as defined in subsection a.  
36 of this section and "hiring entities" as defined by section 2 of  
37 P.L. , c. (C. ) (pending before the Legislature as this bill),  
38 unless otherwise specifically exempt under another section of  
39 P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State, any  
40 political or civil subdivision thereof, and all public officers,  
41 agencies, boards, or bodies.

42 f. **["Employee" does not include any individual employed in**  
43 **the domestic service of any person.]** (Deleted by amendment,  
44 P.L. , c. (pending before the Legislature as this bill)

45 g. "Liability for service in the Armed Forces of the United  
46 States" means subject to being ordered as an individual or member  
47 of an organized unit into active service in the Armed Forces of the

1 United States by reason of membership in the National Guard, naval  
2 militia or a reserve component of the Armed Forces of the United  
3 States, or subject to being inducted into such armed forces through  
4 a system of national selective service.

5 h. "Division" means the "Division on Civil Rights" created by  
6 P.L.1945, c.169 (C.10:5-1 et seq.).

7 i. "Attorney General" means the Attorney General of the State  
8 of New Jersey or the Attorney General's representative or designee.

9 j. "Commission" means the Commission on Civil Rights  
10 created by P.L.1945, c.169 (C.10:5-1 et seq.).

11 k. "Director" means the Director of the Division on Civil  
12 Rights.

13 l. "A place of public accommodation" shall include, but not be  
14 limited to: any tavern, roadhouse, hotel, motel, trailer camp,  
15 summer camp, day camp, or resort camp, whether for entertainment  
16 of transient guests or accommodation of those seeking health,  
17 recreation, or rest; any producer, manufacturer, wholesaler,  
18 distributor, retail shop, store, establishment, or concession dealing  
19 with goods or services of any kind; any restaurant, eating house, or  
20 place where food is sold for consumption on the premises; any  
21 place maintained for the sale of ice cream, ice and fruit preparations  
22 or their derivatives, soda water or confections, or where any  
23 beverages of any kind are retailed for consumption on the premises;  
24 any garage, any public conveyance operated on land or water or in  
25 the air or any stations and terminals thereof; any bathhouse,  
26 boardwalk, or seashore accommodation; any auditorium, meeting  
27 place, or hall; any theatre, motion-picture house, music hall, roof  
28 garden, skating rink, swimming pool, amusement and recreation  
29 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
30 pool parlor, or other place of amusement; any comfort station; any  
31 dispensary, clinic, or hospital; any public library; and any  
32 kindergarten, primary and secondary school, trade or business  
33 school, high school, academy, college and university, or any  
34 educational institution under the supervision of the State Board of  
35 Education or the Commissioner of Education of the State of New  
36 Jersey. Nothing herein contained shall be construed to include or to  
37 apply to any institution, bona fide club, or place of accommodation,  
38 which is in its nature distinctly private; nor shall anything herein  
39 contained apply to any educational facility operated or maintained  
40 by a bona fide religious or sectarian institution, and the right of a  
41 natural parent or one in loco parentis to direct the education and  
42 upbringing of a child under his control is hereby affirmed; nor shall  
43 anything herein contained be construed to bar any private secondary  
44 or post-secondary school from using in good faith criteria other than  
45 race, creed, color, national origin, ancestry, gender identity, or  
46 expression or affectional or sexual orientation in the admission of  
47 students.

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

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

29       o. "Real estate broker" includes a person, firm, or corporation  
30       who, for a fee, commission, or other valuable consideration, or by  
31       reason of promise or reasonable expectation thereof, lists for sale,  
32       sells, exchanges, buys or rents, or offers or attempts to negotiate a  
33       sale, exchange, purchase, or rental of real estate or an interest  
34       therein, or collects or offers or attempts to collect rent for the use of  
35       real estate, or solicits for prospective purchasers or assists or directs  
36       in the procuring of prospects or the negotiation or closing of any  
37       transaction which does or is contemplated to result in the sale,  
38       exchange, leasing, renting, or auctioning of any real estate, or  
39       negotiates, or offers or attempts or agrees to negotiate a loan  
40       secured or to be secured by mortgage or other encumbrance upon or  
41       transfer of any real estate for others; or any person who, for  
42       pecuniary gain or expectation of pecuniary gain conducts a public  
43       or private competitive sale of lands or any interest in lands. In the  
44       sale of lots, the term "real estate broker" shall also include any  
45       person, partnership, association, or corporation employed by or on  
46       behalf of the owner or owners of lots or other parcels of real estate,  
47       at a stated salary, or upon a commission, or upon a salary and  
48       commission or otherwise, to sell such real estate, or any parts

1   thereof, in lots or other parcels, and who shall sell or exchange, or  
2   offer or attempt or agree to negotiate the sale or exchange, of any  
3   such lot or parcel of real estate.

4   p. "Real estate salesperson" includes any person who, for  
5   compensation, valuable consideration or commission, or other thing  
6   of value, or by reason of a promise or reasonable expectation  
7   thereof, is employed by and operates under the supervision of a  
8   licensed real estate broker to sell or offer to sell, buy or offer to buy  
9   or negotiate the purchase, sale, or exchange of real estate, or offers  
10   or attempts to negotiate a loan secured or to be secured by a  
11   mortgage or other encumbrance upon or transfer of real estate, or to  
12   lease or rent, or offer to lease or rent any real estate for others, or to  
13   collect rents for the use of real estate, or to solicit for prospective  
14   purchasers or lessees of real estate, or who is employed by a  
15   licensed real estate broker to sell or offer to sell lots or other parcels  
16   of real estate, at a stated salary, or upon a commission, or upon a  
17   salary and commission, or otherwise to sell real estate, or any parts  
18   thereof, in lots or other parcels.

19   q. "Disability" means physical or sensory disability, infirmity,  
20   malformation, or disfigurement which is caused by bodily injury,  
21   birth defect, or illness including epilepsy and other seizure  
22   disorders, and which shall include, but not be limited to, any degree  
23   of paralysis, amputation, lack of physical coordination, blindness or  
24   visual impairment, deafness or hearing impairment, muteness or  
25   speech impairment, or physical reliance on a service or guide dog,  
26   wheelchair, or other remedial appliance or device, or any mental,  
27   psychological, or developmental disability, including autism  
28   spectrum disorders, resulting from anatomical, psychological,  
29   physiological, or neurological conditions which prevents the typical  
30   exercise of any bodily or mental functions or is demonstrable,  
31   medically or psychologically, by accepted clinical or laboratory  
32   diagnostic techniques. Disability shall also mean AIDS or HIV  
33   infection.

34   r. "Blind person" or "person who is blind" means any  
35   individual whose central visual acuity does not exceed 20/200 in the  
36   better eye with correcting lens or whose visual acuity is better than  
37   20/200 if accompanied by a limit to the field of vision in the better  
38   eye to such a degree that its widest diameter subtends an angle of  
39   no greater than 20 degrees.

40   s. "Guide dog" means a dog used to assist persons who are  
41   deaf, or which is fitted with a special harness so as to be suitable as  
42   an aid to the mobility of a person who is blind, and is used by a  
43   person who is blind and has satisfactorily completed a specific  
44   course of training in the use of such a dog, and has been trained by  
45   an organization generally recognized by agencies involved in the  
46   rehabilitation of persons with disabilities, including, but not limited  
47   to, those persons who are blind or deaf, as reputable and competent  
48   to provide dogs with training of this type.



- 1       t. "Guide or service dog trainer" means any person who is  
2 employed by an organization generally recognized by agencies  
3 involved in the rehabilitation of persons with disabilities, including,  
4 but not limited to, those persons who are blind, have visual  
5 impairments, or are deaf or have hearing impairments, as reputable  
6 and competent to provide dogs with training, as defined in this  
7 section, and who is actually involved in the training process.
- 8       u. "Housing accommodation" means any publicly assisted  
9 housing accommodation or any real property, or portion thereof,  
10 which is used or occupied, or is intended, arranged, or designed to  
11 be used or occupied, as the home, residence, or sleeping place of  
12 one or more persons, but shall not include any single family  
13 residence the occupants of which rent, lease, or furnish for  
14 compensation not more than one room therein.
- 15       v. "Public facility" means any place of public accommodation  
16 and any street, highway, sidewalk, walkway, public building, and  
17 any other place or structure to which the general public is regularly,  
18 normally, or customarily permitted or invited.
- 19       w. "Deaf person" or "person who is deaf" means any person  
20 whose hearing is so severely impaired that the person is unable to  
21 hear and understand conversational speech through the unaided ear  
22 alone, and who must depend primarily on an assistive listening  
23 device or visual communication such as writing, lip reading, sign  
24 language, and gestures.
- 25       x. "Atypical hereditary cellular or blood trait" means sickle cell  
26 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
27 fibrosis trait.
- 28       y. "Sickle cell trait" means the condition wherein the major  
29 natural hemoglobin components present in the blood of the  
30 individual are hemoglobin A (normal) and hemoglobin S (sickle  
31 hemoglobin) as defined by standard chemical and physical analytic  
32 techniques, including electrophoresis; and the proportion of  
33 hemoglobin A is greater than the proportion of hemoglobin S or one  
34 natural parent of the individual is shown to have only normal  
35 hemoglobin components (hemoglobin A, hemoglobin A2,  
36 hemoglobin F) in the normal proportions by standard chemical and  
37 physical analytic tests.
- 38       z. "Hemoglobin C trait" means the condition wherein the major  
39 natural hemoglobin components present in the blood of the  
40 individual are hemoglobin A (normal) and hemoglobin C as defined  
41 by standard chemical and physical analytic techniques, including  
42 electrophoresis; and the proportion of hemoglobin A is greater than  
43 the proportion of hemoglobin C or one natural parent of the  
44 individual is shown to have only normal hemoglobin components  
45 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
46 proportions by standard chemical and physical analytic tests.

- 1       aa. "Thalassemia trait" means the presence of the thalassemia  
2 gene which in combination with another similar gene results in the  
3 chronic hereditary disease Cooley's anemia.
- 4       bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
5 which in combination with another similar gene results in the  
6 chronic hereditary disease Tay-Sachs.
- 7       cc. "Cystic fibrosis trait" means the presence of the cystic  
8 fibrosis gene which in combination with another similar gene  
9 results in the chronic hereditary disease cystic fibrosis.
- 10      dd. "Service dog" means any dog individually trained to the  
11 requirements of a person with a disability including, but not limited  
12 to minimal protection work, rescue work, pulling a wheelchair or  
13 retrieving dropped items. This term shall include a "seizure dog"  
14 trained to alert or otherwise assist persons with epilepsy or other  
15 seizure disorders.
- 16      ee. "Qualified Medicaid applicant" means an individual who is a  
17 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 18      ff. "AIDS" means acquired immune deficiency syndrome as  
19 defined by the Centers for Disease Control and Prevention of the  
20 United States Public Health Service.
- 21      gg. "HIV infection" means infection with the human  
22 immunodeficiency virus or any other related virus identified as a  
23 probable causative agent of AIDS.
- 24      hh. "Affectional or sexual orientation" means male or female  
25 heterosexuality, homosexuality, or bisexuality by inclination,  
26 practice, identity, or expression, having a history thereof or being  
27 perceived, presumed, or identified by others as having such an  
28 orientation.
- 29      ii. "Heterosexuality" means affectional, emotional, or physical  
30 attraction or behavior which is primarily directed towards persons  
31 of the other gender.
- 32      jj. "Homosexuality" means affectional, emotional, or physical  
33 attraction or behavior which is primarily directed towards persons  
34 of the same gender.
- 35      kk. "Bisexuality" means affectional, emotional, or physical  
36 attraction or behavior which is directed towards persons of either  
37 gender.
- 38      ll. "Familial status" means being the natural parent of a child,  
39 the adoptive parent of a child, the resource family parent of a child,  
40 having a "parent and child relationship" with a child as defined by  
41 State law, or having sole or joint legal or physical custody, care,  
42 guardianship, or visitation with a child, or any person who is  
43 pregnant or is in the process of securing legal custody of any  
44 individual who has not attained the age of 18 years.
- 45      mm. "Housing for older persons" means housing:  
46       (1) provided under any State program that the Attorney General  
47 determines is specifically designed and operated to assist persons  
48 who are elderly (as defined in the State program); or provided under

1 any federal program that the United States Department of Housing  
2 and Urban Development determines is specifically designed and  
3 operated to assist persons who are elderly (as defined in the federal  
4 program); or

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

7 (3) intended and operated for occupancy by at least one person  
8 55 years of age or older per unit. In determining whether housing  
9 qualifies as housing for older persons under this paragraph, the  
10 Attorney General shall adopt regulations which require at least the  
11 following factors:

12 (a) the existence of significant facilities and services  
13 specifically designed to meet the physical or social needs of older  
14 persons, or if the provision of such facilities and services is not  
15 practicable, that such housing is necessary to provide important  
16 housing opportunities for older persons; and

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

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

22 Housing shall not fail to meet the requirements for housing for  
23 older persons by reason of: persons residing in such housing as of  
24 September 13, 1988 not meeting the age requirements of this  
25 subsection, provided that new occupants of such housing meet the  
26 age requirements of this subsection; or unoccupied units, provided  
27 that such units are reserved for occupancy by persons who meet the  
28 age requirements of this subsection.

29 nn. "Genetic characteristic" means any inherited gene or  
30 chromosome, or alteration thereof, that is scientifically or medically  
31 believed to predispose an individual to a disease, disorder, or  
32 syndrome, or to be associated with a statistically significant  
33 increased risk of development of a disease, disorder, or syndrome.

34 oo. "Genetic information" means the information about genes,  
35 gene products, or inherited characteristics that may derive from an  
36 individual or family member.

37 pp. "Genetic test" means a test for determining the presence or  
38 absence of an inherited genetic characteristic in an individual,  
39 including tests of nucleic acids such as DNA, RNA, and  
40 mitochondrial DNA, chromosomes, or proteins in order to identify a  
41 predisposing genetic characteristic.

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

44 rr. "Gender identity or expression" means having or being  
45 perceived as having a gender related identity or expression whether  
46 or not stereotypically associated with a person's assigned sex at  
47 birth.

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

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

6 uu. "Premium benefit" means an employment benefit, such as  
7 seniority, group life insurance, health insurance, disability  
8 insurance, sick leave, annual leave, or an educational or pension  
9 benefit that is greater than the employment benefit due the  
10 employee for an equivalent period of work performed during the  
11 regular work schedule of the employee.

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

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

17 xx. "Family member" means a child, parent, parent-in-law,  
18 sibling, grandparent, grandchild, spouse, partner in a civil union  
19 couple, domestic partner, or any other individual related by blood to  
20 the person, and any other individual that the person shows to have a  
21 close association with the person which is the equivalent of a family  
22 relationship.

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

24  
25 4. Section 2 of P.L.1965, c.164 (C.34:6A-2) is amended to read  
26 as follows:

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

29 (a) "Act" means this act and rules and regulations promulgated  
30 hereunder.

31 (b) "Board" means the Industrial Safety Board established under  
32 this act.

33 (c) "Bureau" means the Bureau of Engineering and Safety in the  
34 Division of Labor, Department of Labor and Industry established  
35 under this act.

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

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

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

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

43 (h) "Employer" means any person or corporation, partnership,  
44 individual proprietorship, joint venture, firm, company or other  
45 similar legal entity who engages the services of an employee and  
46 who pays his wages, salary, or other compensation; and any person  
47 exercising supervision of employees on an employer's behalf

1 1]; and includes all “hiring entities” as defined by section 2 of  
 2 P.L. , c. (C. ) (pending before the Legislature as this bill)1’.

3 (i) "Owner" means the person possessing legal or equitable  
 4 title. For the purposes of this act "Person possessing equitable title"  
 5 shall mean that person or corporation, partnership, individual  
 6 proprietorship, joint venture, firm, company or other legal entity  
 7 that has actual control over the premises used in whole or in part as  
 8 a place of employment.

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

12 (k) “Domestic worker” means all persons defined as a domestic  
 13 worker by section 2 of P.L. , c. (C. ) (pending before the  
 14 Legislature as bill).

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

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

19 6. a. The commissioner shall enforce the provisions of this act,  
 20 make complaints against persons violating its provisions and  
 21 prosecute violations of the same.

22 b. The commissioner shall have the power and authority,  
 23 without notice or delay during regular working hours or other  
 24 reasonable hours within reasonable limits and in a reasonable  
 25 manner, to enter and inspect any place of employment and all  
 26 pertinent conditions, structures, machinery, apparatus, devices,  
 27 equipment and materials and to question privately the owner and  
 28 any employer or employee.

29 c. In the case where the place of employment is a residential  
 30 dwelling and the employee is a domestic worker, the commissioner  
 31 or the commissioner’s authorized representative shall initiate  
 32 telephone contact with the hiring entity as soon as possible, but not  
 33 later than 14 calendar days after receipt of a complaint charging a  
 34 violation.

35 When telephone contact is successfully made, the commissioner  
 36 or the authorized representative shall:

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

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

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

44 (4) Inform the hiring entity by letter sent by facsimile or email,  
 45 or by certified mail if the employer cannot receive facsimile or  
 46 email, of each alleged hazard and each specific allegation of a  
 47 violation of a standard;

1     (5) Inform the hiring entity that if the department determines  
2     that the hiring entity's response is unsatisfactory for any reason, the  
3     department shall seek permission from the hiring entity to enter the  
4     residential dwelling to investigate the matter, and if permission is  
5     denied, may secure an inspection warrant to conduct an onsite  
6     inspection of the residential dwelling; and

7     (6) Provide the complainant with copies of the law and  
8     regulations alleged to have been violated, the department's letter to  
9     the employer, and all subsequent correspondence concerning the  
10    investigation of any alleged hazards;

11    d. A hiring entity subject to investigation shall:

12    (1) Provide the department, within 14 days of the hiring entity's  
13    receipt of the department's letter, a response describing the results  
14    of the employer's investigation of the alleged hazard and a  
15    description of all actions taken, in the process of being taken, or  
16    planned to be taken, by the hiring entity to abate the alleged hazard;

17    (2) Provide a copy of the commissioner or the commissioner's  
18    authorized representative's letter to the domestic worker, and all  
19    subsequent correspondence from and to the hiring entity to the  
20    affected domestic worker, or prominently post the letter and  
21    correspondence in the method prescribed by letter sent pursuant to  
22    subsection c. of this section regarding each alleged hazard and each  
23    specific standard to have been violated;

24    e. For complaints alleging serious illness or injury or death  
25    while performing domestic services as defined by section 2 of  
26    P.L. , c. (C. ) (pending before the Legislature as this bill),  
27    the commissioner or the authorized representative may enter the  
28    premises with permission or with an inspection warrant issued  
29    pursuant to subsection b. of this section without first initiating the  
30    telephone contact described in subsection c. of this section.

31    f. Notwithstanding any other provision of this chapter to the  
32    contrary, investigations of complaints in domestic services as  
33    defined by section 2 of P.L. , c. (C. ) (pending before the  
34    Legislature as this bill), shall be conducted in a manner to avoid any  
35    unwarranted invasion of personal privacy and shall not contain any  
36    personal, financial, or medical information of the individuals  
37    residing in the residential dwelling that is not pertinent to the  
38    investigation of the complaint.

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

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

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

46    9. The commissioner shall make and promulgate rules and  
47    regulations reasonably necessary to implement the purposes of this

1 act. Such rules and regulations shall have the force and effect of  
2 law and shall be enforced in the manner provided in this act.

3 The commissioner shall <sup>1</sup>make and promulgate rules to ensure  
4 the requirements of section 3 of P.L.1965, c.154 (C.34:6A-3) apply  
5 to the hiring entities of domestic workers. These rules shall include  
6 the establishment of a mechanism to receive complaints within the  
7 department that prompts inspections by the commissioner in  
8 accordance with section 6 of P.L.1965, c.154 (C.34:6A-6)] provide  
9 for the adoption of all applicable occupational standards,  
10 amendments, or changes adopted or recognized by the Secretary of  
11 Labor under the authority of the "Occupational Safety and Health  
12 Act of 1970," which shall be applicable to domestic workers  
13 employed by individuals in the residences of the individuals<sup>1</sup>.

14 Buildings or other structures in use on the effective date of this  
15 act as a place of employment other than a place where the  
16 manufacturing of goods of any kind is carried on shall not be made  
17 to comply with the requirements of rules and regulations  
18 promulgated hereunder substantially affecting such building or  
19 other structures unless such compliance is essential to correct an  
20 unsafe or unhealthful condition which constitutes a serious and  
21 substantial threat to the health or safety of employees.

22 The commissioner shall before promulgation furnish a copy of  
23 proposed rules and regulations to the members of the committee for  
24 its review and recommendations. Within 90 days of the receipt of  
25 said proposed rules and regulations the committee shall provide the  
26 commissioner and the board with its written recommendations.  
27 Following receipt of the committee's recommendations or upon the  
28 expiration of 90 days, the commissioner shall furnish to every  
29 member of the board a copy of the proposed rules and regulations  
30 with or without change in his discretion and at the same time a  
31 notice of intent to promulgate proposed rules and regulations shall  
32 be published by the commissioner. This notice of intent shall state  
33 briefly the purpose of the proposed rules and regulations, shall state  
34 that a copy of the proposed rules and regulations may be obtained  
35 by any person upon written request to the department, and shall fix  
36 the date, time and place for a public hearing on the proposed rules  
37 and regulations, which date shall be not less than 21 days after the  
38 publication of the notice. All person appearing at such hearing shall  
39 be given the opportunity to be heard. Rules and regulations, as so  
40 proposed or as changed by the commissioner after such hearing,  
41 may be promulgated by the commissioner 90 days following  
42 delivery to the board to be effective on such date as the rules and  
43 regulations shall provide unless disapproved by a majority of the  
44 board and if so disapproved such rules or regulations shall not  
45 become effective. Within 30 days after the public hearing and on  
46 30 days' notice the commissioner shall call a meeting of the board  
47 for the purpose of discussing the proposed rules and regulations. If  
48 any changes were made in the proposed rules or regulations

1 following the public hearing, a copy of such change shall  
2 accompany such notice. At any meeting called for such purpose  
3 disapproval shall be by vote of the majority of the members of the  
4 board.

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

6  
7 <sup>1</sup>~~7.1~~ 6.1 Section 19 of P.L.1965, c.154 (C.34:6A-19) is  
8 amended to read as follows:

9 19. Any person violating any of the provisions of this act shall  
10 be liable to a penalty of not less than ~~25.00~~ 975 nor more than  
11 ~~500.00~~ 13,653 to be collected in a civil action by a summary  
12 proceeding under the ~~Penalty~~ “Penalty Enforcement Law [(N.J.S.  
13 2A:58-1)] of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).  
14 Notwithstanding the penalties prescribed in this section, the penalty  
15 amounts shall be subject to adjustment by the commissioner to  
16 remain consistent with the federal Occupational Safety and Health  
17 Act of 1970 (29 U.S.C. s. 651 et seq.). Fifty percent of the sum  
18 collected as a penalty pursuant to this subsection shall be provided  
19 to the employee harmed by violation. Any violation of the act by an  
20 officer, agent or employee shall also be a violation of the act by his  
21 employer if such employer had knowledge of and actual control  
22 over the cause of such violation. Where the violation is of a  
23 continuing nature each day during which it continues, after the date  
24 given by which the violation must be eliminated in the order by the  
25 commissioner, shall constitute an additional, separate and distinct  
26 offense, except during the time an appeal from said order may be  
27 taken or is pending.

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

32 Nothing in this subsection shall affect the rights of employees or  
33 any remedies available to employees provided by section 5 of  
34 P.L.1986, c.105 (C.34:19-5) or any other provision of law.

35 (cf: P.L.1965, c.154, s.19)

36  
37 <sup>1</sup>~~8.1~~ 7.1 Section 22 of P.L.1965, c.154 (C.34:6A-22) is  
38 amended to read as follows:

39 22. This act is not intended to apply and shall not apply to the  
40 following:

41 (a) Places of employment under the exclusive jurisdiction of the  
42 Federal Government with respect to the health and safety of  
43 employees;

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

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



- 1 (d) **【Domestic employment;】** (Deleted by amendment, P.L. ,  
2 c. (pending before the Legislature as this bill)
- 3 (e) Transportation equipment coming under the jurisdiction of  
4 the Interstate Commerce Commission, Federal Aviation  
5 Administration, or of the New Jersey Division of Motor Vehicles;
- 6 (f) **【Institutions requiring a license issued by the Department of**  
7 **Institutions and Agencies pursuant to Revised Statutes 30:11-1;】**  
8 (Deleted by amendment, P.L. , c. (pending before the  
9 Legislature as this bill)
- 10 (g) Schools, colleges and universities;
- 11 (h) Places of employment with fewer than 4 employees, except  
12 places of employment <sup>1</sup>**【of】** by individuals for<sup>1</sup> domestic services  
13 <sup>1</sup>in the residences of the individuals<sup>1</sup>; employment in which the  
14 manufacturing of goods of any kind is carried on; and except as  
15 hereinafter provided in paragraph (o) of this section;
- 16 (i) Agricultural employment;
- 17 (j) Banks and other financial institutions;
- 18 (k) Places of employment in which the employees are primarily  
19 engaged in office operations and buildings under the actual control  
20 of one employer and in which the employees are primarily engaged  
21 in office operations or laboratories primarily engaged in research,  
22 development, or testing conducted on premises, in separate  
23 buildings, or in building sections devoted exclusively to these  
24 operations;
- 25 (l) Public utilities which own, operate, manage or control any  
26 autobus, canal, express, railroad, street railway, traction railway,  
27 subway, pipeline, gas, electric light, heat, power, water, oil, sewer,  
28 telephone or telegraph system, plant or equipment for public use,  
29 under privileges granted by the State or by any political subdivision  
30 thereof, with respect to work operations performed in connection  
31 with the plant or facilities of such public utility located in the public  
32 streets and highways, roads and alleys, private rights-of-way, or  
33 upon their customers' premises;
- 34 (m) Liquefied petroleum gas bulk plants and facilities subject to  
35 the jurisdiction and supervision of the Superintendent of State  
36 Police, pursuant to chapter 139 of the laws of 1950 (N.J.S.A.  
37 21:1B-1 to 21:1B-8);
- 38 (n) Natural gas pipeline utilities subject to the provisions of the  
39 Natural Gas Safety Act (P.L.1952, c. 166) (N.J.S.A. 48:10-2 to  
40 48:10-9); and
- 41 (o) Establishments with fewer than 10 employees and which are  
42 devoted exclusively to the sale of goods, or furnishing of services,  
43 at retail.
- 44 (cf: P.L.1965, c.154, s.22)
- 45
- 46 <sup>1</sup>**【9. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to**  
47 **read as follows:**

1       2. As used in this act:

2       (a) "Commissioner" means the Commissioner of Labor and  
3 Workforce Development.

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

6       (c) "Wage board" means a board created as provided in section  
7 10 of this act.

8       (d) "Wages" means any moneys due an employee from an  
9 employer for services rendered or made available by the employee  
10 to the employer as a result of their employment relationship  
11 including commissions, bonus and piecework compensation and  
12 including the fair value of any food or lodgings supplied by an  
13 employer to an employee, and, until December 31, 2018, "wages"  
14 includes any gratuities received by an employee for services  
15 rendered for an employer or a customer of an employer. The  
16 commissioner may, by regulation, establish the average value of  
17 gratuities received by an employee in any occupation and the fair  
18 value of food and lodging provided to employees in any occupation,  
19 which average values shall be acceptable for the purposes of  
20 determining compliance with this act in the absence of evidence of  
21 the actual value of such items.

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

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

27       (g) "Employer" includes any individual, partnership,  
28 association, corporation, and the State and any county,  
29 municipality, or school district in the State, or any agency,  
30 authority, department, bureau, or instrumentality thereof, or any  
31 person or group of persons acting directly or indirectly in the  
32 interest of an employer in relation to an employee, and includes  
33 "hiring entities" as defined in section 2 of P.L. , c. (C. )  
34 (pending before the Legislature as this bill).

35       (h) "Employee" includes any individual employed by an  
36 employer.

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

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

42       (k) "Fair wage" means a wage fairly and reasonably  
43 commensurate with the value of the service or class of service  
44 rendered and sufficient to meet the minimum cost of living  
45 necessary for health.

46       (l) "Oppressive and unreasonable wage" means a wage which is  
47 both less than the fair and reasonable value of the service rendered

1 and less than sufficient to meet the minimum cost of living  
2 necessary for health.

3 (m) "Limousine" means a motor vehicle used in the business of  
4 carrying passengers for hire to provide prearranged passenger  
5 transportation at a premium fare on a dedicated, nonscheduled,  
6 charter basis that is not conducted on a regular route and with a  
7 seating capacity in no event of more than 14 passengers, not  
8 including the driver, provided, that such a motor vehicle shall not  
9 have a seating capacity in excess of four passengers, not including  
10 the driver, beyond the maximum passenger seating capacity of the  
11 vehicle, not including the driver, at the time of manufacture.  
12 "Limousine" shall not include taxicabs, hotel or airport shuttles and  
13 buses, buses employed solely in transporting school children or  
14 teachers to and from school, vehicles owned and operated directly  
15 or indirectly by businesses engaged in the practice of mortuary  
16 science when those vehicles are used exclusively for providing  
17 transportation related to the provision of funeral services or vehicles  
18 owned and operated without charge or remuneration by a business  
19 entity for its own purposes.

20 (n) "Seasonal employment" means employment during a year by  
21 an employer that is a seasonal employer, or employment by a non-  
22 profit or government entity of an individual who is not employed by  
23 that employer outside of the period of that year commencing on  
24 May 1 and ending September 30, or employment by a governmental  
25 entity in a recreational program or service during the period  
26 commencing on May 1 and ending September 30, except that  
27 "seasonal employment" does not include employment of employees  
28 engaged to labor on a farm on either a piece-rate or regular hourly  
29 rate basis.

30 (o) "Seasonal employer" means an employer who exclusively  
31 provides its services in a continuous period of not more than ten  
32 weeks during the months of June, July, August, and September, or  
33 an employer for which, during the immediately previous calendar  
34 year, not less than two thirds of the employer's gross receipts were  
35 received in a continuous period of not more than sixteen weeks or  
36 for which not less than 75 percent of the wages paid by the  
37 employer during the immediately preceding year were paid for work  
38 performed during a single calendar quarter.

39 (p) "Small employer" means any employer who employed less  
40 than six employees for every working day during each of a majority  
41 of the calendar workweeks in the current calendar year and less than  
42 six employees for every working day during not less than 48  
43 calendar workweeks in the preceding calendar year, except that, if  
44 the employer was newly established during the preceding calendar  
45 year, the employer shall be regarded as a "small employer" if the  
46 employer employed less than six employees for every working day  
47 during all of the weeks of that year, and during a majority of the  
48 calendar workweeks in the current calendar year, and, if the

1 employer is newly established during the current calendar year, the  
2 employer shall be regarded as a "small employer" if the employer  
3 employed less than six employees for every working day during a  
4 majority of the calendar workweeks in the current calendar year.

5 (q) "Long-term care facility direct care staff member" means  
6 any health care professional licensed or certified pursuant to Title  
7 26 or Title 45 of the Revised Statutes who is employed by a long-  
8 term care facility and who provides personal care, assistance, or  
9 treatment services directly to residents of the facility in the course  
10 of the professional's regular duties.

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

12  
13 <sup>1</sup>【10.】8.<sup>1</sup> Section 5 of P.L.1966, c.113 (C.34:11-56a4) is  
14 amended to read as follows:

15 5. a. Except as provided in subsections c., d., e. g., and i. of  
16 this section, each employer shall pay to each of his employees  
17 wages at a rate of not less than \$8.85 per hour as of January 1, 2019  
18 and, on January 1 of 2020 and January 1 of each subsequent year,  
19 the minimum wage shall be increased by any increase in the  
20 consumer price index for all urban wage earners and clerical  
21 workers (CPI-W) as calculated by the federal government for the 12  
22 months prior to the September 30 preceding that January 1, except  
23 that any of the following rates shall apply if it exceeds the rate  
24 determined in accordance with the applicable increase in the CPI-W  
25 for the indicated year: on July 1, 2019, the minimum wage shall be  
26 \$10.00 per hour; on January 1, 2020, the minimum wage shall be  
27 \$11.00 per hour; and on January 1 of each year from 2021 to 2024,  
28 inclusive, the minimum wage shall be increased from the rate of the  
29 preceding year by \$1.00 per hour. If the federal minimum hourly  
30 wage rate set by section 6 of the federal "Fair Labor Standards Act  
31 of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a  
32 level higher than the State minimum wage rate set by this  
33 subsection, then the State minimum wage rate shall be increased to  
34 the level of the federal minimum wage rate and subsequent  
35 increases based on increases in the CPI-W pursuant to this section  
36 shall be applied to the higher minimum wage rate. If an applicable  
37 wage order has been issued by the commissioner under section 17  
38 (C.34:11-56a16) of this act, the employer shall also pay not less  
39 than the wages prescribed in said order. The wage rates fixed in  
40 this section shall not be applicable to 【part-time employees  
41 primarily engaged in the care and tending of children in the home of  
42 the employer, to】 persons under the age of 18 not possessing a  
43 special vocational school graduate permit issued pursuant to section  
44 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as  
45 salesmen of motor vehicles, or to persons employed as outside  
46 salesmen as such terms shall be defined and delimited in regulations  
47 adopted by the commissioner, or to persons employed in a volunteer  
48 capacity and receiving only incidental benefits at a county or other

1 agricultural fair by a nonprofit or religious corporation or a  
2 nonprofit or religious association which conducts or participates in  
3 that fair.

4 b. (1) An employer shall also pay each employee not less than  
5 1 1/2 times such employee's regular hourly rate for each hour of  
6 working time in excess of 40 hours in any week, except that this  
7 overtime rate shall not apply: to any individual employed in a bona  
8 fide executive, administrative, or professional capacity; or to  
9 employees engaged to labor on a farm or employed in a hotel; or to  
10 an employee of a common carrier of passengers by motor bus; or to  
11 a limousine driver who is an employee of an employer engaged in  
12 the business of operating limousines; or to employees engaged in  
13 labor relative to the raising or care of livestock.

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

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

21 c. Employees of a small employer, and employees who are  
22 engaged in seasonal employment, except for employees who  
23 customarily and regularly receive gratuities or tips who shall be  
24 subject to the provisions of subsections a. and d. of this section,  
25 shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1  
26 of 2020 and January 1 of each subsequent year, that minimum wage  
27 rate shall be increased by any increase in the consumer price index  
28 for all urban wage earners and clerical workers (CPI-W) as  
29 calculated by the federal government for the 12 months prior to the  
30 September 30 preceding that January 1, except that any of the  
31 following rates shall apply if it exceeds the rate determined in  
32 accordance with the applicable increase in the CPI-W for the  
33 indicated year: on January 1, 2020, the minimum wage shall be  
34 \$10.30 per hour; and on January 1 of each year from 2021 to 2025,  
35 inclusive, the minimum wage shall be increased from the rate of the  
36 preceding year by eighty cents per hour, and, in 2026, the minimum  
37 wage shall be increased from the rate of the preceding year by  
38 seventy cents per hour, and, in each year from 2027 to 2028  
39 inclusive, the minimum wage for employees subject to this  
40 subsection c. shall be increased by the same amount as the increase  
41 for employees subject to subsection a. of this section based on CPI-  
42 W increases, plus one half of the difference between \$15.00 per  
43 hour and the minimum wage in effect in 2026 for employees  
44 pursuant to subsection a. of this section, so that, by 2028, the  
45 minimum wage for employees subject to this subsection shall be the  
46 same as the minimum wage in effect for employees subject to  
47 subsection a. of this section. If the federal minimum hourly wage  
48 rate set by section 6 of the federal "Fair Labor Standards Act of

1 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a  
2 level higher than the State minimum wage rate set by this  
3 subsection, then the State minimum wage rate shall be increased to  
4 the level of the federal minimum wage rate and subsequent  
5 increases based on increases in the CPI-W pursuant to this  
6 subsection shall be applied to the higher minimum wage rate.

7 d. Employees engaged on a piece-rate or regular hourly rate  
8 basis to labor on a farm shall be paid \$8.85 per hour as of January  
9 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent  
10 year, that minimum wage rate shall be increased by any increase in  
11 the consumer price index for all urban wage earners and clerical  
12 workers (CPI-W) as calculated by the federal government for the 12  
13 months prior to the September 30 preceding that January 1, except  
14 that any of the following rates shall apply if it exceeds the rate  
15 determined in accordance with the applicable increase in the CPI-W  
16 for the indicated year:

17 (1) on January 1, 2020, the minimum wage shall be \$10.30 per  
18 hour; on January 1, 2022, the minimum wage shall be \$10.90 per  
19 hour; and on January 1 of each year from 2023 to 2024, inclusive,  
20 the minimum wage shall be increased from the rate of the preceding  
21 year by eighty cents per hour; and

22 (2) subject to the provisions of paragraph (3) of this subsection  
23 d., minimum wage rates shall be increased as follows: on January 1  
24 of 2025, the minimum wage shall be increased to \$13.40, and on  
25 January 1 of each year from 2026 to 2027, inclusive, the minimum  
26 wage shall be increased from the rate of the preceding year by  
27 eighty cents per hour, and, in each year from 2028 to 2030  
28 inclusive, the minimum wage for employees subject to this  
29 subsection d. shall be increased during that year by the same  
30 amount as the increase in that year for employees subject to  
31 subsection a. of this section based on CPI-W increases, plus one  
32 third of the difference between \$15.00 per hour and the minimum  
33 wage in effect in 2027 for employees pursuant to subsection a. of  
34 this section, so that, by 2030, the minimum wage for employees  
35 subject to this subsection shall be the same as the minimum wage in  
36 effect for employees subject to subsection a. of this section.

37 (3) Not later than March 31, 2024, the commissioner and the  
38 Secretary of Agriculture shall review the report issued by the  
39 commissioner pursuant to subsection b. of section 4 of P.L.2019,  
40 c.32 (C.34:11-56a4.10) and shall consider any information provided  
41 by the secretary regarding the impact on farm employers and the  
42 viability of the State's agricultural industry of the increases of the  
43 minimum wage made pursuant to paragraph (1) of this subsection,  
44 and the potential impact of the increases which would be set by  
45 paragraph (2) of this subsection, including comparisons with the  
46 wage rates in the agricultural industries in other states, and shall  
47 recommend: approval of the increases set forth in paragraph (2) of  
48 this subsection; disapproval of the increases set forth in paragraph

1 (2) of this subsection; or an alternative manner of changing the  
2 minimum wage after 2024 for employees engaged on a piece-rate or  
3 regular hourly rate basis to labor on a farm. In contemplation of the  
4 possibility that the commissioner and the secretary are unable to  
5 agree on the recommendation required by this paragraph, by  
6 December 31, 2021, the Governor shall appoint a public member  
7 subject to advice and consent by the Senate, who will serve as a tie-  
8 breaking member if needed. The increases set forth in paragraph  
9 (2) of this subsection shall take effect unless there is a  
10 recommendation pursuant to this paragraph to disapprove the  
11 increases or for an alternative manner of changing the minimum  
12 wage after 2024 for employees engaged on a piece-rate or regular  
13 hourly rate basis to labor on a farm and the Legislature, not later  
14 than June 30, 2024, enacts a concurrent resolution approving the  
15 implementation of that recommendation. Beginning in 2024, the  
16 commissioner, secretary, and public member shall meet biennially  
17 to make either a one or two year recommendation to the Legislature  
18 for implementation by way of concurrent resolution.

19 (4) If the federal minimum hourly wage rate set by section 6 of  
20 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or  
21 a successor federal law, is raised to a level higher than the State  
22 minimum wage rate set by this subsection, then the State minimum  
23 wage rate shall be increased to the level of the federal minimum  
24 wage rate and subsequent increases based on increases in the CPI-  
25 W pursuant to this subsection shall be applied to the higher  
26 minimum wage rate.

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

37 f. Notwithstanding the provisions of this section to the  
38 contrary, every trucking industry employer shall pay to all drivers,  
39 helpers, loaders and mechanics for whom the Secretary of  
40 Transportation may prescribe maximum hours of work for the safe  
41 operation of vehicles, pursuant to section 31502(b) of the federal  
42 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less  
43 than 1 1/2 times the minimum wage required pursuant to this  
44 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking  
45 industry shall be paid no less than the minimum wage rate as  
46 provided in this section and N.J.A.C. 12:56-3.1. As used in this  
47 section, "trucking industry employer" means any business or  
48 establishment primarily operating for the purpose of conveying

1 property from one place to another by road or highway, including  
2 the storage and warehousing of goods and property. Such an  
3 employer shall also be subject to the jurisdiction of the Secretary of  
4 Transportation pursuant to the federal Motor Carrier Act, 49  
5 U.S.C.s.31501 et seq., whose employees are exempt under section  
6 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29  
7 U.S.C. s.213(b)(1), which provides an exemption to employees  
8 regulated by section 207 of the federal "Fair Labor Standards Act of  
9 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49  
10 U.S.C. s.501 et al.

11 g. Commencing on January 1, 2020, a training wage of not less  
12 than 90 percent of the minimum wage rate otherwise set pursuant to  
13 subsection a. of this section may be paid to an employee who is  
14 enrolled in an established employer on-the-job or other training  
15 program which meets standards set by regulations adopted by the  
16 commissioner. The period during which an employer may pay the  
17 training wage to the employee shall be the first 120 hours of work  
18 after hiring the employee in employment in an occupation in which  
19 the employee has no previous similar or related experience. An  
20 employer shall not utilize any employee paid the training wage in a  
21 manner which causes, induces, encourages or assists any  
22 displacement or partial displacement of any currently employed  
23 worker, including any previous recipient of the training wage, by  
24 reducing hours of a currently employed worker, replacing a current  
25 or laid off employee with a trainee, or by relocating operations  
26 resulting in a loss of employment at a previous workplace, or in a  
27 manner which replaces, supplants, competes with or duplicates any  
28 approved apprenticeship program. An employer who pays an  
29 employee a training wage shall make a good faith effort to continue  
30 to employ the employee after the period of the training wage  
31 expires and shall not hire the employee at the training wage unless  
32 there is a reasonable expectation that there will be regular  
33 employment, paying at or above the effective minimum wage, for  
34 the trainee upon the successful completion of the period of the  
35 training wage. If the commissioner determines that an employer  
36 has made repeated, knowing violations of the provisions of this  
37 subsection regarding the payment of a training wage, the  
38 commissioner shall suspend the employer's right to pay a training  
39 wage for a period set pursuant to regulations adopted by the  
40 commissioner, but not less than three years.

41 h. The provisions of this section shall not be construed as  
42 prohibiting any political subdivision of the State from adopting an  
43 ordinance, resolution, regulation or rule, or entering into any  
44 agreement, establishing any standard for vendors, contractors and  
45 subcontractors of the subdivision regarding wage rates or overtime  
46 compensation which is higher than the standards provided for in  
47 this section, and no provision of any other State or federal law  
48 establishing a minimum standard regarding wages or other terms



1 and conditions of employment shall be construed as preventing a  
2 political subdivision of the State from adopting an ordinance,  
3 resolution, regulation or rule, or entering into any agreement,  
4 establishing a standard for vendors, contractors and subcontractors  
5 of the subdivision which is higher than the State or federal law or  
6 which otherwise provides greater protections or rights to employees  
7 of the vendors, contractors and subcontractors of the subdivision,  
8 unless the State or federal law expressly prohibits the subdivision  
9 from adopting the ordinance, resolution, regulation or rule, or  
10 entering into the agreement.

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

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

17

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

20 1. As used in this act:

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

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

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

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

37 e. "Commissioner" means the Commissioner of Labor and  
38 **[Industry] Workforce Development** of the State of New Jersey.

39 (cf: P.L.1952, c.9, s.1)

40

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

42 34:15-36. "Willful negligence" within the intent of this chapter  
43 shall consist of (1) deliberate act or deliberate failure to act, or (2)  
44 such conduct as evidences reckless indifference to safety, or (3)  
45 intoxication, operating as the proximate cause of injury, or (4)  
46 unlawful use of a controlled dangerous substance as defined in the

1 "New Jersey Controlled Dangerous Substances Act," P.L.1970,  
2 c.226 (C.24:21-1 et seq.).

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

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

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

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

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

31 (b) the service is either outside the usual course of the business  
32 for which the service is performed, or that such service is performed  
33 outside of all the places of business of the enterprise for which such  
34 service is performed; and

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

37 A self-employed person, partners of a limited liability  
38 partnership, members of a limited liability company or partners of a  
39 partnership who actively perform services on behalf of the self-  
40 employed person's business, the limited liability partnership, limited  
41 liability company or the partnership shall be deemed an "employee"  
42 of the business, limited liability partnership, limited liability  
43 company or partnership for purposes of receipt of benefits and  
44 payment of premiums pursuant to this chapter, if the business,  
45 limited liability partnership, limited liability company or  
46 partnership elects, when the workers' compensation policy of the  
47 business, limited liability partnership, limited liability company or

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

25 Notwithstanding any other provision of law to the contrary, no  
26 insurer or insurance producer **as defined in section 2 of P.L.1987,**  
27 **c.293 (C.17:22A-2)]** shall be liable in an action for damages on  
28 account of the failure of a business, limited liability partnership,  
29 limited liability company or partnership to elect to obtain workers'  
30 compensation coverage for a self-employed person, limited liability  
31 partner, limited liability company member or partner, unless the  
32 insurer or insurance producer causes damage by a willful, wanton or  
33 grossly negligent act of commission or omission. Every application  
34 for workers' compensation made on or after the effective date of  
35 this amendatory act shall include notice, as approved by the  
36 Commissioner of Banking and Insurance, concerning the  
37 availability of workers' compensation coverage for self-employed  
38 persons, limited liability partners, limited liability company  
39 members or partners. That application shall also contain a notice of  
40 election of coverage and shall clearly state that coverage for self-  
41 employed persons, limited liability partners, limited liability  
42 company members and partners shall not be provided under the  
43 policy unless the application containing the notice of election is  
44 executed and filed with the insurer or insurance producer. The  
45 application containing the notice of election shall also contain a  
46 statement that the insurer or insurance producer shall not be liable  
47 in an action for damages on account of the failure of a business,  
48 limited liability partnership, limited liability company or

1 partnership to elect to obtain workers' compensation coverage for a  
2 self-employed person, limited liability partner, limited liability  
3 company member or partner, unless the insurer or insurance  
4 producer causes damage by a willful, wanton or grossly negligent  
5 act of commission or omission. The failure of a self-employed  
6 person, limited liability partnership, limited liability company or  
7 partnership to elect to obtain workers' compensation coverage for  
8 the self-employed person, the limited liability partners, the limited  
9 liability company members or the partners shall not affect benefits  
10 available under any other accident or health policy.

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

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

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

1 mild bronchitis shall not constitute permanent disability within the  
2 meaning of this definition.

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

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

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

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

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

23

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

25 34:15-36. "Willful negligence" within the intent of this chapter  
26 shall consist of (1) deliberate act or deliberate failure to act, or (2)  
27 such conduct as evidences reckless indifference to safety, or (3)  
28 intoxication, operating as the proximate cause of injury, or (4)  
29 unlawful use of a controlled dangerous substance as defined in the  
30 "New Jersey Controlled Dangerous Substances Act," P.L.1970,  
31 c.226 (C.24:21-1 et seq.).

32 "Employer" 【is declared to be synonymous with master, and】  
33 includes natural persons, partnerships, and corporations;  
34 "employee" 【is synonymous with servant, and】 includes all natural  
35 persons, including officers of corporations, who perform service for  
36 an employer for financial consideration, exclusive of (1) employees  
37 eligible under the federal "Longshore and Harbor Workers'  
38 Compensation Act," 44 Stat. 1424 (33 U.S.C.s.901 et seq.), for  
39 benefits payable with respect to accidental death or injury, or  
40 occupational disease or infection; and (2) casual employments,  
41 which shall be defined【, if in connection with the employer's  
42 business, as employment the occasion for which arises by chance or  
43 is purely accidental; or if not in connection with any business of the  
44 employer, as employment not regular, periodic or recurring;】 as  
45 work that is:

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

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

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

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

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

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

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

1 employer to travel in a ridesharing arrangement as a condition of  
2 employment.

3 Employment shall also be deemed to commence, if an employer  
4 provides or designates a parking area for use by an employee, when  
5 an employee arrives at the parking area prior to reporting for work  
6 and shall terminate when an employee leaves the parking area at the  
7 end of a work period; provided that, if the site of the parking area is  
8 separate from the place of employment, an employee shall be  
9 deemed to be in the course of employment while the employee  
10 travels directly from the parking area to the place of employment  
11 prior to reporting for work and while the employee travels directly  
12 from the place of employment to the parking area at the end of a  
13 work period.

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

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

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

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

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

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



1       <sup>1</sup>~~13.~~ 11.<sup>1</sup> R.S.34:15-92 is amended to read as follows:  
2       34:15-92. ~~Each employer~~ Employers <sup>1</sup>~~and hiring entities~~<sup>1</sup>  
3 of domestic ~~servants or household employees~~ workers and every  
4 stock company or mutual association affording insurance for the  
5 liability of such employers by reason of that employment shall be  
6 exempted from the provisions of ~~R.S. 34:15-79, and~~ R.S. 34:15-  
7 80~~.~~ The provisions of ~~and~~ R.S. 34:15-81 ~~shall not be~~  
8 applicable where the insurance coverage is afforded pursuant to  
9 P.L. , c. (now pending before the Legislature as Assembly Bill  
10 No. 949 of 1978)~~.~~ but <sup>1</sup>employers of domestic workers<sup>1</sup> are  
11 required to provide written notice of insurance coverage and  
12 cancellation of a policy.  
13 (cf: P.L.1979, c.380, s.3)

14  
15       <sup>1</sup>~~14.~~ R.S.43:21-19 is amended to read as follows:  
16       43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et  
17 seq.), unless the context clearly requires otherwise:  
18       (a) (1) "Annual payroll" means the total amount of wages paid  
19 during a calendar year (regardless of when earned) by an employer  
20 for employment.  
21       (2) "Average annual payroll" means the average of the annual  
22 payrolls of any employer for the last three or five preceding  
23 calendar years, whichever average is higher, except that any year or  
24 years throughout which an employer has had no "annual payroll"  
25 because of military service shall be deleted from the reckoning; the  
26 "average annual payroll" in such case is to be determined on the  
27 basis of the prior three or five calendar years in each of which the  
28 employer had an "annual payroll" in the operation of his business, if  
29 the employer resumes his business within 12 months after  
30 separation, discharge or release from such service, under conditions  
31 other than dishonorable, and makes application to have his "average  
32 annual payroll" determined on the basis of such deletion within 12  
33 months after he resumes his business; provided, however, that  
34 "average annual payroll" solely for the purposes of paragraph (3) of  
35 subsection (e) of R.S.43:21-7 means the average of the annual  
36 payrolls of any employer on which he paid contributions to the  
37 State disability benefits fund for the last three or five preceding  
38 calendar years, whichever average is higher; provided further that  
39 only those wages be included on which employer contributions have  
40 been paid on or before January 31 (or the next succeeding day if  
41 such January 31 is a Saturday or Sunday) immediately preceding  
42 the beginning of the 12-month period for which the employer's  
43 contribution rate is computed.  
44       (b) "Benefits" means the money payments payable to an  
45 individual, as provided in this chapter (R.S.43:21-1 et seq.), with  
46 respect to his unemployment.

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

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

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

34 (2) With respect to a benefit year commencing on or after June  
35 1, 1990 for an individual who immediately preceding the benefit  
36 year was subject to a disability compensable under the provisions of  
37 the "Temporary Disability Benefits Law," P.L.1948, c.110  
38 (C.43:21-25 et seq.), "base year" shall mean the first four of the last  
39 five completed calendar quarters immediately preceding the  
40 individual's period of disability, if the employment held by the  
41 individual immediately preceding the period of disability is no  
42 longer available at the conclusion of that period and the individual  
43 files a valid claim for unemployment benefits after the conclusion  
44 of that period. For the purposes of this paragraph, "period of  
45 disability" means the period defined as a period of disability by  
46 section 3 of the "Temporary Disability Benefits Law," P.L.1948,  
47 c.110 (C.43:21-27). An individual who files a claim under the

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

3 (3) With respect to a benefit year commencing on or after June  
4 1, 1990 for an individual who immediately preceding the benefit  
5 year was subject to a disability compensable under the provisions of  
6 the workers' compensation law (chapter 15 of Title 34 of the  
7 Revised Statutes), "base year" shall mean the first four of the last  
8 five completed calendar quarters immediately preceding the  
9 individual's period of disability, if the period of disability was not  
10 longer than two years, if the employment held by the individual  
11 immediately preceding the period of disability is no longer  
12 available at the conclusion of that period and if the individual files a  
13 valid claim for unemployment benefits after the conclusion of that  
14 period. For the purposes of this paragraph, "period of disability"  
15 means the period from the time at which the individual becomes  
16 unable to work because of the compensable disability until the time  
17 that the individual becomes able to resume work and continue work  
18 on a permanent basis. An individual who files a claim under the  
19 provisions of this paragraph (3) shall not be regarded as having left  
20 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

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

32 (e) (1) "Division" means the Division of Unemployment and  
33 Temporary Disability Insurance of the Department of Labor and  
34 Workforce Development, and any transaction or exercise of  
35 authority by the director of the division thereunder, or under this  
36 chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by  
37 the division.

38 (2) "Controller" means the Office of the Assistant  
39 Commissioner for Finance and Controller of the Department of  
40 Labor and Workforce Development, established by the 1982  
41 Reorganization Plan of the Department of Labor.

42 (f) "Contributions" means the money payments to the State  
43 Unemployment Compensation Fund, required by R.S.43:21-7.  
44 "Payments in lieu of contributions" means the money payments to  
45 the State Unemployment Compensation Fund by employers electing  
46 or required to make payments in lieu of contributions, as provided  
47 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-  
48 7.3).

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

(h) "Employer" means:

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

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

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

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

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

- 1 (6) Any employing unit for which service in employment as  
2 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,  
3 1971 and which in either the current or the preceding calendar year  
4 paid remuneration for employment in the amount of \$1,000.00 or  
5 more;
- 6 (7) Any employing unit not an employer by reason of any other  
7 paragraph of this subsection (h) for which, within either the current  
8 or preceding calendar year, service is or was performed with respect  
9 to which such employing unit is liable for any federal tax against  
10 which credit may be taken for contributions required to be paid into  
11 a state unemployment fund; or which, as a condition for approval of  
12 the "unemployment compensation law" for full tax credit against  
13 the tax imposed by the Federal Unemployment Tax Act, is required  
14 pursuant to such act to be an employer under this chapter  
15 (R.S.43:21-1 et seq.);
- 16 (8) (Deleted by amendment; P.L.1977, c.307.)
- 17 (9) (Deleted by amendment; P.L.1977, c.307.)
- 18 (10) (Deleted by amendment; P.L.1977, c.307.)
- 19 (11) Any employing unit subject to the provisions of the Federal  
20 Unemployment Tax Act within either the current or the preceding  
21 calendar year, except for employment hereinafter excluded under  
22 paragraph (7) of subsection (i) of this section;
- 23 (12) Any employing unit for which agricultural labor in  
24 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after  
25 December 31, 1977;
- 26 (13) (a) Any employing unit for which domestic service in  
27 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after  
28 December 31, 1977 and before January 1, 2022; and  
29 (b) Any employing unit or hiring entity for domestic services as  
30 defined in section 2 of P.L. , c. (C. )(pending before the  
31 Legislature as this bill);
- 32 (14) Any employing unit which having become an employer  
33 under the "unemployment compensation law" (R.S.43:21-1 et seq.),  
34 has not under R.S.43:21-8 ceased to be an employer; or for the  
35 effective period of its election pursuant to R.S.43:21-8, any other  
36 employing unit which has elected to become fully subject to this  
37 chapter (R.S.43:21-1 et seq.).
- 38 (i) (1) "Employment" means:
- 39 (A) Any service performed prior to January 1, 1972, which was  
40 employment as defined in the "unemployment compensation law"  
41 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other  
42 provisions of this subsection, service performed on or after January  
43 1, 1972, including service in interstate commerce, performed for  
44 remuneration or under any contract of hire, written or oral, express  
45 or implied.
- 46 (B) (i) Service performed after December 31, 1971 by an  
47 individual in the employ of this State or any of its instrumentalities  
48 or in the employ of this State and one or more other states or their

1 instrumentalities for a hospital or institution of higher education  
2 located in this State, if such service is not excluded from  
3 "employment" under paragraph (D) below.

4 (ii) Service performed after December 31, 1977, in the employ  
5 of this State or any of its instrumentalities or any political  
6 subdivision thereof or any of its instrumentalities or any  
7 instrumentality of more than one of the foregoing or any  
8 instrumentality of the foregoing and one or more other states or  
9 political subdivisions, if such service is not excluded from  
10 "employment" under paragraph (D) below.

11 (C) Service performed after December 31, 1971 by an individual  
12 in the employ of a religious, charitable, educational, or other  
13 organization, which is excluded from "employment" as defined in  
14 the Federal Unemployment Tax Act, solely by reason of section  
15 3306 (c)(8) of that act, if such service is not excluded from  
16 "employment" under paragraph (D) below.

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

19 (i) In the employ of (I) a church or convention or association of  
20 churches, or (II) an organization, or school which is operated  
21 primarily for religious purposes and which is operated, supervised,  
22 controlled or principally supported by a church or convention or  
23 association of churches;

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

27 (iii) Prior to January 1, 1978, in the employ of a school which is  
28 not an institution of higher education, and after December 31, 1977,  
29 in the employ of a governmental entity referred to in R.S.43:21-19  
30 (i) (1) (B), if such service is performed by an individual in the  
31 exercise of duties

32 (aa) as an elected official;

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

35 (cc) as a member of the State National Guard or Air National  
36 Guard;

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

39 (ee) in a position which, under or pursuant to the laws of this  
40 State, is designated as a major nontenured policy making or  
41 advisory position, or a policy making or advisory position, the  
42 performance of the duties of which ordinarily does not require more  
43 than eight hours per week; or

44 (iv) By an individual receiving rehabilitation or remunerative  
45 work in a facility conducted for the purpose of carrying out a  
46 program of rehabilitation of individuals whose earning capacity is  
47 impaired by age or physical or mental deficiency or injury or  
48 providing remunerative work for individuals who because of their

- 1   impaired physical or mental capacity cannot be readily absorbed in  
2   the competitive labor market;
- 3       (v) By an individual receiving work-relief or work-training as  
4   part of an unemployment work-relief or work-training program  
5   assisted in whole or in part by any federal agency or an agency of a  
6   state or political subdivision thereof; or
- 7       (vi) Prior to January 1, 1978, for a hospital in a State prison or  
8   other State correctional institution by an inmate of the prison or  
9   correctional institution and after December 31, 1977, by an inmate  
10   of a custodial or penal institution.
- 11   (E) The term "employment" shall include the services of an  
12   individual who is a citizen of the United States, performed outside  
13   the United States after December 31, 1971 (except in Canada and in  
14   the case of the Virgin Islands, after December 31, 1971) and prior  
15   to January 1 of the year following the year in which the U.S.  
16   Secretary of Labor approves the unemployment compensation law  
17   of the Virgin Islands, under section 3304 (a) of the Internal  
18   Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an  
19   American employer (other than the service which is deemed  
20   employment under the provisions of R.S.43:21-19 (i) (2) or (5) or  
21   the parallel provisions of another state's unemployment  
22   compensation law), if
- 23       (i) The American employer's principal place of business in the  
24   United States is located in this State; or
- 25       (ii) The American employer has no place of business in the  
26   United States, but (I) the American employer is an individual who  
27   is a resident of this State; or (II) the American employer is a  
28   corporation which is organized under the laws of this State; or (III)  
29   the American employer is a partnership or trust and the number of  
30   partners or trustees who are residents of this State is greater than the  
31   number who are residents of another state; or
- 32       (iii) None of the criteria of divisions (i) and (ii) of this  
33   subparagraph (E) is met but the American employer has elected to  
34   become an employer subject to the "unemployment compensation  
35   law" (R.S.43:21-1 et seq.) in this State, or the American employer  
36   having failed to elect to become an employer in any state, the  
37   individual has filed a claim for benefits, based on such service,  
38   under the law of this State;
- 39       (iv) An "American employer," for the purposes of this  
40   subparagraph (E), means (I) an individual who is a resident of the  
41   United States; or (II) a partnership, if two-thirds or more of the  
42   partners are residents of the United States; or (III) a trust, if all the  
43   trustees are residents of the United States; or (IV) a corporation  
44   organized under the laws of the United States or of any state.
- 45   (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed  
46   after January 1, 1972 by an officer or member of the crew of an  
47   American vessel or American aircraft on or in connection with such  
48   vessel or aircraft, if the operating office from which the operations

1 of such vessel or aircraft operating within, or within and without,  
2 the United States are ordinarily and regularly supervised, managed,  
3 directed, and controlled, is within this State.

4 (G) Notwithstanding any other provision of this subsection,  
5 service in this State with respect to which the taxes required to be  
6 paid under any federal law imposing a tax against which credit may  
7 be taken for contributions required to be paid into a state  
8 unemployment fund or which as a condition for full tax credit  
9 against the tax imposed by the Federal Unemployment Tax Act is  
10 required to be covered under the "unemployment compensation  
11 law" (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

46 (iii) For the purposes of subparagraph (I) (i) in the case of any  
47 individual who is furnished by a crew leader to perform service in



- 1 agricultural labor or any other entity and who is not treated as an  
2 employee of such crew leader under (I) (ii)
- 3 (aa) such other entity and not the crew leader shall be treated as  
4 the employer of such individual; and
- 5 (bb) such other entity shall be treated as having paid cash  
6 remuneration to such individual in an amount equal to the amount  
7 of cash remuneration paid to such individual by the crew leader  
8 (either on his own behalf or on behalf of such other entity) for the  
9 service in agricultural labor performed for such other entity.
- 10 (iv) For the purpose of subparagraph (I)(ii), the term "crew  
11 leader" means an individual who
- 12 (aa) furnishes individuals to perform service in agricultural labor  
13 for any other entity;
- 14 (bb) pays (either on his own behalf or on behalf of such other  
15 entity) the individuals so furnished by him for the service in  
16 agricultural labor performed by them; and
- 17 (cc) has not entered into a written agreement with such other  
18 entity under which such individual is designated as an employee of  
19 such other entity.
- 20 (J) (i) Domestic service after December 31, 1977 and before  
21 January 1, 2022 performed in the private home of an employing unit  
22 which paid cash remuneration of \$1,000.00 or more to one or more  
23 individuals for such domestic service in any calendar quarter in the  
24 current or preceding calendar year.
- 25 (ii) Domestic services as defined by section 2 of P.L. ,  
26 c. (C. ) (pending before the Legislature as this bill) after  
27 December 31, 2021 in either the current or preceding calendar year  
28 paid remuneration for employment in the amount of \$1,000 or  
29 more.
- 30 (2) The term "employment" shall include an individual's entire  
31 service performed within or both within and without this State if:
- 32 (A) The service is localized in this State; or
- 33 (B) The service is not localized in any state but some of the  
34 service is performed in this State, and (i) the base of operations, or,  
35 if there is no base of operations, then the place from which such  
36 service is directed or controlled, is in this State; or (ii) the base of  
37 operations or place from which such service is directed or  
38 controlled is not in any state in which some part of the service is  
39 performed, but the individual's residence is in this State.
- 40 (3) Services performed within this State but not covered under  
41 paragraph (2) of this subsection shall be deemed to be employment  
42 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not  
43 required and paid with respect to such services under an  
44 unemployment compensation law of any other state or of the federal  
45 government.
- 46 (4) Services not covered under paragraph (2) of this subsection  
47 and performed entirely without this State, with respect to no part of  
48 which contributions are required and paid under an unemployment

1 compensation law of any other state or of the federal government,  
2 shall be deemed to be employment subject to this chapter  
3 (R.S.43:21-1 et seq.) if the individual performing such services is a  
4 resident of this State and the employing unit for whom such  
5 services are performed files with the division an election that the  
6 entire service of such individual shall be deemed to be employment  
7 subject to this chapter (R.S.43:21-1 et seq.).

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

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

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

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

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

21 (B) Such service is either outside the usual course of the  
22 business for which such service is performed, or that such service is  
23 performed outside of all the places of business of the enterprise for  
24 which such service is performed; and

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

27 (7) Provided that such services are also exempt under the  
28 Federal Unemployment Tax Act, as amended, or that contributions  
29 with respect to such services are not required to be paid into a state  
30 unemployment fund as a condition for a tax offset credit against the  
31 tax imposed by the Federal Unemployment Tax Act, as amended,  
32 the term "employment" shall not include:

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

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

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

46 (B) Domestic service in a private home performed prior to  
47 January 1, 1978; and after December 31, 1977, unless performed in  
48 the private home of an employing unit which paid cash

1 remuneration of \$1,000.00 or more to one or more individuals for  
2 such domestic service in any calendar quarter in the current or  
3 preceding calendar year;

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

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

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

19 (F) Service performed in the employ of the United States  
20 Government or of any instrumentality of the United States exempt  
21 under the Constitution of the United States from the contributions  
22 imposed by the "unemployment compensation law," except that to  
23 the extent that the Congress of the United States shall permit states  
24 to require any instrumentalities of the United States to make  
25 payments into an unemployment fund under a state unemployment  
26 compensation law, all of the provisions of this act shall be  
27 applicable to such instrumentalities, and to service performed for  
28 such instrumentalities, in the same manner, to the same extent and  
29 on the same terms as to all other employers, employing units,  
30 individuals and services; provided that if this State shall not be  
31 certified for any year by the Secretary of Labor of the United States  
32 under section 3304 of the federal Internal Revenue Code of 1986  
33 (26 U.S.C. s.3304), the payments required of such instrumentalities  
34 with respect to such year shall be refunded by the division from the  
35 fund in the same manner and within the same period as is provided  
36 in R.S.43:21-14 (f) with respect to contributions erroneously paid to  
37 or collected by the division;

38 (G) Services performed in the employ of fraternal beneficiary  
39 societies, orders, or associations operating under the lodge system  
40 or for the exclusive benefit of the members of a fraternity itself  
41 operating under the lodge system and providing for the payment of  
42 life, sick, accident, or other benefits to the members of such society,  
43 order, or association, or their dependents;

44 (H) Services performed as a member of the board of directors, a  
45 board of trustees, a board of managers, or a committee of any bank,  
46 building and loan, or savings and loan association, incorporated or  
47 organized under the laws of this State or of the United States, where

1 such services do not constitute the principal employment of the  
2 individual;

3 (I) Service with respect to which unemployment insurance is  
4 payable under an unemployment insurance program established by  
5 an Act of Congress;

6 (J) Service performed by agents of mutual fund brokers or  
7 dealers in the sale of mutual funds or other securities, by agents of  
8 insurance companies, exclusive of industrial insurance agents or by  
9 agents of investment companies, if the compensation to such agents  
10 for such services is wholly on a commission basis;

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

13 (L) Services performed in the employ of any veterans'  
14 organization chartered by Act of Congress or of any auxiliary  
15 thereof, no part of the net earnings of which organization, or  
16 auxiliary thereof, inures to the benefit of any private shareholder or  
17 individual;

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

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

30 (O) Services performed in the sale or distribution of merchandise  
31 by home-to-home salespersons or in-the-home demonstrators whose  
32 remuneration consists wholly of commissions or commissions and  
33 bonuses;

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

37 (Q) Service performed in the employ of an instrumentality  
38 wholly owned by a foreign government if (i) the service is of a  
39 character similar to that performed in foreign countries by  
40 employees of the United States Government or of an instrumentality  
41 thereof, and (ii) the division finds that the United States Secretary  
42 of State has certified to the United States Secretary of the Treasury  
43 that the foreign government, with respect to whose instrumentality  
44 exemption is claimed, grants an equivalent exemption with respect  
45 to similar services performed in the foreign country by employees  
46 of the United States Government and of instrumentalities thereof;

47 (R) Service in the employ of an international organization  
48 entitled to enjoy the privileges, exemptions and immunities under

1 the International Organizations Immunities Act (22 U.S.C. s.288 et  
2 seq.);

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

8 (T) Service performed in the employ of a school, college, or  
9 university if such service is performed (i) by a student enrolled at  
10 such school, college, or university on a full-time basis in an  
11 educational program or completing such educational program  
12 leading to a degree at any of the severally recognized levels, or (ii)  
13 by the spouse of such a student, if such spouse is advised at the time  
14 such spouse commences to perform such service that (I) the  
15 employment of such spouse to perform such service is provided  
16 under a program to provide financial assistance to such student by  
17 such school, college, or university, and (II) such employment will  
18 not be covered by any program of unemployment insurance;

19 (U) Service performed by an individual who is enrolled at a  
20 nonprofit or public educational institution which normally  
21 maintains a regular faculty and curriculum and normally has a  
22 regularly organized body of students in attendance at the place  
23 where its educational activities are carried on, as a student in a full-  
24 time program, taken for credit at such institution, which combines  
25 academic instruction with work experience, if such service is an  
26 integral part of such program, and such institution has so certified  
27 to the employer, except that this subparagraph shall not apply to  
28 service performed in a program established for or on behalf of an  
29 employer or group of employers;

30 (V) Service performed in the employ of a hospital, if such  
31 service is performed by a patient of the hospital; service performed  
32 as a student nurse in the employ of a hospital or a nurses' training  
33 school by an individual who is enrolled and regularly attending  
34 classes in a nurses' training school approved under the laws of this  
35 State;

36 (W) Services performed after the effective date of this  
37 amendatory act by agents of mutual benefit associations if the  
38 compensation to such agents for such services is wholly on a  
39 commission basis;

40 (X) Services performed by operators of motor vehicles weighing  
41 18,000 pounds or more, licensed for commercial use and used for  
42 the highway movement of motor freight, who own their equipment  
43 or who lease or finance the purchase of their equipment through an  
44 entity which is not owned or controlled directly or indirectly by the  
45 entity for which the services were performed and who were  
46 compensated by receiving a percentage of the gross revenue  
47 generated by the transportation move or by a schedule of payment  
48 based on the distance and weight of the transportation move;

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

2 (Z) Services performed, using facilities provided by a travel  
3 agent, by a person, commonly known as an outside travel agent,  
4 who acts as an independent contractor, is paid on a commission  
5 basis, sets his own work schedule and receives no benefits, sick  
6 leave, vacation or other leave from the travel agent owning the  
7 facilities.

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

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

22 (A) The limousine franchisee is incorporated;

23 (B) The franchisee is subject to regulation by the Interstate  
24 Commerce Commission;

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

28 (D) The franchisee registers with the Department of Labor and  
29 Workforce Development and receives an employer registration  
30 number.

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

42 For purposes of this paragraph (10): "legal transcription service"  
43 and "legal transcribing" mean making use, by audio, video or voice  
44 recording, of a verbatim record of court proceedings, depositions,  
45 other judicial proceedings, meetings of boards, agencies,  
46 corporations, or other bodies or groups, and causing that record to  
47 be printed in readable form or produced on a computer screen in

- 1 readable form; and "legal transcriber" means a person who engages  
2 in "legal transcribing."
- 3 (j) "Employment office" means a free public employment  
4 office, or branch thereof operated by this State or maintained as a  
5 part of a State-controlled system of public employment offices.
- 6 (k) (Deleted by amendment, P.L.1984, c.24.)
- 7 (l) "State" includes, in addition to the states of the United States  
8 of America, the District of Columbia, the Virgin Islands and Puerto  
9 Rico.
- 10 (m) "Unemployment."
- 11 (1) An individual shall be deemed "unemployed" for any week  
12 during which:
- 13 (A) The individual is not engaged in full-time work and with  
14 respect to which his remuneration is less than his weekly benefit  
15 rate, including any week during which he is on vacation without  
16 pay; provided such vacation is not the result of the individual's  
17 voluntary action, except that for benefit years commencing on or  
18 after July 1, 1984, an officer of a corporation, or a person who has  
19 more than a 5% equitable or debt interest in the corporation, whose  
20 claim for benefits is based on wages with that corporation shall not  
21 be deemed to be unemployed in any week during the individual's  
22 term of office or ownership in the corporation; or
- 23 (B) The individual is eligible for and receiving a self-  
24 employment assistance allowance pursuant to the requirements of  
25 P.L.1995, c.394 (C.43:21-67 et al.).
- 26 (2) The term "remuneration" with respect to any individual for  
27 benefit years commencing on or after July 1, 1961, and as used in  
28 this subsection, shall include only that part of the same which in  
29 any week exceeds 20% of his weekly benefit rate (fractional parts  
30 of a dollar omitted) or \$5.00, whichever is the larger, and shall not  
31 include any moneys paid to an individual by a county board of  
32 elections for work as a board worker on an election day.
- 33 (3) An individual's week of unemployment shall be deemed to  
34 commence only after the individual has filed a claim at an  
35 unemployment insurance claims office, except as the division may  
36 by regulation otherwise prescribe.
- 37 (n) "Unemployment compensation administration fund" means  
38 the unemployment compensation administration fund established by  
39 this chapter (R.S.43:21-1 et seq.), from which administrative  
40 expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.
- 41 (o) "Wages" means remuneration paid by employers for  
42 employment. If a worker receives gratuities regularly in the course  
43 of his employment from other than his employer, his "wages" shall  
44 also include the gratuities so received, if reported in writing to his  
45 employer in accordance with regulations of the division, and if not  
46 so reported, his "wages" shall be determined in accordance with the  
47 minimum wage rates prescribed under any labor law or regulation  
48 of this State or of the United States, or the amount of remuneration

1 actually received by the employee from his employer, whichever is  
2 the higher.

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

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

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

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

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

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

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

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

43 (3) "Base week," commencing on or after January 1, 2001,  
44 means any calendar week during which the individual earned in  
45 employment from an employer remuneration not less than an  
46 amount 20 times the minimum wage in effect pursuant to section 5  
47 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar  
48 year preceding the calendar year in which the benefit year



1 commences, which amount shall be adjusted to the next higher  
2 multiple of \$1.00 if not already a multiple thereof, except that if in  
3 any calendar week an individual subject to this paragraph (3) is in  
4 employment with more than one employer, the individual may in  
5 that calendar week establish a base week with respect to each of the  
6 employers from whom the individual earns remuneration equal to  
7 not less than the amount defined in this paragraph (3) during that  
8 week.

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

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

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

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

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

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

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

47 (B) Which is approved, licensed or issued a permit to operate as  
48 a school by the State Department of Education or other government

1 agency that is authorized within the State to approve, license or  
2 issue a permit for the operation of a school; and

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

6 (2) "Institution of higher education" means an educational  
7 institution which:

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

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

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

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

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

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

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

26

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

28 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et  
29 seq.), unless the context clearly requires otherwise:

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

33 (2) "Average annual payroll" means the average of the annual  
34 payrolls of any employer for the last three or five preceding  
35 calendar years, whichever average is higher, except that any year or  
36 years throughout which an employer has had no "annual payroll"  
37 because of military service shall be deleted from the reckoning; the  
38 "average annual payroll" in such case is to be determined on the  
39 basis of the prior three or five calendar years in each of which the  
40 employer had an "annual payroll" in the operation of his business, if  
41 the employer resumes his business within 12 months after  
42 separation, discharge or release from such service, under conditions  
43 other than dishonorable, and makes application to have his "average  
44 annual payroll" determined on the basis of such deletion within 12  
45 months after he resumes his business; provided, however, that  
46 "average annual payroll" solely for the purposes of paragraph (3) of  
47 subsection (e) of R.S.43:21-7 means the average of the annual  
48 payrolls of any employer on which he paid contributions to the

1 State disability benefits fund for the last three or five preceding  
2 calendar years, whichever average is higher; provided further that  
3 only those wages be included on which employer contributions have  
4 been paid on or before January 31 (or the next succeeding day if  
5 such January 31 is a Saturday or Sunday) immediately preceding  
6 the beginning of the 12-month period for which the employer's  
7 contribution rate is computed.

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

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

15 With respect to a benefit year commencing on or after July 1,  
16 1995, if an individual does not have sufficient qualifying weeks or  
17 wages in his base year to qualify for benefits, the individual shall  
18 have the option of designating that his base year shall be the  
19 "alternative base year," which means the last four completed  
20 calendar quarters immediately preceding the individual's benefit  
21 year; except that, with respect to a benefit year commencing on or  
22 after October 1, 1995, if the individual also does not have sufficient  
23 qualifying weeks or wages in the last four completed calendar  
24 quarters immediately preceding his benefit year to qualify for  
25 benefits, "alternative base year" means the last three completed  
26 calendar quarters immediately preceding his benefit year and, of the  
27 calendar quarter in which the benefit year commences, the portion  
28 of the quarter which occurs before the commencing of the benefit  
29 year.

30 The division shall inform the individual of his options under this  
31 section as amended by P.L.1995, c.234. If information regarding  
32 weeks and wages for the calendar quarter or quarters immediately  
33 preceding the benefit year is not available to the division from the  
34 regular quarterly reports of wage information and the division is not  
35 able to obtain the information using other means pursuant to State  
36 or federal law, the division may base the determination of eligibility  
37 for benefits on the affidavit of an individual with respect to weeks  
38 and wages for that calendar quarter. The individual shall furnish  
39 payroll documentation, if available, in support of the affidavit. A  
40 determination of benefits based on an alternative base year shall be  
41 adjusted when the quarterly report of wage information from the  
42 employer is received if that information causes a change in the  
43 determination.

44 (2) 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 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
48 et seq.), "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 employment held by the individual  
3 immediately preceding the period of disability is no longer  
4 available at the conclusion of that period and the individual files a  
5 valid claim for unemployment benefits after the conclusion of that  
6 period. For the purposes of this paragraph, "period of disability"  
7 means the period defined as a period of disability by section 3 of  
8 the "Temporary Disability Benefits Law," P.L.1948, c.110  
9 (C.43:21-27). An individual who files a claim under the provisions  
10 of this paragraph (2) shall not be regarded as having left work  
11 voluntarily for the purposes of subsection (a) of R.S.43:21-5.

12 (3) With respect to a benefit year commencing on or after June 1,  
13 1990 for an individual who immediately preceding the benefit year  
14 was subject to a disability compensable under the provisions of the  
15 workers' compensation law (chapter 15 of Title 34 of the Revised  
16 Statutes), "base year" shall mean the first four of the last five  
17 completed calendar quarters immediately preceding the individual's  
18 period of disability, if the period of disability was not longer than  
19 two years, if the employment held by the individual immediately  
20 preceding the period of disability is no longer available at the  
21 conclusion of that period and if the individual files a valid claim for  
22 unemployment benefits after the conclusion of that period. For the  
23 purposes of this paragraph, "period of disability" means the period  
24 from the time at which the individual becomes unable to work  
25 because of the compensable disability until the time that the  
26 individual becomes able to resume work and continue work on a  
27 permanent basis. An individual who files a claim under the  
28 provisions of this paragraph (3) shall not be regarded as having left  
29 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

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

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

47 (2) "Controller" means the Office of the Assistant Commissioner  
48 for Finance and Controller of the Department of Labor and

1 Workforce Development, established by the 1982 Reorganization  
2 Plan of the Department of Labor.

3 (f) "Contributions" means the money payments to the State  
4 Unemployment Compensation Fund, required by R.S.43:21-7.  
5 "Payments in lieu of contributions" means the money payments to  
6 the State Unemployment Compensation Fund by employers electing  
7 or required to make payments in lieu of contributions, as provided  
8 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-  
9 7.3).

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

32 (h) "Employer" means:

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

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

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

46 (4) Any employing unit which together with one or more other  
47 employing units is owned or controlled (by legally enforceable  
48 means or otherwise), directly or indirectly by the same interests, or

1 which owns or controls one or more other employing units (by  
2 legally enforceable means or otherwise), and which, if treated as a  
3 single unit with such other employing unit or interest, would be an  
4 employer under paragraph (1) of this subsection;

5 (5) Any employing unit for which service in employment as  
6 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December  
7 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is  
8 performed after December 31, 1977;

9 (6) Any employing unit for which service in employment as  
10 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,  
11 1971 and which in either the current or the preceding calendar year  
12 paid remuneration for employment in the amount of \$1,000.00 or  
13 more;

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

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

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

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

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

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

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

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

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

44 (A) Any service performed prior to January 1, 1972, which was  
45 employment as defined in the "unemployment compensation law"  
46 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other  
47 provisions of this subsection, service performed on or after January  
48 1, 1972, including service in interstate commerce, performed for

1 remuneration or under any contract of hire, written or oral, express  
2 or implied.

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

9 (ii) Service performed after December 31, 1977, in the employ of  
10 this State or any of its instrumentalities or any political subdivision  
11 thereof or any of its instrumentalities or any instrumentality of more  
12 than one of the foregoing or any instrumentality of the foregoing  
13 and one or more other states or political subdivisions, if such  
14 service is not excluded from "employment" under paragraph (D)  
15 below.

16 (C) Service performed after December 31, 1971 by an individual  
17 in the employ of a religious, charitable, educational, or other  
18 organization, which is excluded from "employment" as defined in  
19 the Federal Unemployment Tax Act, solely by reason of section  
20 3306 (c)(8) of that act, if such service is not excluded from  
21 "employment" under paragraph (D) below.

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

24 (i) In the employ of (I) a church or convention or association of  
25 churches, or (II) an organization, or school which is operated  
26 primarily for religious purposes and which is operated, supervised,  
27 controlled or principally supported by a church or convention or  
28 association of churches;

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

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

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

37 (aa) as an elected official;

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

40 (cc) as a member of the State National Guard or Air National  
41 Guard;

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

44 (ee) in a position which, under or pursuant to the laws of this  
45 State, is designated as a major nontenured policy making or  
46 advisory position, or a policy making or advisory position, the  
47 performance of the duties of which ordinarily does not require more  
48 than eight hours per week; or

1 (iv) By an individual receiving rehabilitation or remunerative  
2 work in a facility conducted for the purpose of carrying out a  
3 program of rehabilitation of individuals whose earning capacity is  
4 impaired by age or physical or mental deficiency or injury or  
5 providing remunerative work for individuals who because of their  
6 impaired physical or mental capacity cannot be readily absorbed in  
7 the competitive labor market;

8 (v) By an individual receiving work-relief or work-training as  
9 part of an unemployment work-relief or work-training program  
10 assisted in whole or in part by any federal agency or an agency of a  
11 state or political subdivision thereof; or

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

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

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

30 (ii) The American employer has no place of business in the  
31 United States, but (I) the American employer is an individual who  
32 is a resident of this State; or (II) the American employer is a  
33 corporation which is organized under the laws of this State; or (III)  
34 the American employer is a partnership or trust and the number of  
35 partners or trustees who are residents of this State is greater than the  
36 number who are residents of another state; or

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

44 (iv) An "American employer," for the purposes of this  
45 subparagraph (E), means (I) an individual who is a resident of the  
46 United States; or (II) a partnership, if two-thirds or more of the  
47 partners are residents of the United States; or (III) a trust, if all the



1 trustees are residents of the United States; or (IV) a corporation  
2 organized under the laws of the United States or of any state.

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

10 (G) Notwithstanding any other provision of this subsection,  
11 service in this State with respect to which the taxes required to be  
12 paid under any federal law imposing a tax against which credit may  
13 be taken for contributions required to be paid into a state  
14 unemployment fund or which as a condition for full tax credit  
15 against the tax imposed by the Federal Unemployment Tax Act is  
16 required to be covered under the "unemployment compensation  
17 law" (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

1 unemployment compensation law of any other state or of the federal  
2 government.

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

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

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

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

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

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

26 (B) Such service is either outside the usual course of the business  
27 for which such service is performed, or that such service is  
28 performed outside of all the places of business of the enterprise for  
29 which such service is performed; and

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

32 (7) Provided that such services are also exempt under the Federal  
33 Unemployment Tax Act, as amended, or that contributions with  
34 respect to such services are not required to be paid into a state  
35 unemployment fund as a condition for a tax offset credit against the  
36 tax imposed by the Federal Unemployment Tax Act, as amended,  
37 the term "employment" shall not include:

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

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

46 (ii) for some portion of a day in each of 20 different calendar  
47 weeks, whether or not such weeks were consecutive, in either the  
48 current or the preceding calendar year, employed in agricultural

1 labor 10 or more individuals, regardless of whether they were  
2 employed at the same moment in time;

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

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

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

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

24 (F) Service performed in the employ of the United States  
25 Government or of any instrumentality of the United States exempt  
26 under the Constitution of the United States from the contributions  
27 imposed by the "unemployment compensation law," except that to  
28 the extent that the Congress of the United States shall permit states  
29 to require any instrumentalities of the United States to make  
30 payments into an unemployment fund under a state unemployment  
31 compensation law, all of the provisions of this act shall be  
32 applicable to such instrumentalities, and to service performed for  
33 such instrumentalities, in the same manner, to the same extent and  
34 on the same terms as to all other employers, employing units,  
35 individuals and services; provided that if this State shall not be  
36 certified for any year by the Secretary of Labor of the United States  
37 under section 3304 of the federal Internal Revenue Code of 1986  
38 (26 U.S.C. s.3304), the payments required of such instrumentalities  
39 with respect to such year shall be refunded by the division from the  
40 fund in the same manner and within the same period as is provided  
41 in R.S.43:21-14 (f) with respect to contributions erroneously paid to  
42 or collected by the division;

43 (G) Services performed in the employ of fraternal beneficiary  
44 societies, orders, or associations operating under the lodge system  
45 or for the exclusive benefit of the members of a fraternity itself  
46 operating under the lodge system and providing for the payment of  
47 life, sick, accident, or other benefits to the members of such society,  
48 order, or association, or their dependents;

1 (H) Services performed as a member of the board of directors, a  
2 board of trustees, a board of managers, or a committee of any bank,  
3 building and loan, or savings and loan association, incorporated or  
4 organized under the laws of this State or of the United States, where  
5 such services do not constitute the principal employment of the  
6 individual;

7 (I) Service with respect to which unemployment insurance is  
8 payable under an unemployment insurance program established by  
9 an Act of Congress;

10 (J) Service performed by agents of mutual fund brokers or  
11 dealers in the sale of mutual funds or other securities, by agents of  
12 insurance companies, exclusive of industrial insurance agents or by  
13 agents of investment companies, if the compensation to such agents  
14 for such services is wholly on a commission basis;

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

17 (L) Services performed in the employ of any veterans'  
18 organization chartered by Act of Congress or of any auxiliary  
19 thereof, no part of the net earnings of which organization, or  
20 auxiliary thereof, inures to the benefit of any private shareholder or  
21 individual;

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

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

34 (O) Services performed in the sale or distribution of merchandise  
35 by home-to-home salespersons or in-the-home demonstrators whose  
36 remuneration consists wholly of commissions or commissions and  
37 bonuses;

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

41 (Q) Service performed in the employ of an instrumentality  
42 wholly owned by a foreign government if (i) the service is of a  
43 character similar to that performed in foreign countries by  
44 employees of the United States Government or of an instrumentality  
45 thereof, and (ii) the division finds that the United States Secretary  
46 of State has certified to the United States Secretary of the Treasury  
47 that the foreign government, with respect to whose instrumentality  
48 exemption is claimed, grants an equivalent exemption with respect

- 1 to similar services performed in the foreign country by employees  
2 of the United States Government and of instrumentalities thereof;
- 3 (R) Service in the employ of an international organization  
4 entitled to enjoy the privileges, exemptions and immunities under  
5 the International Organizations Immunities Act (22 U.S.C. s.288 et  
6 seq.);
- 7 (S) Service covered by an election duly approved by an agency  
8 charged with the administration of any other state or federal  
9 unemployment compensation or employment security law, in  
10 accordance with an arrangement pursuant to R.S.43:21-21 during  
11 the effective period of such election;
- 12 (T) Service performed in the employ of a school, college, or  
13 university if such service is performed (i) by a student enrolled at  
14 such school, college, or university on a full-time basis in an  
15 educational program or completing such educational program  
16 leading to a degree at any of the severally recognized levels, or (ii)  
17 by the spouse of such a student, if such spouse is advised at the time  
18 such spouse commences to perform such service that (I) the  
19 employment of such spouse to perform such service is provided  
20 under a program to provide financial assistance to such student by  
21 such school, college, or university, and (II) such employment will  
22 not be covered by any program of unemployment insurance;
- 23 (U) Service performed by an individual who is enrolled at a  
24 nonprofit or public educational institution which normally  
25 maintains a regular faculty and curriculum and normally has a  
26 regularly organized body of students in attendance at the place  
27 where its educational activities are carried on, as a student in a full-  
28 time program, taken for credit at such institution, which combines  
29 academic instruction with work experience, if such service is an  
30 integral part of such program, and such institution has so certified  
31 to the employer, except that this subparagraph shall not apply to  
32 service performed in a program established for or on behalf of an  
33 employer or group of employers;
- 34 (V) Service performed in the employ of a hospital, if such  
35 service is performed by a patient of the hospital; service performed  
36 as a student nurse in the employ of a hospital or a nurses' training  
37 school by an individual who is enrolled and regularly attending  
38 classes in a nurses' training school approved under the laws of this  
39 State;
- 40 (W) Services performed after the effective date of this  
41 amendatory act by agents of mutual benefit associations if the  
42 compensation to such agents for such services is wholly on a  
43 commission basis;
- 44 (X) Services performed by operators of motor vehicles weighing  
45 18,000 pounds or more, licensed for commercial use and used for  
46 the highway movement of motor freight, who own their equipment  
47 or who lease or finance the purchase of their equipment through an  
48 entity which is not owned or controlled directly or indirectly by the

1 entity for which the services were performed and who were  
2 compensated by receiving a percentage of the gross revenue  
3 generated by the transportation move or by a schedule of payment  
4 based on the distance and weight of the transportation move;

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

6 (Z) Services performed, using facilities provided by a travel  
7 agent, by a person, commonly known as an outside travel agent,  
8 who acts as an independent contractor, is paid on a commission  
9 basis, sets his own work schedule and receives no benefits, sick  
10 leave, vacation or other leave from the travel agent owning the  
11 facilities.

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

15 (8) If one-half or more of the services in any pay period  
16 performed by an individual for an employing unit constitutes  
17 employment, all the services of such individual shall be deemed to  
18 be employment; but if more than one-half of the service in any pay  
19 period performed by an individual for an employing unit does not  
20 constitute employment, then none of the service of such individual  
21 shall be deemed to be employment. As used in this paragraph, the  
22 term "pay period" means a period of not more than 31 consecutive  
23 days for which a payment for service is ordinarily made by an  
24 employing unit to individuals in its employ.

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

29 (A) The limousine franchisee is incorporated;

30 (B) The franchisee is subject to regulation by the Interstate  
31 Commerce Commission;

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

35 (D) The franchisee registers with the Department of Labor and  
36 Workforce Development and receives an employer registration  
37 number.

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

1 For purposes of this paragraph (10): "legal transcription service"  
2 and "legal transcribing" mean making use, by audio, video or voice  
3 recording, of a verbatim record of court proceedings, depositions,  
4 other judicial proceedings, meetings of boards, agencies,  
5 corporations, or other bodies or groups, and causing that record to  
6 be printed in readable form or produced on a computer screen in  
7 readable form; and "legal transcriber" means a person who engages  
8 in "legal transcribing."

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

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

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

16 (m) "Unemployment."

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

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

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

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

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

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



1 (o) "Wages" means remuneration paid by employers for  
2 employment. If a worker receives gratuities regularly in the course  
3 of his employment from other than his employer, his "wages" shall  
4 also include the gratuities so received, if reported in writing to his  
5 employer in accordance with regulations of the division, and if not  
6 so reported, his "wages" shall be determined in accordance with the  
7 minimum wage rates prescribed under any labor law or regulation  
8 of this State or of the United States, or the amount of remuneration  
9 actually received by the employee from his employer, whichever is  
10 the higher.

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

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

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

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

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

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

25 (A) Any calendar week during which the individual earned in  
26 employment from an employer remuneration not less than an  
27 amount which is 20% of the Statewide average weekly  
28 remuneration defined in subsection (c) of R.S.43:21-3 which  
29 amount shall be adjusted to the next higher multiple of \$1.00 if not  
30 already a multiple thereof, except that if in any calendar week an  
31 individual subject to this subparagraph (A) is in employment with  
32 more than one employer, the individual may in that calendar week  
33 establish a base week with respect to each of the employers from  
34 whom the individual earns remuneration equal to not less than the  
35 amount defined in this subparagraph (A) during that week; or

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

1 remuneration not less than the amount defined in this subparagraph  
2 (B) during that week.

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

17 (u) "Average weekly wage" means the amount derived by  
18 dividing an individual's total wages received during his base year  
19 base weeks (as defined in subsection (t) of this section) from that  
20 most recent base year employer with whom he has established at  
21 least 20 base weeks, by the number of base weeks in which such  
22 wages were earned. In the event that such claimant had no  
23 employer in his base year with whom he had established at least 20  
24 base weeks, then such individual's average weekly wage shall be  
25 computed as if all of his base week wages were received from one  
26 employer and as if all his base weeks of employment had been  
27 performed in the employ of one employer.

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

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

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

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

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

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

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

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

14 (2) "Institution of higher education" means an educational  
15 institution which:

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

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

21 (C) Provides an educational program for which it awards a  
22 bachelor's or higher degree, or provides a program which is  
23 acceptable for full credit toward such a degree, a program of post-  
24 graduate or post-doctoral studies, or a program of training to  
25 prepare students for gainful employment in a recognized  
26 occupation; and

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

28 Notwithstanding any of the foregoing provisions of this  
29 subsection, all colleges and universities in this State are institutions  
30 of higher education for purposes of this section.

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

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

34

35 <sup>1</sup>**[15.] 13.**<sup>1</sup> (New section) <sup>1</sup>**[Except as otherwise provided, the**  
36 **following minimum terms, and such other minimum terms as may**  
37 **be established by the department by regulation, shall apply to a**  
38 **work relationship between a domestic worker and a hiring entity:]**<sup>1</sup>

39 a. <sup>1</sup>**[Written agreements.]**<sup>1</sup> No <sup>1</sup>**[employer]** hiring entity<sup>1</sup> shall  
40 employ <sup>1</sup>or engage<sup>1</sup> a domestic worker, except for casual work or  
41 work of less than five hours per month, unless the engagement is  
42 governed by a written contract governing the following: a specific  
43 list of job duties; hourly wage and overtime wage; weekly schedule  
44 including number of hours per week; the manner and frequency of  
45 payment; breaks for rest and meals; paid or unpaid leave including  
46 sick time; paid holidays; any other benefits provided; modes of  
47 transportation required and whether provided; value of housing if

1 provided; sleeping period and personal time for live-in workers; the  
2 term of the contract; and any other terms and conditions as agreed  
3 upon by the domestic worker and employer or as mandated pursuant  
4 to this act. The written agreement shall be signed and dated by all  
5 parties after ample opportunity to review.

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

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

12 (2) Non-disclosure agreement, <sup>1</sup>~~["restrictive covenant,"]~~ non-  
13 competition<sup>1</sup> or non-disparagement agreement, limiting the ability  
14 of the covered domestic worker to seek compensation for  
15 performing domestic services after the worker ceases to receive  
16 compensation from the domestic work hiring entity for the  
17 performance of domestic services.

18 c. The agreement shall be in English and such other language  
19 as may be preferred by the worker. The hiring entity shall make  
20 reasonable efforts to determine if the worker would prefer the  
21 agreement to be in another language.

22 d. The department shall make available model contracts  
23 complying with this act shall in multiple languages on its Internet  
24 website.

25 e. A referral and employment agency shall provide domestic  
26 workers and hiring entities with information concerning the contract  
27 requirements of this act at the time a hiring entity is connected with  
28 a worker and shall make any model contracts adopted by the  
29 department available to the hiring entity.

30  
31 <sup>1</sup>~~["16."]~~ 14.<sup>1</sup> (New section) a. <sup>1</sup>~~["The hiring entity"]~~ An employer  
32 of a domestic worker<sup>1</sup> shall allow the domestic worker an  
33 uninterrupted paid rest-period of not less than ten minutes for each  
34 four consecutive hours worked, unless the nature of the work  
35 prevents the domestic worker from being relieved of all duties for  
36 such period of time, such as some types of child care and caretaker  
37 work for a sick, elderly or disabled person. The <sup>1</sup>~~["hiring entity"]~~  
38 employer<sup>1</sup> shall pay the domestic worker for the time spent on a rest  
39 break at the domestic worker's regular rate of pay.

40 b. The <sup>1</sup>~~["hiring entity"]~~ employer<sup>1</sup> shall allow an uninterrupted  
41 30-minute meal break after more than five consecutive hours  
42 worked. Unless the domestic worker is relieved of all work duties  
43 during such 30-minute period, the meal period shall be considered  
44 an "on-duty" meal period and shall be paid at the domestic worker's  
45 regular rate of pay.

46 (1) An "on-duty" meal period shall be permitted only when the  
47 nature of the work prevents a domestic worker from being relieved

1 of all duties and when, by written agreement between the parties, an  
2 "on-duty" meal period is agreed to. The agreement may be revoked  
3 by the domestic worker, in writing, at any time.

4 c. 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 d. Failure to allow a meal or rest period in accordance with this  
7 paragraph (1) shall entitle the domestic worker to one additional  
8 hour of pay at the domestic worker's regular rate of compensation  
9 for each workday that the meal or rest period was not provided.  
10 Payment of this extra pay shall not excuse non-compliance with this  
11 subsection.

12  
13 <sup>1</sup>**["17."] 15.<sup>1</sup>** (New section) A "live-in" domestic worker shall not  
14 be required to work more than six consecutive days for the same  
15 <sup>1</sup>**["hiring entity"] employer<sup>1</sup>** without a 24-hour period of rest, which  
16 may be unpaid.

17  
18 <sup>1</sup>**["18."] 16.<sup>1</sup>** (New section) a. <sup>1</sup>**["The hiring entity"] An employer**  
19 **of a domestic worker<sup>1</sup>** shall provide a minimum two-week  
20 notification period before termination of employment, and for live-  
21 in domestic workers a minimum four-week notification period  
22 before termination of employment. <sup>1</sup>**["No notification period is**  
23 **required in connection with the termination of casual work**  
24 **performed for a hiring entity.]<sup>1</sup>**

25 b. The <sup>1</sup>**["hiring entity"] employer<sup>1</sup>** may terminate the  
26 employment without complying with the full notification period  
27 based on a good-faith belief that the domestic worker has engaged  
28 in significant misconduct.

29 c. Failure to provide notification as required under this section  
30 shall entitle the domestic worker to severance pay in the amount of  
31 the worker's regular hourly rate multiplied by the regular number of  
32 hours worked over the period of time during which the required  
33 notification was not provided.

34  
35 <sup>1</sup>**["19."] 17.<sup>1</sup>** (New section) No hiring entity shall:

36 a. Keep or hold the original copies of any personal documents  
37 of a domestic worker;

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

40 (1) using any bathroom or similar facility;

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

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

44 c. Monitor, record or interfere with the private communications  
45 of a domestic worker.

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

7       b. A hiring entity shall create and maintain records  
8 documenting hours worked, pay rate, meals and rest breaks, leave  
9 time earned and used, if applicable, and the existence of a written  
10 agreement, all pursuant to requirements established by regulation by  
11 the department. If a hiring entity does not maintain the required  
12 records or does not allow the department reasonable access to the  
13 records, an adverse inference may be drawn with respect to facts  
14 alleged regarding the issues about which records were not kept.

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

18

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

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

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

33       d. No hiring entity or any other person shall take or threaten  
34 retaliatory action against any person because a domestic worker has  
35 exercised rights or pursued a claim of violation under P.L. ,  
36 c. (C. et seq.) (pending before the Legislature as this bill).  
37 These rights include the right to demand compliance with  
38 protections established by written agreement; the right to file a  
39 complaint or inform any person about an employer's alleged  
40 violation of this act; the right to cooperate with the department in  
41 any investigation pursuant to this act; and the right to inform any  
42 person of the rights established under this act.

43       e. No hiring entity or any other person shall communicate to a  
44 person exercising rights protected under P.L. c. (C. )  
45 (pending before the Legislature as this bill) the willingness or intent  
46 to contact, report to, or to make an implied or express assertion to  
47 report to a government agency regarding the suspected citizenship  
48 or immigration status of a domestic worker or family member of a

1 domestic worker because the worker has or has expressed an intent  
2 to exercise rights protected under this act or because of a belief the  
3 worker may do so.

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

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

19 h. Proof of retaliation under P.L. , c. (C. et seq.)  
20 (pending before the Legislature as this bill) shall be sufficient upon  
21 a showing that the hiring entity or any other person has taken an  
22 adverse action against a person and the persons exercise or rights  
23 protected in P.L. , c. (C. et seq.) (pending before the  
24 Legislature as this bill) was a motivating factor in the absence of  
25 that protected activity.

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

31

32 <sup>1</sup>**[22.] 20.**<sup>1</sup> (New section) The department is authorized to  
33 coordinate implementation, administration, and enforcement for  
34 P.L. , c. (C. ) (pending before the Legislature as this bill),  
35 and shall promulgate appropriate guidelines and regulations to  
36 effectuate the purposes of for P.L. , c. (C. ) (pending before  
37 the Legislature as this bill) through the Domestic Workers  
38 Standards and Implementation Board, established in section <sup>1</sup>**[25]**  
39 **23**<sup>1</sup> of P.L. , c. (C. )(pending before the Legislature as this  
40 bill).

41

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

- 1        b. A domestic worker or other person representing a domestic  
2 worker may report to the department any suspected violation of  
3 P.L. , c. (C. ) (pending before the Legislature as this bill).
- 4        c. The department shall collaborate with the Domestic Workers  
5 Standards and Implementation Board, as established by section  
6 <sup>1</sup>[25] 23<sup>1</sup> of P.L. , c. (C. ) (pending before the Legislature  
7 as this bill) to take any steps as it deems appropriate to resolve  
8 complaints and enforce P.L. , c. (C. ) (pending before the  
9 Legislature as this bill), including, but not limited to, establishing a  
10 system to receive complaints regarding noncompliance with P.L. ,  
11 c. (C. ) (pending before the Legislature as this bill),  
12 investigating alleged violations in a timely manner and resolving  
13 complaints through a separate “referral” process for claims of  
14 <sup>1</sup>[employees in] domestic <sup>1</sup>[services] workers<sup>1</sup>.
- 15        d. The department shall have the power to subpoena records  
16 and testimony from any party to a complaint. The records shall be  
17 provided to the department within 30 days after receipt of the  
18 subpoena.
- 19        e. Any person alleging a violation of P.L. , c. (C. )  
20 (pending before the Legislature as this bill) shall file a complaint  
21 with the department within two years of the date that the person  
22 knew or should have known of the alleged violation.
- 23        f. Upon establishment of a system of administrative  
24 adjudication, the department shall have the power to impose the  
25 penalties and fines for a violation of P.L. , c. (C. ) (pending  
26 before the Legislature as this bill), and to provide or obtain  
27 appropriate relief. Remedies may include reinstatement and full  
28 restitution to the domestic worker for lost wages and benefits,  
29 including presumed damages to be awarded to a domestic worker  
30 for the hiring entity’s <sup>1</sup>or employer’s<sup>1</sup> violation of P.L. ,  
31 c. (C. ) (pending before the Legislature as this bill). The  
32 department shall determine by regulation an amount of presumed  
33 damages.
- 34        g. A hiring entity <sup>1</sup>or an employer<sup>1</sup> who knowingly retaliates  
35 against an employee for any activity protected under P.L. ,  
36 c. (C. ) (pending before the Legislature as this bill), or any  
37 other knowing violation of P.L. , c. (C. ) (pending before  
38 the Legislature as this bill), shall be a crime of the fourth degree.  
39 Otherwise, it shall be a disorderly persons offense and the hiring  
40 entity <sup>1</sup>or employer<sup>1</sup> shall, upon conviction for a violation, be  
41 punished by a fine of not less than \$100 not more than \$2,000 for an  
42 initial violation and not less than \$200 nor more than \$4,000 for  
43 each subsequent violation. Each day during which any violation of  
44 P.L. , c. (C. ) (pending before the Legislature as this bill)  
45 continues shall constitute a separate and distinct offense, and the  
46 employment of any domestic worker in violation of P.L. ,  
47 c. (C. ) (pending before the Legislature as this bill), shall,



1 with respect to each domestic worker employed, constitute a  
2 separate and violation.

3 h. Any domestic worker or person who is aggrieved by a  
4 violation of P.L. , c. (C. ) (pending before the Legislature  
5 as this bill), or the department may bring civil action in a court of  
6 competent jurisdiction against a hiring entity <sup>1</sup>or an employer<sup>1</sup>  
7 violating P.L. , c. (C. ) (pending before the Legislature as  
8 this bill). Nothing in P.L. , c. (C. ) (pending before the  
9 Legislature as this bill) or its implementing regulations shall be  
10 construed to require a complaint to be filed with the department  
11 before bringing an action in court. Upon prevailing in an action  
12 brought pursuant to this section, an aggrieved person shall be  
13 entitled to any legal or equitable relief as may be appropriate to  
14 remedy the violation, that is not duplicative of any relief provided  
15 to the person in administrative proceedings, including, without  
16 limitation, reinstatement in employment, back pay, and injunctive  
17 relief. The aggrieved person shall be entitled to an award of  
18 reasonable attorney's fees and costs.

19

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

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

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

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

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

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

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

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

14 (2) An organization that works with nonprofit organizations that  
15 has a minimum of five years of experience working with domestic  
16 work employees or <sup>1</sup>~~["hiring entities"]~~ employers<sup>1</sup>.  
17

18 <sup>1</sup>~~["25.1"]~~ 23.1 (New section) a. The department shall establish,  
19 within 90 days of the date of enactment of P.L. , c. (C. )  
20 (pending before the Legislature as this bill), a "Domestic Workers  
21 Standards and Implementation Board" (Board), which shall be  
22 established to provide a forum for <sup>1</sup>~~["hiring entities"]~~ employers<sup>1</sup>,  
23 domestic workers, worker organizations, and the public to consider  
24 analyze, and make recommendations to the State on the legal  
25 protections, benefits, and working conditions for domestic worker  
26 industry standards. The board shall be established to permanently  
27 promote the health, safety, and well-being of domestic workers; and  
28 a living wage for domestic workers along with development of the  
29 mechanisms to support implementation of P.L. ,  
30 c. (C. ) (pending before the Legislature as this bill), including  
31 the development of regulations promulgated under P.L. ,  
32 c. (C. ) (pending before the Legislature as this bill). The  
33 board shall also make recommendations to the department regarding  
34 enforcement and implementation strategies, including the  
35 development of the Domestic Work Enforcement Program.

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

1 need which may include logistical support in regard to translation,  
2 interpretation, and outreach to ensure equal access and equity of  
3 domestic worker representatives and <sup>1</sup>["hiring entities"] employers<sup>1</sup>  
4 on the board. The board will be comprised of various stakeholders  
5 from the private, non-profit sectors, domestic workers, <sup>1</sup>["hiring  
6 entities"] employers<sup>1</sup>, and will have representation from members of  
7 the Department of Labor and Workforce Development, and  
8 Governor's office; and

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

10 (i) one representative from the Department of Labor and  
11 Workforce Development;

12 (ii) one representative from the National Domestic Workers  
13 Alliance;

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

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

18 (v) one domestic worker; and

19 (vi) one <sup>1</sup>["hiring entity"] employer<sup>1</sup>; and

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

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

27 (ii) two <sup>1</sup>["hiring entities"] employers<sup>1</sup>, one each selected  
28 respectively by the President of the Senate and the Speaker of the  
29 General Assembly.

30 c. The board's responsibilities include, but are not limited to,  
31 providing a forum for <sup>1</sup>["hiring entities"] employers<sup>1</sup>, domestic  
32 workers, worker organizations, and other affected parties to share  
33 information, insights, and experiences on the working conditions of  
34 domestic workers, and recommendations on how the working  
35 conditions can be changed to meet the needs of domestic workers  
36 and <sup>1</sup>["hiring entities"] employers<sup>1</sup>. These recommendations shall  
37 include:

38 (1) possible legislation or policy changes;

39 (2) wage standards for the industry;

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

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

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

44 d. The board, in consultation with the department and other  
45 State agencies, within six months after all members have been  
46 established, shall submit to the Governor, and Legislature, pursuant  
47 to section 2 of P.L.1991, c.164 (C.52:14-19.1), with oversight by

1 the department, a work plan identifying the topics the board will  
2 address in the first two years. The board in consultation with the  
3 department and other relevant State agencies, shall submit an  
4 updated work plan every two years. The board's first  
5 recommendation shall be submitted to the Governor and Legislature  
6 by the end of the first quarter of the year following the year in  
7 which the work plan has been submitted.

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

21 e. The board shall make recommendations to the Legislature on  
22 the following subjects:

23 (1) Wage standards, such as industry standards, overtime, and  
24 pay differentials;

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

29 (3) Jobs skills and professional development opportunities;

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

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

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

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

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

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

44  
45 <sup>1</sup>**[26.] 24.**<sup>1</sup> (New section) a. Nothing in P.L. , c. (C. )  
46 (pending before the Legislature as this bill) shall be construed to

1 diminish any rights or protections granted to domestic workers by  
2 any other law.

3 b. If any provision of P.L. , c. (C. ) (pending before the  
4 Legislature as this bill) or its application to any person or  
5 circumstance is held invalid, the invalidity does not affect other  
6 provisions or applications of P.L. , c. (C. ) (pending before  
7 the Legislature as this bill) which can be given effect without the  
8 invalid provision or application, and to this end the provisions of  
9 P.L. , c. (C. ) (pending before the Legislature as this bill)  
10 are severable.

11

12 <sup>1</sup>**[27.] 25.**<sup>1</sup> This act shall take effect on the first day of the sixth  
13 month next following enactment, except that the commissioner may  
14 take any anticipatory action as may be necessary to effectuate the  
15 purposes of this act.