

[Second Reprint]

SENATE, No. 723

STATE OF NEW JERSEY
220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

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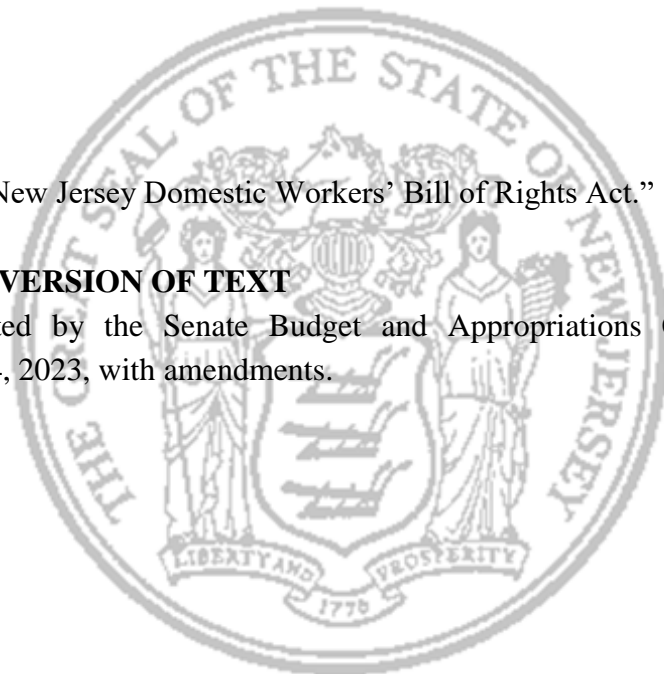
Senators Gill, Cryan, Ruiz, Pou, Cruz-Perez, Turner, Burgess, Zwicker, Stack, Johnson, Assemblyman Mukherji, Assemblywoman Sumter, Assemblyman Atkins, Assemblywoman Jaffer, Assemblyman Spearman, Assemblywomen Speight, Haider, McKnight, Yustein and Assemblyman McKeon

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 14, 2023, with amendments.



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

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

3

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

6

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

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

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

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

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

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

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

35

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

38 “Casual work” means work that is:

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

42 “Domestic services” means services of a household nature and
43 performed by an individual in or about a private home on a

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:

¹Senate SLA committee amendments adopted December 1, 2022.

²Senate SBA committee amendments adopted December 14, 2023.

1 permanent or temporary basis, and includes services performed by a
2 domestic worker.

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

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

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

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

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

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

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

30 (e) ¹[A home health care worker while they are paid through
31 public funds, such as a home health care worker while paid through
32 Medicaid or Medicare] An employee of the State or the United
33 States¹; ²or²

34 (f) An individual established as a kinship legal guardian, as
35 defined by section 2¹[.]¹ of P.L.2001, c.250 (C.3B:12A-2), of a
36 child who lives in the residence, or an individual who participates in
37 the Kinship Navigator Program, as authorized by the Department of
38 Children and Families, as a caregiver of a child who lives in the
39 residence and receives services provided by a kinship navigator
40 service provider²[; or

41 (g) An individual less than 18 years of age]².

42 "Department" means the Department of Labor and Workforce
43 Development.

44 "Employment agency" means any person or entity that procures,
45 or attempts to procure, ²[directly or indirectly through placement in
46 a physical or virtual labor pool:

- 1 (1) employees, independent contractors, or domestic workers for
2 employers or companies seeking the services of employees,
3 independent contractors, or domestic workers; and
4 (2) after the procurement is complete, continues involvement in
5 the terms of exchange of domestic services with the employees,
6 independent contractors, or domestic workers through activities,
7 including, but not limited to:
8 (a) processing or distributing or withholding workers' payment
9 that the workers are owed from hiring entities or clients;
10 (b) levying fees, fines, or discipline for unsatisfactory worker
11 behavior that happened during an employment, independent
12 contractor engagement, or other job, including the termination of
13 workers;
14 (c) rating workers on an ongoing basis and publicly sharing
15 those ratings to employers or clients;
16 (d) adjusting wages or payment based on ratings from
17 employers or clients; or
18 (e) other forms of continued involvement after procurement that
19 evidence ongoing control **】** any workers for referral to a third party².
20 "Hiring entity" means any employer, as defined in section 1 of
21 P.L.1965, c.173 (C.34:11-4.1), who employs a domestic worker,
22 and also means any person, firm, business, partnership, association,
23 corporation, limited liability company, or other entity, including
24 referral, employment, and internet based or on-demand platforms,
25 that provides compensation directly or indirectly to a domestic
26 worker for the performance of domestic services and any person or
27 persons acting directly or indirectly in the interest of the employer
28 in relation to the domestic worker.
29 "Live-in domestic worker" includes any individuals, who, as part
30 of their employment, reside in the personal residence of the ¹**】** hiring
31 entity **】** employer.¹
32 "Referral agency" means any person or entity that procures, or
33 attempts to procure, directly or indirectly through placement in a
34 physical or virtual labor pool:
35 (1) employees²**】**, independent contractors, or domestic workers
36 for employers or companies seeking the services of employees,
37 independent contractors, or domestic workers²**】**; and
38 (2) after the procurement does not continue involvement in the
39 terms of exchange of domestic services with the employees²**】**,
40 independent contractors, or domestic workers²**】** in any way, with
41 the exception of the following:
42 (a) continuing to display or host or advertise, either through
43 physical means or virtual means, the workers' contact information,
44 job qualifications, resume, image, or digital profile which
45 employers or clients can use to independently contact employees²**】**,
46 independent contractors, or domestic workers²**】** about
47 employment²**】**, independent contractor engagement, or domestic

1 workers about employment, independent contractor engagements,
2 or other jobs²; or

3 (b) removing, either through physical means or virtual means,
4 the workers' contact information, job qualifications, resume, image,
5 or digital profile which employers or clients can use to
6 independently contact employees, upon the mandate of any federal,
7 State, or local ¹laws.¹

8 ²["Wage"] "Remuneration for work"² means compensation due
9 to the work of a domestic worker, payable in legal tender of the
10 United States or checks on banks convertible into cash on demand
11 at full face value, subject to any deductions, charges, or allowances
12 as may be permitted by rules of the department.

13 "Written" or "writing" means a printed or printable
14 communication in physical or electronic form, including a
15 communication that is transmitted through email, text message, or a
16 computer system, or is otherwise sent and maintained
17 electronically.

18

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

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

23 a. "Person" includes one or more individuals, partnerships,
24 associations, organizations, labor organizations, corporations, legal
25 representatives, trustees, trustees in bankruptcy, receivers, and
26 fiduciaries.

27 b. "Employment agency" **includes any person undertaking to**
28 **procure employees or opportunities for others to work** ¹**shall have**
29 **the same meaning as in section 2 of P.L. , c. (C.) (pending**
30 **before the Legislature as this bill)** **includes any person undertaking**
31 **to procure employees or opportunities for others to work**¹.

32 c. "Labor organization" includes any organization which exists
33 and is constituted for the purpose, in whole or in part, of collective
34 bargaining, or of dealing with employers concerning grievances,
35 terms or conditions of employment, or of other mutual aid or
36 protection in connection with employment.

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

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

- 1 f. **["Employee" does not include any individual employed in**
2 **the domestic service of any person.]** (Deleted by amendment,
3 P.L. , c. (pending before the Legislature as this bill)
- 4 g. "Liability for service in the Armed Forces of the United
5 States" means subject to being ordered as an individual or member
6 of an organized unit into active service in the Armed Forces of the
7 United States by reason of membership in the National Guard, naval
8 militia or a reserve component of the Armed Forces of the United
9 States, or subject to being inducted into such armed forces through
10 a system of national selective service.
- 11 h. "Division" means the "Division on Civil Rights" created by
12 P.L.1945, c.169 (C.10:5-1 et seq.).
- 13 i. "Attorney General" means the Attorney General of the State
14 of New Jersey or the Attorney General's representative or designee.
- 15 j. "Commission" means the Commission on Civil Rights
16 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 17 k. "Director" means the Director of the Division on Civil
18 Rights.
- 19 l. "A place of public accommodation" shall include, but not be
20 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
21 summer camp, day camp, or resort camp, whether for entertainment
22 of transient guests or accommodation of those seeking health,
23 recreation, or rest; any producer, manufacturer, wholesaler,
24 distributor, retail shop, store, establishment, or concession dealing
25 with goods or services of any kind; any restaurant, eating house, or
26 place where food is sold for consumption on the premises; any
27 place maintained for the sale of ice cream, ice and fruit preparations
28 or their derivatives, soda water or confections, or where any
29 beverages of any kind are retailed for consumption on the premises;
30 any garage, any public conveyance operated on land or water or in
31 the air or any stations and terminals thereof; any bathhouse,
32 boardwalk, or seashore accommodation; any auditorium, meeting
33 place, or hall; any theatre, motion-picture house, music hall, roof
34 garden, skating rink, swimming pool, amusement and recreation
35 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
36 pool parlor, or other place of amusement; any comfort station; any
37 dispensary, clinic, or hospital; any public library; and any
38 kindergarten, primary and secondary school, trade or business
39 school, high school, academy, college and university, or any
40 educational institution under the supervision of the State Board of
41 Education or the Commissioner of Education of the State of New
42 Jersey. Nothing herein contained shall be construed to include or to
43 apply to any institution, bona fide club, or place of accommodation,
44 which is in its nature distinctly private; nor shall anything herein
45 contained apply to any educational facility operated or maintained
46 by a bona fide religious or sectarian institution, and the right of a
47 natural parent or one in loco parentis to direct the education and
48 upbringing of a child under his control is hereby affirmed; nor shall

1 anything herein contained be construed to bar any private secondary
2 or post-secondary school from using in good faith criteria other than
3 race, creed, color, national origin, ancestry, gender identity, or
4 expression or affectional or sexual orientation in the admission of
5 students.

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

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

34 o. "Real estate broker" includes a person, firm, or corporation
35 who, for a fee, commission, or other valuable consideration, or by
36 reason of promise or reasonable expectation thereof, lists for sale,
37 sells, exchanges, buys or rents, or offers or attempts to negotiate a
38 sale, exchange, purchase, or rental of real estate or an interest
39 therein, or collects or offers or attempts to collect rent for the use of
40 real estate, or solicits for prospective purchasers or assists or directs
41 in the procuring of prospects or the negotiation or closing of any
42 transaction which does or is contemplated to result in the sale,
43 exchange, leasing, renting, or auctioning of any real estate, or
44 negotiates, or offers or attempts or agrees to negotiate a loan
45 secured or to be secured by mortgage or other encumbrance upon or
46 transfer of any real estate for others; or any person who, for
47 pecuniary gain or expectation of pecuniary gain conducts a public
48 or private competitive sale of lands or any interest in lands. In the

1 sale of lots, the term "real estate broker" shall also include any
2 person, partnership, association, or corporation employed by or on
3 behalf of the owner or owners of lots or other parcels of real estate,
4 at a stated salary, or upon a commission, or upon a salary and
5 commission or otherwise, to sell such real estate, or any parts
6 thereof, in lots or other parcels, and who shall sell or exchange, or
7 offer or attempt or agree to negotiate the sale or exchange, of any
8 such lot or parcel of real estate.

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

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

39 r. "Blind person" or "person who is blind" means any
40 individual whose central visual acuity does not exceed 20/200 in the
41 better eye with correcting lens or whose visual acuity is better than
42 20/200 if accompanied by a limit to the field of vision in the better
43 eye to such a degree that its widest diameter subtends an angle of
44 no greater than 20 degrees.

45 s. "Guide dog" means a dog used to assist persons who are
46 deaf, or which is fitted with a special harness so as to be suitable as
47 an aid to the mobility of a person who is blind, and is used by a
48 person who is blind and has satisfactorily completed a specific

1 course of training in the use of such a dog, and has been trained by
2 an organization generally recognized by agencies involved in the
3 rehabilitation of persons with disabilities, including, but not limited
4 to, those persons who are blind or deaf, as reputable and competent
5 to provide dogs with training of this type.

6 t. "Guide or service dog trainer" means any person who is
7 employed by an organization generally recognized by agencies
8 involved in the rehabilitation of persons with disabilities, including,
9 but not limited to, those persons who are blind, have visual
10 impairments, or are deaf or have hearing impairments, as reputable
11 and competent to provide dogs with training, as defined in this
12 section, and who is actually involved in the training process.

13 u. "Housing accommodation" means any publicly assisted
14 housing accommodation or any real property, or portion thereof,
15 which is used or occupied, or is intended, arranged, or designed to
16 be used or occupied, as the home, residence, or sleeping place of
17 one or more persons, but shall not include any single family
18 residence the occupants of which rent, lease, or furnish for
19 compensation not more than one room therein.

20 v. "Public facility" means any place of public accommodation
21 and any street, highway, sidewalk, walkway, public building, and
22 any other place or structure to which the general public is regularly,
23 normally, or customarily permitted or invited.

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

30 x. "Atypical hereditary cellular or blood trait" means sickle cell
31 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
32 fibrosis trait.

33 y. "Sickle cell trait" means the condition wherein the major
34 natural hemoglobin components present in the blood of the
35 individual are hemoglobin A (normal) and hemoglobin S
36 (sickle hemoglobin) as defined by standard chemical and physical
37 analytic techniques, including electrophoresis; and the proportion of
38 hemoglobin A is greater than the proportion of hemoglobin S or one
39 natural parent of the individual is shown to have only normal
40 hemoglobin components (hemoglobin A, hemoglobin A2,
41 hemoglobin F) in the normal proportions by standard chemical and
42 physical analytic tests.

43 z. "Hemoglobin C trait" means the condition wherein the major
44 natural hemoglobin components present in the blood of the
45 individual are hemoglobin A (normal) and hemoglobin C as defined
46 by standard chemical and physical analytic techniques, including
47 electrophoresis; and the proportion of hemoglobin A is greater than
48 the proportion of hemoglobin C or one natural parent of the

- 1 individual is shown to have only normal hemoglobin components
2 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
3 proportions by standard chemical and physical analytic tests.
- 4 aa. "Thalassemia trait" means the presence of the thalassemia
5 gene which in combination with another similar gene results in the
6 chronic hereditary disease Cooley's anemia.
- 7 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
8 which in combination with another similar gene results in the
9 chronic hereditary disease Tay-Sachs.
- 10 cc. "Cystic fibrosis trait" means the presence of the cystic
11 fibrosis gene which in combination with another similar gene
12 results in the chronic hereditary disease cystic fibrosis.
- 13 dd. "Service dog" means any dog individually trained to the
14 requirements of a person with a disability including, but not limited
15 to minimal protection work, rescue work, pulling a wheelchair or
16 retrieving dropped items. This term shall include a "seizure dog"
17 trained to alert or otherwise assist persons with epilepsy or other
18 seizure disorders.
- 19 ee. "Qualified Medicaid applicant" means an individual who is a
20 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 21 ff. "AIDS" means acquired immune deficiency syndrome as
22 defined by the Centers for Disease Control and Prevention of the
23 United States Public Health Service.
- 24 gg. "HIV infection" means infection with the human
25 immunodeficiency virus or any other related virus identified as a
26 probable causative agent of AIDS.
- 27 hh. "Affectional or sexual orientation" means male or female
28 heterosexuality, homosexuality, or bisexuality by inclination,
29 practice, identity, or expression, having a history thereof or being
30 perceived, presumed, or identified by others as having such an
31 orientation.
- 32 ii. "Heterosexuality" means affectional, emotional, or physical
33 attraction or behavior which is primarily directed towards persons
34 of the other gender.
- 35 jj. "Homosexuality" means affectional, emotional, or physical
36 attraction or behavior which is primarily directed towards persons
37 of the same gender.
- 38 kk. "Bisexuality" means affectional, emotional, or physical
39 attraction or behavior which is directed towards persons of ²[either
40 gender] multiple genders².
- 41 ll. "Familial status" means being the natural parent of a child,
42 the adoptive parent of a child, the resource family parent of a child,
43 having a "parent and child relationship" with a child as defined by
44 State law, or having sole or joint legal or physical custody, care,
45 guardianship, or visitation with a child, or any person who is
46 pregnant or is in the process of securing legal custody of any
47 individual who has not attained the age of 18 years.
- 48 mm. "Housing for older persons" means housing:

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

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

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

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

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

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

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

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

37 oo. "Genetic information" means the information about genes,
38 gene products, or inherited characteristics that may derive from an
39 individual or family member.

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

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

47 rr. "Gender identity or expression" means having or being
48 perceived as having a gender related identity or expression whether

1 or not stereotypically associated with a person's assigned sex at
2 birth.

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

6 tt. ²["Premium wages"] "Premium pay"² means additional
7 remuneration for night, weekend, or holiday work, or for standby or
8 irregular duty.

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

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

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

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

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

27

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

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

32 (a) "Act" means this act and rules and regulations promulgated
33 hereunder.

34 (b) "Board" means the Industrial Safety Board established under
35 this act.

36 (c) "Bureau" means the Bureau of Engineering and Safety in the
37 Division of Labor, Department of Labor and Industry established
38 under this act.

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

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

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

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

46 (h) "Employer" means any person or corporation, partnership,
47 individual proprietorship, joint venture, firm, company or other
48 similar legal entity who engages the services of an employee and

1 who pays his wages, salary, or other compensation; and any person
 2 exercising supervision of employees on an employer's behalf
 3 ¹]; and includes all "hiring entities" as defined by section 2 of
 4 P.L. , c. (C.) (pending before the Legislature as this bill)]¹.

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

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

14 (k) "Domestic worker" means all persons defined as a domestic
 15 worker by section 2 of P.L. , c. (C.) (pending before the
 16 Legislature as ²this² bill).

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

18

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

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

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

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

37 When telephone contact is successfully made, the commissioner
 38 or the authorized representative shall:

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

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

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

46 (4) Inform the hiring entity by letter sent by facsimile or email,
 47 or by certified mail if the employer cannot receive facsimile or

- 1 email, of each alleged hazard and each specific allegation of a
2 violation of a standard;
- 3 (5) Inform the hiring entity that if the department determines
4 that the hiring entity's response is unsatisfactory for any reason, the
5 department shall seek permission from the hiring entity to enter the
6 residential dwelling to investigate the matter, and if permission is
7 denied, may secure an inspection warrant to conduct an onsite
8 inspection of the residential dwelling; and
- 9 (6) Provide the complainant with copies of the law and
10 regulations alleged to have been violated, the department's letter to
11 the employer, and all subsequent correspondence concerning the
12 investigation of any alleged hazards;
- 13 d. A hiring entity subject to investigation shall:
- 14 (1) Provide the department, within 14 days of the hiring entity's
15 receipt of the department's letter, a response describing the results
16 of the employer's investigation of the alleged hazard and a
17 description of all actions taken, in the process of being taken, or
18 planned to be taken, by the hiring entity to abate the alleged hazard;
- 19 (2) Provide a copy of the commissioner or the commissioner's
20 authorized representative's letter to the domestic worker, and all
21 subsequent correspondence from and to the hiring entity to the
22 affected domestic worker, or prominently post the letter and
23 correspondence in the method prescribed by letter sent pursuant to
24 subsection c. of this section regarding each alleged hazard and each
25 specific standard to have been violated;
- 26 e. For complaints alleging serious illness or injury or death
27 while performing domestic services as defined by section 2 of
28 P.L. , c. (C.) (pending before the Legislature as this bill),
29 the commissioner or the authorized representative may enter the
30 premises with permission or with an inspection warrant issued
31 pursuant to subsection b. of this section without first initiating the
32 telephone contact described in subsection c. of this section.
- 33 f. Notwithstanding any other provision of this chapter to the
34 contrary, investigations of complaints in domestic services as
35 defined by section 2 of P.L. , c. (C.) (pending before the
36 Legislature as this bill), shall be conducted in a manner to avoid any
37 unwarranted invasion of personal privacy and shall not contain any
38 personal, financial, or medical information of the individuals
39 residing in the residential dwelling that is not pertinent to the
40 investigation of the complaint.
- 41 g. No person shall obstruct, hinder or delay or interfere with by
42 force or otherwise the performance by the commissioner of any
43 duty under the provisions of this act.
- 44 (cf: P.L.1973, c.259, s.1) **I**¹

1 ¹~~6.~~ 5.¹ Section 9 of P.L.1965, c.154 (C.34:6A-9) is amended
2 to read as follows:

3 9. The commissioner shall make and promulgate rules and
4 regulations reasonably necessary to implement the purposes of this
5 act. Such rules and regulations shall have the force and effect of
6 law and shall be enforced in the manner provided in this act.

7 The commissioner shall ¹make and promulgate rules to ensure
8 the requirements of section 3 of P.L.1965, c.154 (C.34:6A-3) apply
9 to the hiring entities of domestic workers. These rules shall include
10 the establishment of a mechanism to receive complaints within the
11 department that prompts inspections by the commissioner in
12 accordance with section 6 of P.L.1965, c.154 (C.34:6A-6) provide
13 for the adoption of all applicable occupational standards,
14 amendments, or changes adopted or recognized by the Secretary of
15 Labor under the authority of the "Occupational Safety and Health
16 Act of 1970," which shall be applicable to domestic workers
17 employed by individuals in the residences of the individuals¹.

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

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

1 become effective. Within 30 days after the public hearing and on
2 30 days' notice the commissioner shall call a meeting of the board
3 for the purpose of discussing the proposed rules and regulations. If
4 any changes were made in the proposed rules or regulations
5 following the public hearing, a copy of such change shall
6 accompany such notice. At any meeting called for such purpose
7 disapproval shall be by vote of the majority of the members of the
8 board.

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

10

11 ¹~~7.~~ 6.¹ Section 19 of P.L.1965, c.154 (C.34:6A-19) is
12 amended to read as follows:

13 19. Any person violating any of the provisions of this act shall
14 be liable to a penalty of not less than ~~25.00~~ 975 nor more than
15 ~~500.00~~ 13,653 to be collected in a civil action by a summary
16 proceeding under the ~~Penalty~~ “Penalty Enforcement Law [(N.J.S.
17 2A:58-1)] of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).
18 Notwithstanding the penalties prescribed in this section, the penalty
19 amounts shall be subject to adjustment by the commissioner to
20 remain consistent with the ²~~federal Occupational~~ “Occupational²
21 Safety and Health Act of ²~~1970~~ 1970,”² (29 U.S.C. s.651 et seq.).
22 Fifty percent of the sum collected as a penalty pursuant to this
23 subsection shall be provided to the employee harmed by violation.
24 Any violation of the act by an officer, agent or employee shall also
25 be a violation of the act by his employer if such employer had
26 knowledge of and actual control over the cause of such violation.
27 Where the violation is of a continuing nature each day during
28 which it continues, after the date given by which the violation must
29 be eliminated in the order by the commissioner, shall constitute an
30 additional, separate and distinct offense, except during the time an
31 appeal from said order may be taken or is pending.

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

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

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

40

41 ¹~~8.~~ 7.¹ Section 22 of P.L.1965, c.154 (C.34:6A-22) is
42 amended to read as follows:

43 22. This act is not intended to apply and shall not apply to the
44 following:

45 (a) Places of employment under the exclusive jurisdiction of the
46 Federal Government with respect to the health and safety of
47 employees;

- 1 (b) Places of employment subject to the provisions of the Mine
2 Safety Act, P.L.1954, c. 197;
- 3 (c) Employment and places of employment subject to the
4 provisions of the Construction Safety Act, P.L.1962, c. 45;
- 5 (d) **【Domestic employment;】** (Deleted by amendment, P.L. _____,
6 c. _____ (pending before the Legislature as this bill)
- 7 (e) Transportation equipment coming under the jurisdiction of
8 the Interstate Commerce Commission, Federal Aviation
9 Administration, or of the New Jersey Division of Motor Vehicles;
- 10 (f) **【Institutions requiring a license issued by the Department of**
11 **Institutions and Agencies pursuant to Revised Statutes 30:11-1;】**
12 (Deleted by amendment, P.L. _____, c. _____ (pending before the
13 Legislatre as this bill)
- 14 (g) Schools, colleges and universities;
- 15 (h) Places of employment with fewer than ²**【4】** four²
16 employees, except places of employment ¹**【of】** by individuals for¹
17 domestic services ¹in the residences of the individuals¹;
18 employment in which the manufacturing of goods of any kind is
19 carried on; and except as hereinafter provided in paragraph (o) of
20 this section;
- 21 (i) Agricultural employment;
- 22 (j) Banks and other financial institutions;
- 23 (k) Places of employment in which the employees are primarily
24 engaged in office operations and buildings under the actual control
25 of one employer and in which the employees are primarily engaged
26 in office operations or laboratories primarily engaged in research,
27 development, or testing conducted on premises, in separate
28 buildings, or in building sections devoted exclusively to these
29 operations;
- 30 (l) Public utilities which own, operate, manage or control any
31 autobus, canal, express, railroad, street railway, traction railway,
32 subway, pipeline, gas, electric light, heat, power, water, oil, sewer,
33 telephone or telegraph system, plant or equipment for public use,
34 under privileges granted by the State or by any political subdivision
35 thereof, with respect to work operations performed in connection
36 with the plant or facilities of such public utility located in the public
37 streets and highways, roads and alleys, private rights-of-way, or
38 upon their customers' premises;
- 39 (m) Liquefied petroleum gas bulk plants and facilities subject to
40 the jurisdiction and supervision of the Superintendent of State
41 Police, pursuant to chapter 139 of the laws of 1950
42 (N.J.S.A. 21:1B-1 to 21:1B-8);
- 43 (n) Natural gas pipeline utilities subject to the provisions of the
44 Natural Gas Safety Act (P.L.1952, c. 166) (N.J.S.A. 48:10-2 to
45 48:10-9); and

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

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

5
6 ¹¶9. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to
7 read as follows:

8 2. As used in this act:

9 (a) "Commissioner" means the Commissioner of Labor and
10 Workforce Development.

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

13 (c) "Wage board" means a board created as provided in section
14 10 of this act.

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

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

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

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

42 (h) "Employee" includes any individual employed by an
43 employer.

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

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

1 (k) "Fair wage" means a wage fairly and reasonably
2 commensurate with the value of the service or class of service
3 rendered and sufficient to meet the minimum cost of living
4 necessary for health.

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

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

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

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

45 (p) "Small employer" means any employer who employed less
46 than six employees for every working day during each of a majority
47 of the calendar workweeks in the current calendar year and less than
48 six employees for every working day during not less than 48

1 calendar workweeks in the preceding calendar year, except that, if
2 the employer was newly established during the preceding calendar
3 year, the employer shall be regarded as a "small employer" if the
4 employer employed less than six employees for every working day
5 during all of the weeks of that year, and during a majority of the
6 calendar workweeks in the current calendar year, and, if the
7 employer is newly established during the current calendar year, the
8 employer shall be regarded as a "small employer" if the employer
9 employed less than six employees for every working day during a
10 majority of the calendar workweeks in the current calendar year.

11 (q) "Long-term care facility direct care staff member" means
12 any health care professional licensed or certified pursuant to Title
13 26 or Title 45 of the Revised Statutes who is employed by a long-
14 term care facility and who provides personal care, assistance, or
15 treatment services directly to residents of the facility in the course
16 of the professional's regular duties.

17 (cf: P.L.2020, c.89, s.1)]¹

18

19 ¹**[10.] 8.**¹ Section 5 of P.L.1966, c.113 (C.34:11-56a4) is
20 amended to read as follows:

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

1 special vocational school graduate permit issued pursuant to section
2 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as
3 salesmen of motor vehicles, or to persons employed as outside
4 salesmen as such terms shall be defined and delimited in regulations
5 adopted by the commissioner, or to persons employed in a volunteer
6 capacity and receiving only incidental benefits at a county or other
7 agricultural fair by a nonprofit or religious corporation or a
8 nonprofit or religious association which conducts or participates in
9 that fair.

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

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

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

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

1 hour and the minimum wage in effect in 2026 for employees
2 pursuant to subsection a. of this section, so that, by 2028, the
3 minimum wage for employees subject to this subsection shall be the
4 same as the minimum wage in effect for employees subject to
5 subsection a. of this section. If the federal minimum hourly wage
6 rate set by section 6 of the federal "Fair Labor Standards Act of
7 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
8 level higher than the State minimum wage rate set by this
9 subsection, then the State minimum wage rate shall be increased to
10 the level of the federal minimum wage rate and subsequent
11 increases based on increases in the CPI-W pursuant to this
12 subsection shall be applied to the higher minimum wage rate.

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

23 (1) on January 1, 2020, the minimum wage shall be \$10.30 per
24 hour; on January 1, 2022, the minimum wage shall be \$10.90 per
25 hour; and on January 1 of each year from 2023 to 2024, inclusive,
26 the minimum wage shall be increased from the rate of the preceding
27 year by eighty cents per hour; and

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

43 (3) Not later than March 31, 2024, the commissioner and the
44 Secretary of Agriculture shall review the report issued by the
45 commissioner pursuant to subsection b. of section 4 of P.L.2019,
46 c.32 (C.34:11-56a4.10) and shall consider any information provided
47 by the secretary regarding the impact on farm employers and the
48 viability of the State's agricultural industry of the increases of the

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

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

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

43 f. Notwithstanding the provisions of this section to the
44 contrary, every trucking industry employer shall pay to all drivers,
45 helpers, loaders and mechanics for whom the Secretary of
46 Transportation may prescribe maximum hours of work for the safe
47 operation of vehicles, pursuant to section 31502(b) of the federal
48 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less

1 than 1 1/2 times the minimum wage required pursuant to this
2 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking
3 industry shall be paid no less than the minimum wage rate as
4 provided in this section and N.J.A.C. 12:56-3.1. As used in this
5 section, "trucking industry employer" means any business or
6 establishment primarily operating for the purpose of conveying
7 property from one place to another by road or highway, including
8 the storage and warehousing of goods and property. Such an
9 employer shall also be subject to the jurisdiction of the Secretary of
10 Transportation pursuant to the federal Motor Carrier Act, 49
11 U.S.C.s.31501 et seq., whose employees are exempt under section
12 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29
13 U.S.C. s.213(b)(1), which provides an exemption to employees
14 regulated by section 207 of the federal "Fair Labor Standards Act of
15 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49
16 U.S.C. s.501 et al.

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

47 h. The provisions of this section shall not be construed as
48 prohibiting any political subdivision of the State from adopting an

1 ordinance, resolution, regulation or rule, or entering into any
2 agreement, establishing any standard for vendors, contractors and
3 subcontractors of the subdivision regarding wage rates or overtime
4 compensation which is higher than the standards provided for in
5 this section, and no provision of any other State or federal law
6 establishing a minimum standard regarding wages or other terms
7 and conditions of employment shall be construed as preventing a
8 political subdivision of the State from adopting an ordinance,
9 resolution, regulation or rule, or entering into any agreement,
10 establishing a standard for vendors, contractors and subcontractors
11 of the subdivision which is higher than the State or federal law or
12 which otherwise provides greater protections or rights to employees
13 of the vendors, contractors and subcontractors of the subdivision,
14 unless the State or federal law expressly prohibits the subdivision
15 from adopting the ordinance, resolution, regulation or rule, or
16 entering into the agreement.

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

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

23

24 ¹**[11.] 9.**¹ Section 1 of P.L.1952, c.9 (C.34:11-56.1) is amended
25 to read as follows:

26 1. As used in this act:

27 a. "Employee" includes any person, either male or female,
28 employed by an employer, but shall not include persons performing
29 volunteer service for nonprofit organizations or corporations nor
30 persons employed on a farm¹, or in domestic service in a private
31 home,¹ or in a hotel.

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

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

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

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

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

1 ¹¶12. R.S.34:15-36 is amended to read as follows:

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

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

25 (a) irregular, uncertain, or incidental in nature or duration; and
26 (b) different in nature from the type of paid work in which the
27 worker is customarily engaged, provided, however, that forest fire
28 wardens and forest firefighters employed by the State of New Jersey
29 shall, in no event, be deemed casual employees.

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

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

37 (b) the service is either outside the usual course of the business
38 for which the service is performed, or that such service is performed
39 outside of all the places of business of the enterprise for which such
40 service is performed; and

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

43 A self-employed person, partners of a limited liability
44 partnership, members of a limited liability company or partners of a
45 partnership who actively perform services on behalf of the self-
46 employed person's business, the limited liability partnership, limited
47 liability company or the partnership shall be deemed an "employee"

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

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

1 policy unless the application containing the notice of election is
2 executed and filed with the insurer or insurance producer. The
3 application containing the notice of election shall also contain a
4 statement that the insurer or insurance producer shall not be liable
5 in an action for damages on account of the failure of a business,
6 limited liability partnership, limited liability company or
7 partnership to elect to obtain workers' compensation coverage for a
8 self-employed person, limited liability partner, limited liability
9 company member or partner, unless the insurer or insurance
10 producer causes damage by a willful, wanton or grossly negligent
11 act of commission or omission. The failure of a self-employed
12 person, limited liability partnership, limited liability company or
13 partnership to elect to obtain workers' compensation coverage for
14 the self-employed person, the limited liability partners, the limited
15 liability company members or the partners shall not affect benefits
16 available under any other accident or health policy.

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

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

42 "Disability permanent in quality and partial in character" means
43 a permanent impairment caused by a compensable accident or
44 compensable occupational disease, based upon demonstrable
45 objective medical evidence, which restricts the function of the body
46 or of its members or organs; included in the criteria which shall be
47 considered shall be whether there has been a lessening to a material
48 degree of an employee's working ability. Subject to the above

1 provisions, nothing in this definition shall be construed to preclude
2 benefits to a worker who returns to work following a compensable
3 accident even if there be no reduction in earnings. Injuries such as
4 minor lacerations, minor contusions, minor sprains, and scars which
5 do not constitute significant permanent disfigurement, and
6 occupational disease of a minor nature such as mild dermatitis and
7 mild bronchitis shall not constitute permanent disability within the
8 meaning of this definition.

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

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

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

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

28 (cf: P.L.1999, c.383. s.1)¹

29

30 ¹10. R.S.34:15-36 is amended to read as follows:

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

38 "Employer" **is declared to be synonymous with master, and**
39 includes natural persons, partnerships, and corporations;
40 "employee" **is synonymous with servant, and** includes all natural
41 persons, including officers of corporations, who perform service for
42 an employer for financial consideration, exclusive of (1) employees
43 eligible under the federal "Longshore and Harbor Workers'
44 Compensation Act," 44 Stat. 1424 (33 U.S.C.s.901 et seq.), for
45 benefits payable with respect to accidental death or injury, or
46 occupational disease or infection; and (2) casual employments,
47 which shall be defined**,** if in connection with the employer's

1 business, as employment the occasion for which arises by chance or
2 is purely accidental; or if not in connection with any business of the
3 employer, as employment not regular, periodic or recurring; ² **[as**
4 work that is:

5 (a) irregular, uncertain, or incidental in nature or duration; and
6 (b) different in nature from the type of paid work in which the
7 worker is customarily engaged.] , if in connection with the
8 employer's business, as employment the occasion for which arises
9 by chance or is purely accidental; or if not in connection with any
10 business of the employer, as employment not regular, periodic or
11 recurring;² provided, however, that forest fire wardens and forest
12 firefighters employed by the State of New Jersey shall, in no event,
13 be deemed casual employees.

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

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

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

1 policeman, fireman, or a member of a first aid or rescue squad, in
2 responding to and returning from an emergency, shall be deemed to
3 be in the course of employment.

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

12 Employment shall also be deemed to commence, if an employer
13 provides or designates a parking area for use by an employee, when
14 an employee arrives at the parking area prior to reporting for work
15 and shall terminate when an employee leaves the parking area at the
16 end of a work period; provided that, if the site of the parking area is
17 separate from the place of employment, an employee shall be
18 deemed to be in the course of employment while the employee
19 travels directly from the parking area to the place of employment
20 prior to reporting for work and while the employee travels directly
21 from the place of employment to the parking area at the end of a
22 work period.

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

38 "Disability permanent in quality and total in character" means a
39 physical or neuropsychiatric total permanent impairment caused by
40 a compensable accident or compensable occupational disease,
41 where no fundamental or marked improvement in such condition
42 can be reasonably expected.

43 Factors other than physical and neuropsychiatric impairments
44 may be considered in the determination of permanent total
45 disability, where such physical and neuropsychiatric impairments
46 constitute at least 75% or higher of total disability.

47 "Ridesharing" means the transportation of persons in a motor
48 vehicle, with a maximum carrying capacity of not more than 15

1 passengers, including the driver, where such transportation is
 2 incidental to the purpose of the driver. This term shall include such
 3 ridesharing arrangements known as carpools and vanpools.

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

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

10

11 ¹~~13.~~ 11.¹ R.S.34:15-92 is amended to read as follows:

12 34:15-92. ~~Each employer~~ Employers ¹~~and hiring entities~~¹
 13 of domestic ~~servants or household employees~~ workers and every
 14 stock company or mutual association affording insurance for the
 15 liability of such employers by reason of that employment shall be
 16 exempted from the provisions of ~~R.S. 34:15-79, and~~
 17 ~~R.S. 34:15-80~~. The provisions of ~~and~~ R.S. 34:15-81 ~~shall not~~
 18 be applicable where the insurance coverage is afforded pursuant to
 19 P.L. , c. (now pending before the Legislature as Assembly Bill
 20 No. 949 of 1978)~~], but~~ employers of domestic workers¹ are
 21 required to provide written notice of insurance coverage and
 22 cancellation of a policy.

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

24

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

26 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
 27 seq.), unless the context clearly requires otherwise:

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

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

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

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

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

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

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

43 (2) With respect to a benefit year commencing on or after June
44 1, 1990 for an individual who immediately preceding the benefit
45 year was subject to a disability compensable under the provisions of
46 the "Temporary Disability Benefits Law," P.L.1948, c.110
47 (C.43:21-25 et seq.), "base year" shall mean the first four of the last
48 five completed calendar quarters immediately preceding the

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

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

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

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

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

1 Labor and Workforce Development, established by the 1982
2 Reorganization 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
9 43:21-7.3).

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
42 or 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) (a) 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 and before January 1, 2022; and

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

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

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

47 (A) Any service performed prior to January 1, 1972, which was
48 employment as defined in the "unemployment compensation law"

1 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
2 provisions of this subsection, service performed on or after January
3 1, 1972, including service in interstate commerce, performed for
4 remuneration or under any contract of hire, written or oral, express
5 or implied.

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

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

19 (C) Service performed after December 31, 1971 by an individual
20 in the employ of a religious, charitable, educational, or other
21 organization, which is excluded from "employment" as defined in
22 the Federal Unemployment Tax Act, solely by reason of section
23 3306 (c)(8) of that act, if such service is not excluded from
24 "employment" under paragraph (D) below.

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

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

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

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

40 (aa) as an elected official;

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

43 (cc) as a member of the State National Guard or Air National
44 Guard;

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

47 (ee) in a position which, under or pursuant to the laws of this
48 State, is designated as a major nontenured policy making or

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

1 United States; or (II) a partnership, if two-thirds or more of the
2 partners are residents of the United States; or (III) a trust, if all the
3 trustees are residents of the United States; or (IV) a corporation
4 organized under the laws of the United States or of any state.

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

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

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

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

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

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

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

45 (aa) if such crew leader holds a certification of registration under
46 the Migrant and Seasonal Agricultural Worker Protection Act,
47 Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
48 (C.34:8A-7 et seq.); or substantially all the members of such crew

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

1 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
2 required and paid with respect to such services under an
3 unemployment compensation law of any other state or of the federal
4 government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (G) Services performed in the employ of fraternal beneficiary
47 societies, orders, or associations operating under the lodge system
48 or for the exclusive benefit of the members of a fraternity itself

- 1 operating under the lodge system and providing for the payment of
2 life, sick, accident, or other benefits to the members of such society,
3 order, or association, or their dependents;
- 4 (H) Services performed as a member of the board of directors, a
5 board of trustees, a board of managers, or a committee of any bank,
6 building and loan, or savings and loan association, incorporated or
7 organized under the laws of this State or of the United States, where
8 such services do not constitute the principal employment of the
9 individual;
- 10 (I) Service with respect to which unemployment insurance is
11 payable under an unemployment insurance program established by
12 an Act of Congress;
- 13 (J) Service performed by agents of mutual fund brokers or
14 dealers in the sale of mutual funds or other securities, by agents of
15 insurance companies, exclusive of industrial insurance agents or by
16 agents of investment companies, if the compensation to such agents
17 for such services is wholly on a commission basis;
- 18 (K) Services performed by real estate salesmen or brokers who
19 are compensated wholly on a commission basis;
- 20 (L) Services performed in the employ of any veterans'
21 organization chartered by Act of Congress or of any auxiliary
22 thereof, no part of the net earnings of which organization, or
23 auxiliary thereof, inures to the benefit of any private shareholder or
24 individual;
- 25 (M) Service performed for or in behalf of the owner or operator
26 of any theater, ballroom, amusement hall or other place of
27 entertainment, not in excess of 10 weeks in any calendar year for
28 the same owner or operator, by any leader or musician of a band or
29 orchestra, commonly called a "name band," entertainer, vaudeville
30 artist, actor, actress, singer or other entertainer;
- 31 (N) Services performed after January 1, 1973 by an individual
32 for a labor union organization, known and recognized as a union
33 local, as a member of a committee or committees reimbursed by the
34 union local for time lost from regular employment, or as a part-time
35 officer of a union local and the remuneration for such services is
36 less than \$1,000.00 in a calendar year;
- 37 (O) Services performed in the sale or distribution of merchandise
38 by home-to-home salespersons or in-the-home demonstrators whose
39 remuneration consists wholly of commissions or commissions and
40 bonuses;
- 41 (P) Service performed in the employ of a foreign government,
42 including service as a consular, nondiplomatic representative, or
43 other officer or employee;
- 44 (Q) Service performed in the employ of an instrumentality
45 wholly owned by a foreign government if (i) the service is of a
46 character similar to that performed in foreign countries by
47 employees of the United States Government or of an instrumentality
48 thereof, and (ii) the division finds that the United States Secretary

1 of State has certified to the United States Secretary of the Treasury
2 that the foreign government, with respect to whose instrumentality
3 exemption is claimed, grants an equivalent exemption with respect
4 to similar services performed in the foreign country by employees
5 of the United States Government and of instrumentalities thereof;

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

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

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

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

37 (V) Service performed in the employ of a hospital, if such
38 service is performed by a patient of the hospital; service performed
39 as a student nurse in the employ of a hospital or a nurses' training
40 school by an individual who is enrolled and regularly attending
41 classes in a nurses' training school approved under the laws of this
42 State;

43 (W) Services performed after the effective date of this
44 amendatory act by agents of mutual benefit associations if the
45 compensation to such agents for such services is wholly on a
46 commission basis;

47 (X) Services performed by operators of motor vehicles weighing
48 18,000 pounds or more, licensed for commercial use and used for

1 the highway movement of motor freight, who own their equipment
2 or who lease or finance the purchase of their equipment through an
3 entity which is not owned or controlled directly or indirectly by the
4 entity for which the services were performed and who were
5 compensated by receiving a percentage of the gross revenue
6 generated by the transportation move or by a schedule of payment
7 based on the distance and weight of the transportation move;

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

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

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
33 franchise arrangement between the franchisee and the franchisor as
34 defined 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
10 office, or branch thereof operated by this State or maintained as a
11 part of a 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.

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

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

47 (o) "Wages" means remuneration paid by employers for
48 employment. If a worker receives gratuities regularly in the course

1 of his employment from other than his employer, his "wages" shall
2 also include the gratuities so received, if reported in writing to his
3 employer in accordance with regulations of the division, and if not
4 so reported, his "wages" shall be determined in accordance with the
5 minimum wage rates prescribed under any labor law or regulation
6 of this State or of the United States, or the amount of remuneration
7 actually received by the employee from his employer, whichever is
8 the higher.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (2) "Institution of higher education" means an educational
13 institution which:

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

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

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

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

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

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

31 (cf: P.L.2017, c.230, s.1)¹

32

33 ¹12. R.S.43:21-19 is amended to read as follows:

34 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
35 seq.), unless the context clearly requires otherwise:

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

39 (2) "Average annual payroll" means the average of the annual
40 payrolls of any employer for the last three or five preceding
41 calendar years, whichever average is higher, except that any year or
42 years throughout which an employer has had no "annual payroll"
43 because of military service shall be deleted from the reckoning; the
44 "average annual payroll" in such case is to be determined on the
45 basis of the prior three or five calendar years in each of which the
46 employer had an "annual payroll" in the operation of his business, if
47 the employer resumes his business within 12 months after
48 separation, discharge or release from such service, under conditions

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

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

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

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

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

1 employer is received if that information causes a change in the
2 determination.

3 (2) With respect to a benefit year commencing on or after June 1,
4 1990 for an individual who immediately preceding the benefit year
5 was subject to a disability compensable under the provisions of the
6 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
7 et seq.), "base year" shall mean the first four of the last five
8 completed calendar quarters immediately preceding the individual's
9 period of disability, if the employment held by the individual
10 immediately preceding the period of disability is no longer
11 available at the conclusion of that period and the individual files a
12 valid claim for unemployment benefits after the conclusion of that
13 period. For the purposes of this paragraph, "period of disability"
14 means the period defined as a period of disability by section 3 of
15 the "Temporary Disability Benefits Law," P.L.1948, c.110
16 (C.43:21-27). An individual who files a claim under the provisions
17 of this paragraph (2) shall not be regarded as having left work
18 voluntarily for the purposes of subsection (a) of R.S.43:21-5.

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

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

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

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

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

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

40 (h) "Employer" means:

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

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

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

1 employing unit which has elected to become fully subject to this
2 chapter (R.S.43:21-1 et seq.).

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

4 (A) Any service performed prior to January 1, 1972, which was
5 employment as defined in the "unemployment compensation law"
6 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
7 provisions of this subsection, service performed on or after January
8 1, 1972, including service in interstate commerce, performed for
9 remuneration or under any contract of hire, written or oral, express
10 or implied.

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

17 (ii) Service performed after December 31, 1977, in the employ of
18 this State or any of its instrumentalities or any political subdivision
19 thereof or any of its instrumentalities or any instrumentality of more
20 than one of the foregoing or any instrumentality of the foregoing
21 and one or more other states or political subdivisions, if such
22 service is not excluded from "employment" under paragraph (D)
23 below.

24 (C) Service performed after December 31, 1971 by an individual
25 in the employ of a religious, charitable, educational, or other
26 organization, which is excluded from "employment" as defined in
27 the Federal Unemployment Tax Act, solely by reason of section
28 3306 (c)(8) of that act, if such service is not excluded from
29 "employment" under paragraph (D) below.

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

32 (i) In the employ of (I) a church or convention or association of
33 churches, or (II) an organization, or school which is operated
34 primarily for religious purposes and which is operated, supervised,
35 controlled or principally supported by a church or convention or
36 association of churches;

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

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

45 (aa) as an elected official;

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

- 1 (cc) as a member of the State National Guard or Air National
2 Guard;
- 3 (dd) as an employee serving on a temporary basis in case of fire,
4 storm, snow, earthquake, flood or similar emergency;
- 5 (ee) in a position which, under or pursuant to the laws of this
6 State, is designated as a major nontenured policy making or
7 advisory position, or a policy making or advisory position, the
8 performance of the duties of which ordinarily does not require more
9 than eight hours per week; or
- 10 (iv) By an individual receiving rehabilitation or remunerative
11 work in a facility conducted for the purpose of carrying out a
12 program of rehabilitation of individuals whose earning capacity is
13 impaired by age or physical or mental deficiency or injury or
14 providing remunerative work for individuals who because of their
15 impaired physical or mental capacity cannot be readily absorbed in
16 the competitive labor market;
- 17 (v) By an individual receiving work-relief or work-training as
18 part of an unemployment work-relief or work-training program
19 assisted in whole or in part by any federal agency or an agency of a
20 state or political subdivision thereof; or
- 21 (vi) Prior to January 1, 1978, for a hospital in a State prison or
22 other State correctional institution by an inmate of the prison or
23 correctional institution and after December 31, 1977, by an inmate
24 of a custodial or penal institution.
- 25 (E) The term "employment" shall include the services of an
26 individual who is a citizen of the United States, performed outside
27 the United States after December 31, 1971 (except in Canada and in
28 the case of the Virgin Islands, after December 31, 1971) and prior
29 to January 1 of the year following the year in which the U.S.
30 Secretary of Labor approves the unemployment compensation law
31 of the Virgin Islands, under section 3304 (a) of the Internal
32 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an
33 American employer (other than the service which is deemed
34 employment under the provisions of R.S.43:21-19 (i) (2) or (5) or
35 the parallel provisions of another state's unemployment
36 compensation law), if
- 37 (i) The American employer's principal place of business in the
38 United States is located in this State; or
- 39 (ii) The American employer has no place of business in the
40 United States, but (I) the American employer is an individual who
41 is a resident of this State; or (II) the American employer is a
42 corporation which is organized under the laws of this State; or (III)
43 the American employer is a partnership or trust and the number of
44 partners or trustees who are residents of this State is greater than the
45 number who are residents of another state; or
- 46 (iii) None of the criteria of divisions (i) and (ii) of this
47 subparagraph (E) is met but the American employer has elected to
48 become an employer subject to the "unemployment compensation

1 law" (R.S.43:21-1 et seq.) in this State, or the American employer
2 having failed to elect to become an employer in any state, the
3 individual has filed a claim for benefits, based on such service,
4 under the law of this State;

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

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

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

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

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

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

41 (bb) 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 (ii) for the purposes of this subsection any individual who is a
47 member of a crew furnished by a crew leader to perform service in

- 1 agricultural labor for any other entity shall be treated as an
2 employee of such crew leader
- 3 (aa) if such crew leader holds a certification of registration under
4 the Migrant and Seasonal Agricultural Worker Protection Act,
5 Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
6 (C.34:8A-7 et seq.); or substantially all the members of such crew
7 operate or maintain tractors, mechanized harvesting or cropdusting
8 equipment, or any other mechanized equipment, which is provided
9 by such crew leader; and
- 10 (bb) if such individual is not an employee of such other person
11 for whom services were performed.
- 12 (iii) For the purposes of subparagraph (I) (i) in the case of any
13 individual who is furnished by a crew leader to perform service in
14 agricultural labor or any other entity and who is not treated as an
15 employee of such crew leader under (I) (ii)
- 16 (aa) such other entity and not the crew leader shall be treated as
17 the employer of such individual; and
- 18 (bb) such other entity shall be treated as having paid cash
19 remuneration to such individual in an amount equal to the amount
20 of cash remuneration paid to such individual by the crew leader
21 (either on his own behalf or on behalf of such other entity) for the
22 service in agricultural labor performed for such other entity.
- 23 (iv) For the purpose of subparagraph (I)(ii), the term "crew
24 leader" means an individual who
- 25 (aa) furnishes individuals to perform service in agricultural labor
26 for any other entity;
- 27 (bb) pays (either on his own behalf or on behalf of such other
28 entity) the individuals so furnished by him for the service in
29 agricultural labor performed by them; and
- 30 (cc) has not entered into a written agreement with such other
31 entity under which such individual is designated as an employee of
32 such other entity.
- 33 (J) (i) Domestic service after December 31, 1977 and before the
34 effective date of P.L. _____, c. _____ (C. _____) (pending before the
35 Legislature as this bill) performed in the private home of an
36 employing unit which paid cash remuneration of \$1,000.00 or more
37 to one or more individuals for such domestic service in any calendar
38 quarter in the current or preceding calendar year.
- 39 (ii) Domestic services after the effective date of P.L. _____,
40 c. (C. _____) (pending before the Legislature as this bill),
41 performed in the private home of an employing unit which in either
42 the current or preceding calendar year paid remuneration for
43 employment in the amount of \$1,000 or more.
- 44 (2) The term "employment" shall include an individual's entire
45 service performed within or both within and without this State if:
- 46 (A) The service is localized in this State; or
- 47 (B) The service is not localized in any state but some of the
48 service is performed in this State, and (i) the base of operations, or,

1 if there is no base of operations, then the place from which such
2 service is directed or controlled, is in this State; or (ii) the base of
3 operations or place from which such service is directed or
4 controlled is not in any state in which some part of the service is
5 performed, but the individual's residence is in this State.

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

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

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

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

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

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

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

35 (B) Such service is either outside the usual course of the business
36 for which such service is performed, or that such service is
37 performed outside of all the places of business of the enterprise for
38 which such service is performed; and

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

41 (7) Provided that such services are also exempt under the Federal
42 Unemployment Tax Act, as amended, or that contributions with
43 respect to such services are not required to be paid into a state
44 unemployment fund as a condition for a tax offset credit against the
45 tax imposed by the Federal Unemployment Tax Act, as amended,
46 the term "employment" shall not include:

47 (A) Agricultural labor performed prior to January 1, 1978; and
48 after December 31, 1977, only if performed in a calendar year for

1 an entity which is not an employer as defined in the "unemployment
2 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
3 calendar year; or unless performed for an employing unit which
4 (i) during a calendar quarter in either the current or the preceding
5 calendar year paid remuneration in cash of \$20,000.00 or more to
6 individuals employed in agricultural labor, or
7 (ii) for some portion of a day in each of 20 different calendar
8 weeks, whether or not such weeks were consecutive, in either the
9 current or the preceding calendar year, employed in agricultural
10 labor 10 or more individuals, regardless of whether they were
11 employed at the same moment in time;

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

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

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

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

33 (F) Service performed in the employ of the United States
34 Government or of any instrumentality of the United States exempt
35 under the Constitution of the United States from the contributions
36 imposed by the "unemployment compensation law," except that to
37 the extent that the Congress of the United States shall permit states
38 to require any instrumentalities of the United States to make
39 payments into an unemployment fund under a state unemployment
40 compensation law, all of the provisions of this act shall be
41 applicable to such instrumentalities, and to service performed for
42 such instrumentalities, in the same manner, to the same extent and
43 on the same terms as to all other employers, employing units,
44 individuals and services; provided that if this State shall not be
45 certified for any year by the Secretary of Labor of the United States
46 under section 3304 of the federal Internal Revenue Code of 1986
47 (26 U.S.C. s.3304), the payments required of such instrumentalities
48 with respect to such year shall be refunded by the division from the

- 1 fund in the same manner and within the same period as is provided
2 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
3 or collected by the division;
- 4 (G) Services performed in the employ of fraternal beneficiary
5 societies, orders, or associations operating under the lodge system
6 or for the exclusive benefit of the members of a fraternity itself
7 operating under the lodge system and providing for the payment of
8 life, sick, accident, or other benefits to the members of such society,
9 order, or association, or their dependents;
- 10 (H) Services performed as a member of the board of directors, a
11 board of trustees, a board of managers, or a committee of any bank,
12 building and loan, or savings and loan association, incorporated or
13 organized under the laws of this State or of the United States, where
14 such services do not constitute the principal employment of the
15 individual;
- 16 (I) Service with respect to which unemployment insurance is
17 payable under an unemployment insurance program established by
18 an Act of Congress;
- 19 (J) Service performed by agents of mutual fund brokers or
20 dealers in the sale of mutual funds or other securities, by agents of
21 insurance companies, exclusive of industrial insurance agents or by
22 agents of investment companies, if the compensation to such agents
23 for such services is wholly on a commission basis;
- 24 (K) Services performed by real estate salesmen or brokers who
25 are compensated wholly on a commission basis;
- 26 (L) Services performed in the employ of any veterans'
27 organization chartered by Act of Congress or of any auxiliary
28 thereof, no part of the net earnings of which organization, or
29 auxiliary thereof, inures to the benefit of any private shareholder or
30 individual;
- 31 (M) Service performed for or in behalf of the owner or operator
32 of any theater, ballroom, amusement hall or other place of
33 entertainment, not in excess of 10 weeks in any calendar year for
34 the same owner or operator, by any leader or musician of a band or
35 orchestra, commonly called a "name band," entertainer, vaudeville
36 artist, actor, actress, singer or other entertainer;
- 37 (N) Services performed after January 1, 1973 by an individual
38 for a labor union organization, known and recognized as a union
39 local, as a member of a committee or committees reimbursed by the
40 union local for time lost from regular employment, or as a part-time
41 officer of a union local and the remuneration for such services is
42 less than \$1,000.00 in a calendar year;
- 43 (O) Services performed in the sale or distribution of merchandise
44 by home-to-home salespersons or in-the-home demonstrators whose
45 remuneration consists wholly of commissions or commissions and
46 bonuses;

- 1 (P) Service performed in the employ of a foreign government,
2 including service as a consular, nondiplomatic representative, or
3 other officer or employee;
- 4 (Q) Service performed in the employ of an instrumentality
5 wholly owned by a foreign government if (i) the service is of a
6 character similar to that performed in foreign countries by
7 employees of the United States Government or of an instrumentality
8 thereof, and (ii) the division finds that the United States Secretary
9 of State has certified to the United States Secretary of the Treasury
10 that the foreign government, with respect to whose instrumentality
11 exemption is claimed, grants an equivalent exemption with respect
12 to similar services performed in the foreign country by employees
13 of the United States Government and of instrumentalities thereof;
- 14 (R) Service in the employ of an international organization
15 entitled to enjoy the privileges, exemptions and immunities under
16 the International Organizations Immunities Act (22 U.S.C. s.288 et
17 seq.);
- 18 (S) Service covered by an election duly approved by an agency
19 charged with the administration of any other state or federal
20 unemployment compensation or employment security law, in
21 accordance with an arrangement pursuant to R.S.43:21-21 during
22 the effective period of such election;
- 23 (T) Service performed in the employ of a school, college, or
24 university if such service is performed (i) by a student enrolled at
25 such school, college, or university on a full-time basis in an
26 educational program or completing such educational program
27 leading to a degree at any of the severally recognized levels, or (ii)
28 by the spouse of such a student, if such spouse is advised at the time
29 such spouse commences to perform such service that (I) the
30 employment of such spouse to perform such service is provided
31 under a program to provide financial assistance to such student by
32 such school, college, or university, and (II) such employment will
33 not be covered by any program of unemployment insurance;
- 34 (U) Service performed by an individual who is enrolled at a
35 nonprofit or public educational institution which normally
36 maintains a regular faculty and curriculum and normally has a
37 regularly organized body of students in attendance at the place
38 where its educational activities are carried on, as a student in a full-
39 time program, taken for credit at such institution, which combines
40 academic instruction with work experience, if such service is an
41 integral part of such program, and such institution has so certified
42 to the employer, except that this subparagraph shall not apply to
43 service performed in a program established for or on behalf of an
44 employer or group of employers;
- 45 (V) Service performed in the employ of a hospital, if such
46 service is performed by a patient of the hospital; service performed
47 as a student nurse in the employ of a hospital or a nurses' training
48 school by an individual who is enrolled and regularly attending

- 1 classes in a nurses' training school approved under the laws of this
2 State;
- 3 (W) Services performed after the effective date of this
4 amendatory act by agents of mutual benefit associations if the
5 compensation to such agents for such services is wholly on a
6 commission basis;
- 7 (X) Services performed by operators of motor vehicles weighing
8 18,000 pounds or more, licensed for commercial use and used for
9 the highway movement of motor freight, who own their equipment
10 or who lease or finance the purchase of their equipment through an
11 entity which is not owned or controlled directly or indirectly by the
12 entity for which the services were performed and who were
13 compensated by receiving a percentage of the gross revenue
14 generated by the transportation move or by a schedule of payment
15 based on the distance and weight of the transportation move;
- 16 (Y) (Deleted by amendment, P.L.2009, c.211.)
- 17 (Z) Services performed, using facilities provided by a travel
18 agent, by a person, commonly known as an outside travel agent,
19 who acts as an independent contractor, is paid on a commission
20 basis, sets his own work schedule and receives no benefits, sick
21 leave, vacation or other leave from the travel agent owning the
22 facilities.
- 23 (AA) Services provided by a commercial fisherman whose
24 compensation is comprised solely of a percentage of fish caught or
25 a percentage of the proceeds from the sale of the catch.
- 26 (8) If one-half or more of the services in any pay period
27 performed by an individual for an employing unit constitutes
28 employment, all the services of such individual shall be deemed to
29 be employment; but if more than one-half of the service in any pay
30 period performed by an individual for an employing unit does not
31 constitute employment, then none of the service of such individual
32 shall be deemed to be employment. As used in this paragraph, the
33 term "pay period" means a period of not more than 31 consecutive
34 days for which a payment for service is ordinarily made by an
35 employing unit to individuals in its employ.
- 36 (9) Services performed by the owner of a limousine franchise
37 (franchisee) shall not be deemed to be employment subject to the
38 "unemployment compensation law," R.S.43:21-1 et seq., with
39 regard to the franchisor if:
- 40 (A) The limousine franchisee is incorporated;
- 41 (B) The franchisee is subject to regulation by the Interstate
42 Commerce Commission;
- 43 (C) The limousine franchise exists pursuant to a written franchise
44 arrangement between the franchisee and the franchisor as defined
45 by section 3 of P.L.1971, c.356 (C.56:10-3); and
- 46 (D) The franchisee registers with the Department of Labor and
47 Workforce Development and receives an employer registration
48 number.

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

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

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

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

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

27 (m) "Unemployment."

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

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

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

43 (2) The term "remuneration" with respect to any individual for
44 benefit years commencing on or after July 1, 1961, and as used in
45 this subsection, shall include only that part of the same which in
46 any week exceeds 20% of his weekly benefit rate (fractional parts
47 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
48 include any moneys paid to an individual by a county board of

1 elections for work as a board worker on an election day or for work
2 pursuant to subsection d. of section 1 of P.L.2021, c.40
3 (C.19:15A-1) during the early voting period.

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

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

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

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

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

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

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

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

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

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

47 (B) If the individual does not establish in his base year 20 or
48 more base weeks as defined in subparagraph (A) of this paragraph

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

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

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

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

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

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

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

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

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

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

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

25 (2) "Institution of higher education" means an educational
26 institution which:

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

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

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

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

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

42 (z) "Hospital" means an institution which has been licensed,
43 certified or approved under the law of this State as a hospital.¹

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

45

46 ¹[15.] 13.¹ (New section) ¹[Except as otherwise provided, the
47 following minimum terms, and such other minimum terms as may

1 be established by the department by regulation, shall apply to a
2 work relationship between a domestic worker and a hiring entity:】¹

3 a. **【Written agreements.】**¹ No **【employer】** hiring entity¹ shall
4 employ or engage¹ a domestic worker, except for casual work or
5 work of less than five hours per month, unless the engagement is
6 governed by a written contract governing the following: a specific
7 list of job duties; hourly wage and overtime wage; weekly schedule
8 including number of hours per week; the manner and frequency of
9 payment; breaks for rest and meals; paid or unpaid leave including
10 sick time; paid holidays; any other benefits provided; modes of
11 transportation required and whether provided; value of housing if
12 provided; sleeping period and personal time for live-in workers; the
13 term of the contract; and any other terms and conditions as agreed
14 upon by the domestic worker and employer or as mandated pursuant
15 to this act. The written agreement shall be signed and dated by all
16 parties after ample opportunity to review.

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

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

23 (2) Non-disclosure agreement, **【restrictive covenant,】** non-
24 competition¹ or non-disparagement agreement, limiting the ability
25 of the covered domestic worker to seek compensation for
26 performing domestic services after the worker ceases to receive
27 compensation from the domestic work hiring entity for the
28 performance of domestic services.

29 c. The agreement shall be in English and such other language
30 as may be preferred by the worker. The hiring entity shall make
31 reasonable efforts to determine if the worker would prefer the
32 agreement to be in another language.

33 d. The department shall make available model contracts
34 complying with this act shall in multiple languages on its Internet
35 website.

36 e. A referral and employment agency shall provide domestic
37 workers and hiring entities with information concerning the contract
38 requirements of this act at the time a hiring entity is connected with
39 a worker and shall make any model contracts adopted by the
40 department available to the hiring entity.

41
42 **【16.】** 14.¹ (New section) a. **【The hiring entity】** An employer
43 of a domestic worker¹ shall allow the domestic worker an
44 uninterrupted paid rest-period of not less than ten minutes for each
45 four consecutive hours worked, unless the nature of the work
46 prevents the domestic worker from being relieved of all duties for
47 such period of time, such as some types of child care and caretaker

1 work for a sick, elderly or disabled person. ²In those types of work
 2 where the domestic worker is not relieved of all work duties, an
 3 “on-duty” rest period shall be provided.² The ¹**[hiring entity]**
 4 employer¹ shall pay the domestic worker for the time spent on a rest
 5 break at the domestic worker's regular rate of pay.

6 b. The ¹**[hiring entity]** employer¹ shall allow an uninterrupted
 7 30-minute meal break after more than five consecutive hours
 8 worked. Unless the domestic worker is relieved of all work duties
 9 during such 30-minute period ²and is permitted to leave the work
 10 site during that break², the meal period shall be considered an "on-
 11 duty" meal period and shall be paid at the domestic worker's regular
 12 rate of pay.

13 ²**[(1) c.]** ²c.² An "on-duty" meal ²or rest² period shall be permitted
 14 only when the nature of the work prevents a domestic worker from
 15 being relieved of all duties and when, by written agreement between
 16 the parties, an "on-duty" meal ²or rest² period is agreed to. The
 17 agreement may be revoked by the domestic worker, in writing, at
 18 any time. ²The domestic worker may, to the extent possible given
 19 the domestic worker's duties for the employer, engage in personal
 20 activities, such as resting, eating a meal, drinking a beverage,
 21 making a personal telephone call, or making other personal choices
 22 during “on-duty” meal or rest periods.²

23 ²**[c.] d.** ²d.² The ¹**[hiring entity]** employer¹ shall not impede or
 24 discourage a domestic worker from taking any meal or rest breaks.

25 ²**[d. Failure to allow a meal or rest period in accordance with this**
 26 **paragraph (1) shall entitle]** ²e. ²In the case of a violation of this
 27 section, the domestic work employer involved shall be liable to²
 28 domestic worker ²for an amount equal to² to one ²**[additional]**²
 29 hour of pay at the domestic worker's regular rate of compensation²,
 30 but not more than two hours of such pay.² for each workday that the
 31 meal or rest period was not provided. ²**[Payment of this extra pay**
 32 **shall not excuse non-compliance with this subsection]** The
 33 department shall determine through the agency's complaint and
 34 adjudication process whether or not violations occurred by the
 35 employer and whether or not the domestic worker is entitled to the
 36 remedy².

37
 38 ¹**[17.] 15.**¹ (New section) A "live-in" domestic worker shall not
 39 be required to work more than six consecutive days for the same
 40 ¹**[hiring entity]** employer¹ without a 24-hour period of rest, which
 41 may be unpaid.

42
 43 ¹**[18.] 16.**¹ (New section) a. ¹**[The hiring entity]** An employer
 44 of a domestic worker¹ shall provide a minimum two-week
 45 notification period before termination of employment, and for live-

1 in domestic workers a minimum four-week notification period
2 before termination of employment. ¹【No notification period is
3 required in connection with the termination of casual work
4 performed for a hiring entity.】¹

5 b. The ¹【hiring entity】 employer¹ may terminate the
6 employment without complying with the full notification period
7 based on a good-faith belief ²and without reckless disregard or
8 willful ignorance of the truth² that the domestic worker has engaged
9 in significant misconduct.

10 c. Failure to provide notification as required under this section
11 shall entitle the domestic worker to severance pay in the amount of
12 the worker's regular hourly rate multiplied by the regular number of
13 hours worked over the period of time during which the required
14 notification was not provided.

15 ²d. As used in this section, the term “significant misconduct”
16 means that the domestic worker abused, neglected, or caused any
17 other harmful conduct against the employer, members of the
18 employer’s family, or individuals residing in the employer’s
19 household.

20 e. The notification requirement in this section shall not apply
21 if:

22 (1) a domestic worker completes placement in a particular
23 position and is not immediately placed or scheduled for another
24 position by an employer if the employer is a temporary help service
25 firm, employment agency, or other staffing or placement agency,
26 health care service firm, home health agency, or hospice provider,
27 but the domestic worker remains on the employer’s payroll for
28 future placement opportunities; or

29 (2) a domestic worker is employed by an employer that is an
30 individual and not a temporary help service firm, employment
31 agency, or other staffing or placement agency, health care service
32 firm, home health agency, or hospice provider, whether or not the
33 employer is the person receiving care from the domestic worker,
34 and the domestic worker completes or fulfills all duties of the
35 position, and there is no longer a practicable need for the position,
36 including but not limited to, if the domestic worker’s employer is an
37 individual who has employed the domestic worker to care a person
38 who is terminally ill person, and the terminally ill person passes
39 away.²

40

41 ¹【19.】 17.1 (New section) No hiring entity shall:

42 a. Keep or hold the original copies of any personal documents
43 of a domestic worker;

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

46 (1) using any bathroom or similar facility;

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

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

3 c. Monitor, record or interfere with the private communications
4 of a domestic worker.

5

6 ¹~~20.~~ 18.¹ (New section) a. A hiring entity shall provide to a
7 domestic worker notification of the rights of domestic workers
8 under P.L. , c. (C. et seq.) (pending before the Legislature
9 as this bill), and information on how to file a complaint for
10 violation of these rights, as shall be determined by the department
11 by regulation.

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

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

23

24 ¹~~21.~~ 19.¹ (New section) a. It shall be unlawful for a hiring
25 entity or any other person to interfere with, restrain, or deny the
26 exercise of, or the attempt to exercise, any right set forth in P.L. ,
27 c. (C. et seq.) (pending before the Legislature as this bill).

28 b. The minimum requirements of sections ¹~~15 through 20~~ 13
29 through 18¹ of P.L. , c. (C.) (pending before the
30 Legislature as this bill) shall be deemed incorporated into any
31 contract, whether actual or implied, between the employer and the
32 domestic worker.

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

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

1 e. No hiring entity or any other person shall communicate to a
 2 person exercising rights protected under P.L. c. (C.)
 3 (pending before the Legislature as this bill) the willingness or intent
 4 to contact, report to, or to make an implied or express assertion to
 5 report to a government agency regarding the suspected citizenship
 6 or immigration status of a domestic worker or family member of a
 7 domestic worker because the worker has or has expressed an intent
 8 to exercise rights protected under this act or because of a belief the
 9 worker may do so.

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

13 g. It shall be considered a rebuttable presumption of retaliation
 14 if the hiring entity or any other person takes an adverse action
 15 against a domestic worker within 90 calendar days of the worker's
 16 exercise of rights protected in P.L. c. (C. et seq.) (pending
 17 before the Legislature as this bill). However, in the case of
 18 temporary or seasonal employment that ended before the close of
 19 the 90 calendar day period, the presumption also applies if the
 20 hiring entity fails to rehire a former domestic worker at the next
 21 opportunity for work in the same position. The hiring entity may
 22 rebut the presumption with clear and convincing evidence that the
 23 adverse action would have been taken in the absence of such
 24 protected activity. ²If a domestic worker declines to be rehired for
 25 the same position or resigns from the position, the presumption in
 26 this subsection g. shall not apply.²

27 h. Proof of retaliation under P.L. , c. (C. et seq.)
 28 (pending before the Legislature as this bill) shall be sufficient upon
 29 a showing that the hiring entity or any other person has taken an
 30 adverse action against a person and the persons exercise or rights
 31 protected in P.L. , c. (C. et seq.) (pending before the
 32 Legislature as this bill) was a motivating factor in the absence of
 33 that protected activity.

34 i. A complaint or other communication by any person triggers
 35 the protection of P.L. , c. (C. et seq.) (pending before the
 36 Legislature as this bill) regardless of whether the complaint or
 37 communication is in writing or makes explicit reference to P.L. ,
 38 c. (C.) (pending before the Legislature as this bill).

40 ¹[22.] 20.¹ (New section) The department ²[is authorized to
 41 coordinate implementation, administration, and enforcement for
 42 P.L. , c. (C.) (pending before the Legislature as this bill),
 43 and]² shall promulgate appropriate guidelines and regulations to
 44 effectuate the purposes of ²[for]² P.L. , c. (C.) (pending
 45 before the Legislature as this bill) ²[through the Domestic Workers
 46 Standards and Implementation Board, established in section ¹[25]

- 1 23¹ of P.L. , c. (C.) (pending before the Legislature as this
 2 bill)]².
 3
- 4 ¹[23.] 21.¹ (New section) a. Individuals and ¹[hiring entities]
 5 employers¹ with an overlapping employment relationship with a
 6 domestic worker are subject to joint and several liability, and
 7 concurrent ²[finds] fin²es and penalties, in connection with P.L. ,
 8 c. (C.) (pending before the Legislature as this bill).
- 9 b. A domestic worker or other person representing a domestic
 10 worker may report to the department any suspected violation of
 11 P.L. , c. (C.) (pending before the Legislature as this bill).
- 12 c. The department shall ²[collaborate with the Domestic
 13 Workers Standards and Implementation Board, as established by
 14 section ¹[25] 23¹ of P.L. , c. (C.) (pending before the
 15 Legislature as this bill) to]² take any steps as it deems appropriate
 16 to resolve complaints and enforce P.L. , c. (C.) (pending
 17 before the Legislature as this bill), including, but not limited to,
 18 establishing a system to receive complaints regarding
 19 noncompliance with P.L. , c. (C.) (pending before the
 20 Legislature as this bill), investigating alleged violations in a timely
 21 manner and resolving complaints through a separate “referral”
 22 process for claims of ¹[employees in]¹ domestic ¹[services]
 23 workers¹.
- 24 d. The department shall have the power to subpoena records
 25 and testimony from any party to a complaint. The records shall be
 26 provided to the department within 30 days after receipt of the
 27 subpoena.
- 28 e. Any person alleging a violation of P.L. , c. (C.)
 29 (pending before the Legislature as this bill) shall file a complaint
 30 with the department within two years of the date that the person
 31 knew or should have known of the alleged violation.
- 32 f. Upon establishment of a system of administrative
 33 adjudication, the department shall have the power to impose the
 34 penalties and fines for a violation of P.L. , c. (C.) (pending
 35 before the Legislature as this bill), and to provide or obtain
 36 appropriate relief. Remedies may include reinstatement and full
 37 restitution to the domestic worker for lost wages and benefits,
 38 including presumed damages to be awarded to a domestic worker
 39 for the hiring entity’s ¹or employer’s¹ violation of P.L. ,
 40 c. (C.) (pending before the Legislature as this bill). The
 41 department shall determine by regulation an amount of presumed
 42 damages.
- 43 g. A hiring entity ¹or an employer¹ who knowingly retaliates
 44 against an employee for any activity protected under P.L. ,
 45 c. (C.) (pending before the Legislature as this bill), or any
 46 other knowing violation of P.L. , c. (C.) (pending before
 47 the Legislature as this bill), shall be a crime of the fourth degree.

1 Otherwise, it shall be a disorderly persons offense and the hiring
 2 entity or employer¹ shall, upon conviction for a violation, be
 3 punished by a fine of not less than \$100 not more than \$2,000 for an
 4 initial violation and not less than \$200 nor more than \$4,000 for
 5 each subsequent violation. Each day during which any violation of
 6 P.L. , c. (C.) (pending before the Legislature as this bill)
 7 continues shall constitute a separate and distinct offense, and the
 8 employment of any domestic worker in violation of P.L. ,
 9 c. (C.) (pending before the Legislature as this bill), shall,
 10 with respect to each domestic worker employed, constitute a
 11 separate and violation.

12 h. Any domestic worker or person who is aggrieved by a
 13 violation of P.L. , c. (C.) (pending before the Legislature
 14 as this bill), or the department may bring civil action in a court of
 15 competent jurisdiction against a hiring entity or an employer¹
 16 violating P.L. , c. (C.) (pending before the Legislature as
 17 this bill). Nothing in P.L. , c. (C.) (pending before the
 18 Legislature as this bill) or its implementing regulations shall be
 19 construed to require a complaint to be filed with the department
 20 before bringing an action in court. Upon prevailing in an action
 21 brought pursuant to this section, an aggrieved person shall be
 22 entitled to any legal or equitable relief as may be appropriate to
 23 remedy the violation, that is not duplicative of any relief provided
 24 to the person in administrative proceedings, including, without
 25 limitation, reinstatement in employment, back pay, and injunctive
 26 relief. The aggrieved person shall be entitled to an award of
 27 reasonable attorney's fees and costs.

28

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

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

- 1 (2) Training for domestic worker leaders to provide peer-to-peer
2 support and wraparound service referrals to domestic work
3 employees who have elected to file wage claims or take other
4 actions seeking remedy from hiring entities ¹or employers¹;
- 5 (3) Development of core training curriculum to be used in the
6 education and training of domestic work employees and ¹**[**hiring
7 entities**]** employers¹;
- 8 (4) Provision of technical and legal assistance to domestic work
9 employees through a Statewide telephone help line and the
10 promotion of the help line to domestic worker populations; and
- 11 (5) Development of an online resource hub to provide
12 information for ¹**[**hiring entities**]** employers¹ on State labor laws
13 and guidelines on fair employment.
- 14 b. Qualified organizations that collaborate under subsection a.
15 of this section shall issue reports and meet quarterly with the
16 department to review the implementation and success of the
17 program.
- 18 c. (1) A nonprofit organization that has a minimum of five
19 years of experience working with domestic work employees or
20 ¹**[**hiring entities**]** employers¹; or
- 21 (2) An organization that works with nonprofit organizations that
22 has a minimum of five years of experience working with domestic
23 work employees or ¹**[**hiring entities**]** employers¹.
- 24
- 25 ²**[**¹**[**25.**]** 23.¹ (New section) a. The department shall establish,
26 within 90 days of the date of enactment of P.L. , c. (C.)
27 (pending before the Legislature as this bill), a “Domestic Workers
28 Standards and Implementation Board” (Board), which shall be
29 established to provide a forum for ¹**[**hiring entities**]** employers¹,
30 domestic workers, worker organizations, and the public to consider
31 analyze, and make recommendations to the State on the legal
32 protections, benefits, and working conditions for domestic worker
33 industry standards. The board shall be established to permanently
34 promote the health, safety, and well-being of domestic workers; and
35 a living wage for domestic workers along with development of the
36 mechanisms to support implementation of P.L. ,
37 c. (C. (pending before the Legislature as this bill), including
38 the development of regulations promulgated under P.L. ,
39 c. (C.)(pending before the Legislature as this bill). The
40 board shall also make recommendations to the department regarding
41 enforcement and implementation strategies, including the
42 development of the Domestic Work Enforcement Program.
- 43 b. (1) The board shall consist of 13 members composed of
44 members with expertise in labor standards, wage theft, law, and
45 policy; and domestic worker industry. The board shall meet at least
46 quarterly, and all meetings shall be open to the public. The board
47 shall create by-laws in order to conduct and structure future

1 meetings including, but not limited to, scheduling quarterly
2 meetings, determining recommended timetables for submission of
3 recommendations to the Legislature, the Department of Labor and
4 Workforce Development, the Governor's Office, determining term
5 lengths and appointments of individuals to the board. All State
6 departments, agencies, boards, commissions shall support and
7 cooperate with the board and provide the board with any data it may
8 need which may include logistical support in regard to translation,
9 interpretation, and outreach to ensure equal access and equity of
10 domestic worker representatives and ¹["hiring entities"] employers¹
11 on the board. The board will be comprised of various stakeholders
12 from the private, non-profit sectors, domestic workers, ¹["hiring
13 entities"] employers¹, and will have representation from members of
14 the Department of Labor and Workforce Development, and
15 Governor's office; and

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

17 (i) one representative from the Department of Labor and
18 Workforce Development;

19 (ii) one representative from the National Domestic Workers
20 Alliance;

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

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

25 (v) one domestic worker; and

26 (vi) one ¹["hiring entity"] employer¹; and

27 (b) The Legislature shall appoint six members as follows: three
28 members to be appointed by the President of the Senate and three
29 members to be appointed by the Speaker of the General Assembly,
30 as follows:

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

34 (ii) two ¹["hiring entities"] employers¹, one each selected
35 respectively by the President of the Senate and the Speaker of the
36 General Assembly.

37 c. The board's responsibilities include, but are not limited to,
38 providing a forum for ¹["hiring entities"] employers¹, domestic
39 workers, worker organizations, and other affected parties to share
40 information, insights, and experiences on the working conditions of
41 domestic workers, and recommendations on how the working
42 conditions can be changed to meet the needs of domestic workers
43 and ¹["hiring entities"] employers¹. These recommendations shall
44 include:

45 (1) possible legislation or policy changes;

46 (2) wage standards for the industry;

- 1 (3) development and advancement of enforcement and
2 implementation efforts in collaboration with the department; and
- 3 (4) the promulgation of regulations to enforce P.L. ,
4 c. (C.) (pending before the Legislature as this bill).
- 5 d. The board, in consultation with the department and other
6 State agencies, within six months after all members have been
7 established, shall submit to the Governor, and Legislature, pursuant
8 to section 2 of P.L.1991, c.164 (C.52:14-19.1), with oversight by
9 the department, a work plan identifying the topics the board will
10 address in the first two years. The board in consultation with the
11 department and other relevant State agencies, shall submit an
12 updated work plan every two years. The board's first
13 recommendation shall be submitted to the Governor and Legislature
14 by the end of the first quarter of the year following the year in
15 which the work plan has been submitted.
- 16 Within 120 days from the date of receipt of any work plan
17 submitted by the board, the Legislature, through its committees that
18 consider labor subject matter, shall consider and respond to the
19 board's work plan. The response shall include proposed legislation
20 and policies, requests for additional information needed from the
21 board, requests for alternative plans from the board, reasons ¹**["fro]**
22 **for**¹ rejection of any plan submitted by the board, or an explanation
23 of why additional time is needed to submit a response to the board's
24 plan. Additionally, the Legislature, sua sponte, may notify the
25 board of any policies or legislation it may introduce for enactment,
26 request further information from the board, request that the board
27 develop alternatives, or take any other action that it deems
28 appropriate.
- 29 e. The board shall make recommendations to the Legislature on
30 the following subjects:
- 31 (1) Wage standards, such as industry standards, overtime, and
32 pay differentials;
- 33 (2) Training for ¹**["hiring entities]** employers¹ and domestic
34 workers on federal, State, and local labor laws, benefits, and
35 protections, discrimination, and sexual harassment, workplace
36 health; and safety standards;
- 37 (3) Jobs skills and professional development opportunities;
- 38 (4) Access to portable benefits, such as paid time off, retirement
39 pensions, health benefits, and paid family and disability leave;
- 40 (5) Workers' compensation and temporary disability benefits;
- 41 (6) Development and advancement of written agreement,
42 including notice of rights and recordkeeping templates;
- 43 (7) Outreach and enforcement strategies to ensure compliance
44 with P.L. , c. (C.) (pending before the Legislature as this
45 bill), and to provide effective information to both ¹**["hiring entities]**
46 employers¹ and domestic workers; and

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

3 f. Members of the board shall serve without compensation but
4 shall be reimbursed for the reasonable travel and other out-of-
5 pocket expenses incurred in the performance of their duties.】²

6

7 ¹【26.】 ²【24.1】 23.² (New section) a. Nothing in P.L. ,
8 c. (C.) (pending before the Legislature as this bill) shall be
9 construed to diminish any rights or protections granted to domestic
10 workers by any other law.

11 b. If any provision of P.L. , c. (C.) (pending before the
12 Legislature as this bill) or its application to any person or
13 circumstance is held invalid, the invalidity does not affect other
14 provisions or applications of P.L. , c. (C.) (pending before
15 the Legislature as this bill) which can be given effect without the
16 invalid provision or application, and to this end the provisions of
17 P.L. , c. (C.) (pending before the Legislature as this bill)
18 are severable.

19

20 ¹【27.】 ²【25.1】 24.² This act shall take effect on the first day of
21 the sixth month next following enactment, except that the
22 commissioner may take any anticipatory action as may be necessary
23 to effectuate the purposes of this act.