

**SENATE, No. 2764**

**STATE OF NEW JERSEY**

**221st LEGISLATURE**

INTRODUCED FEBRUARY 15, 2024

**Sponsored by:**

**Senator NILSA I. CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

The “Farm Labor Equality Act.”

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning conditions of employment for farmworkers,  
2 revising various portions of the statutory law, and supplementing  
3 Title 34 of the Revised Statutes.

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

7  
8 1. Section 15 of P.L.1940, c. 153 (C.34:2-21.15) is amended to  
9 read as follows:

10 15. Except as hereinafter provided as to newspaper carriers, no  
11 minor under 14 years of age may engage in any street trade, which  
12 term, for the purpose of this section shall include the selling,  
13 offering for sale, soliciting for, collecting for, displaying, or  
14 distributing any articles, goods, merchandise, commercial service,  
15 posters, circulars, newspapers or magazines or in blacking shoes on  
16 any street or other public place or from house to house. **[No]** Until  
17 December 31, 2024, no minor under 12 years of age may be  
18 employed in agricultural pursuits. After December 31, 2024, no  
19 minor under 14 years of age may be employed in agricultural  
20 pursuits, and minors under 18 years of age shall be subject to the  
21 provisions of section 3 of P.L.1940, c.153 (C.34:2-21.3).

22 Whenever a minor has graduated from vocational school,  
23 approved by the Commissioner of Education and is 17 years of age,  
24 the minor's diploma or certified copy thereof and an employment  
25 certificate provided by the Department of Labor and Workforce  
26 Development shall be deemed authorization to engage in those  
27 pursuits in which the minor majored in said vocational school  
28 during those hours permitted for persons 18 years of age and over.

29 Except as hereinafter provided as to newspaper carriers,  
30 whenever a minor under 16 years of age desires to work during such  
31 times as the schools of the district in which the minor resides are  
32 not in session in any street trade or in agricultural pursuits, the  
33 minor may register with the Department of Labor and Workforce  
34 Development an application for authorization to work. Such  
35 registration shall show the exact character of the work the minor is  
36 to do, and the hours and wages and special conditions under which  
37 said work is to be performed.

38 If upon investigation it is found that the facts set forth in the  
39 application are true and that the work will not interfere with the  
40 minor's health or standing in school, the Department of Labor and  
41 Workforce Development shall issue authorization allowing the  
42 minor to work at such times as the public schools in the district are  
43 not in session, but such work except in agricultural pursuits, and as  
44 newspaper carriers, to be otherwise subject to the maximum hours  
45 of labor provisions set for minors under 16 years of age in section 3

**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.

1 of P.L.1940, c.153 (C.34:2-21.3); provided, that nothing in  
2 P.L.1940, c.153 (C.34:2-21.1 et seq.) shall prevent newspaper  
3 carriers as defined in P.L.1940, c.153 (C.34:2-21.1 et seq.), between  
4 11 and 14 years of age, from delivering, soliciting, selling and  
5 collecting for newspapers on routes in residential neighborhoods  
6 between the hours of 6:00 o'clock in the morning and 7:00 o'clock  
7 in the evening of any day; and newspaper carriers 14 years of age  
8 and older from delivering, soliciting, selling and collecting for  
9 newspapers on routes in residential neighborhoods between the  
10 hours of 5:30 o'clock in the morning and 8:00 o'clock in the evening  
11 of any day; and provided further that no newspaper carrier under the  
12 age of 18 years shall be permitted to engage in such occupation  
13 beyond the period of time wherein the combined hours devoted to  
14 said occupation as a newspaper carrier and the hours in school shall  
15 exceed a total of 40 hours per week and not more than 8 hours in  
16 any 1 day; and provided, further, that, prior to January 1, 2025,  
17 minors engaged in agricultural pursuits may be employed no more  
18 than 10 hours per day, and, after December 31, 2024, minors  
19 engaged in agricultural pursuits shall be subject to the limits in the  
20 number of hours they may be employed stipulated in the provisions  
21 of section 3 of P.L.1940, c.153 (C.34:2-21.3).

22 Such authorization shall show the name, address, and date of  
23 birth of the minor for whom it is issued, the kind of proof of age  
24 submitted, the nature of the occupation in which the minor is to  
25 engage, and such other information as the Department of Labor and  
26 Workforce Development may require.

27 Any authorization for work in agriculture shall be issued and  
28 active until the minor is 18 years of age.

29 Upon application by the minor who desires to work as a  
30 newspaper carrier as defined in P.L.1940, c.153 (C.34:2-21.1 et  
31 seq.), who is between the ages of 11 and 18 years of age, to the  
32 publisher of any newspaper in this State and upon receiving  
33 authorization from the Department of Labor and Workforce  
34 Development, such publisher may employ such newspaper carrier to  
35 deliver, solicit, sell and collect for newspapers outside of the  
36 newspaper carrier's school hours on residential routes, and on  
37 Sundays and during school vacations.

38 The authorization shall show the name, address and date of birth  
39 of the newspaper carrier for whom it is issued, and such other  
40 information as the Department of Labor and Workforce  
41 Development may require.

42 The authorization shall remain in full force and effect unless and  
43 until the minor is 18 years of age.

44 The publisher shall keep a record of the name, address and birth  
45 date of each newspaper carrier who is a minor. Such records shall  
46 be kept on file by said publisher for a period of two years after the  
47 newspaper carrier has ceased delivering newspapers published by

1 said publisher.  
2 (cf: P.L.2022, c.63, s.5)

3  
4 2. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to  
5 read as follows:

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

43 b. (1) An employer shall also pay each employee not less than  
44 1 1/2 times such employee's regular hourly rate for each hour of  
45 working time in excess of 40 hours in any week, except that this  
46 overtime rate shall not apply: to any individual employed in a bona  
47 fide executive, administrative, or professional capacity; or to  
48 employees, prior to January 1, 2025, engaged to labor on a farm; or

1 employees employed in a hotel; or to an employee of a common  
2 carrier of passengers by motor bus; or to a limousine driver who is  
3 an employee of an employer engaged in the business of operating  
4 limousines; or to employees engaged in labor relative to the raising  
5 or care of livestock. On or after January 1, 2025, this overtime rate  
6 shall apply to employees engaged to labor on a farm.

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

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

14 c. Employees of a small employer, and employees who are  
15 engaged in seasonal employment, except for employees who  
16 customarily and regularly receive gratuities or tips who shall be  
17 subject to the provisions of subsections a. and d. of this section,  
18 shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1  
19 of 2020 and January 1 of each subsequent year, that minimum wage  
20 rate shall be increased by any increase in the consumer price index  
21 for all urban wage earners and clerical workers (CPI-W) as  
22 calculated by the federal government for the 12 months prior to the  
23 September 30 preceding that January 1, except that any of the  
24 following rates shall apply if it exceeds the rate determined in  
25 accordance with the applicable increase in the CPI-W for the  
26 indicated year: on January 1, 2020, the minimum wage shall be  
27 \$10.30 per hour; and on January 1 of each year from 2021 to 2025,  
28 inclusive, the minimum wage shall be increased from the rate of the  
29 preceding year by eighty cents per hour, and, in 2026, the minimum  
30 wage shall be increased from the rate of the preceding year by  
31 seventy cents per hour, and, in each year from 2027 to 2028  
32 inclusive, the minimum wage for employees subject to this  
33 subsection c. shall be increased by the same amount as the increase  
34 for employees subject to subsection a. of this section based on CPI-  
35 W increases, plus one half of the difference between \$15.00 per  
36 hour and the minimum wage in effect in 2026 for employees  
37 pursuant to subsection a. of this section, so that, by 2028, the  
38 minimum wage for employees subject to this subsection shall be the  
39 same as the minimum wage in effect for employees subject to  
40 subsection a. of this section. If the federal minimum hourly wage  
41 rate set by section 6 of the federal "Fair Labor Standards Act of  
42 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a  
43 level higher than the State minimum wage rate set by this  
44 subsection, then the State minimum wage rate shall be increased to  
45 the level of the federal minimum wage rate and subsequent  
46 increases based on increases in the CPI-W pursuant to this  
47 subsection shall be applied to the higher minimum wage rate.

1 d. Employees engaged on a piece-rate or regular hourly rate  
2 basis to labor on a farm shall be paid \$8.85 per hour as of January  
3 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent  
4 year, that minimum wage rate shall be increased by any increase in  
5 the consumer price index for all urban wage earners and clerical  
6 workers (CPI-W) as calculated by the federal government for the 12  
7 months prior to the September 30 preceding that January 1, except  
8 that any of the following rates shall apply if it exceeds the rate  
9 determined in accordance with the applicable increase in the CPI-W  
10 for the indicated year:

11 (1) on January 1, 2020, the minimum wage shall be \$10.30 per  
12 hour; on January 1, 2022, the minimum wage shall be \$10.90 per  
13 hour; and on January 1 of each year from 2023 to 2024, inclusive,  
14 the minimum wage shall be increased from the rate of the preceding  
15 year by eighty cents per hour; and

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

31 (3) Not later than March 31, 2024, the commissioner and the  
32 Secretary of Agriculture shall review the report issued by the  
33 commissioner pursuant to subsection b. of section 4 of P.L.2019,  
34 c.32 (C.34:11-56a4.10) and shall consider any information provided  
35 by the secretary regarding the impact on farm employers and the  
36 viability of the State's agricultural industry of the increases of the  
37 minimum wage made pursuant to paragraph (1) of this subsection,  
38 and the potential impact of the increases which would be set by  
39 paragraph (2) of this subsection, including comparisons with the  
40 wage rates in the agricultural industries in other states, and shall  
41 recommend: approval of the increases set forth in paragraph (2) of  
42 this subsection; disapproval of the increases set forth in paragraph  
43 (2) of this subsection; or an alternative manner of changing the  
44 minimum wage after 2024 for employees engaged on a piece-rate or  
45 regular hourly rate basis to labor on a farm. In contemplation of the  
46 possibility that the commissioner and the secretary are unable to  
47 agree on the recommendation required by this paragraph, by  
48 December 31, 2021, the Governor shall appoint a public member

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

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

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

31 f. Notwithstanding the provisions of this section to the  
32 contrary, every trucking industry employer shall pay to all drivers,  
33 helpers, loaders and mechanics for whom the Secretary of  
34 Transportation may prescribe maximum hours of work for the safe  
35 operation of vehicles, pursuant to section 31502(b) of the federal  
36 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less  
37 than 1 1/2 times the minimum wage required pursuant to this  
38 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking  
39 industry shall be paid no less than the minimum wage rate as  
40 provided in this section and N.J.A.C. 12:56-3.1. As used in this  
41 section, "trucking industry employer" means any business or  
42 establishment primarily operating for the purpose of conveying  
43 property from one place to another by road or highway, including  
44 the storage and warehousing of goods and property. Such an  
45 employer shall also be subject to the jurisdiction of the Secretary of  
46 Transportation pursuant to the federal Motor Carrier Act, 49  
47 U.S.C.s.31501 et seq., whose employees are exempt under section  
48 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29

1 U.S.C. s.213(b)(1), which provides an exemption to employees  
2 regulated by section 207 of the federal "Fair Labor Standards Act of  
3 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49  
4 U.S.C. s.501 et al.

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

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



1 of the vendors, contractors and subcontractors of the subdivision,  
2 unless the State or federal law expressly prohibits the subdivision  
3 from adopting the ordinance, resolution, regulation or rule, or  
4 entering into the agreement.

5 i. Effective on the first day of the second month next following  
6 the effective date of P.L.2020, c.89 (C.30:4D-7cc et al.), the  
7 minimum wage for long-term care facility direct care staff members  
8 shall be in an amount that is \$3 higher than the prevailing minimum  
9 wage established pursuant to subsection a. of this section.  
10 (cf: P.L.2020, c.89, s.2)

11  
12 3. Section 5 of P.L.1968, c.303 (C.34:13A-5.1) is amended to  
13 read as follows:

14 5. There is hereby established a Division of Public  
15 Employment Relations and a Division of Private Employment  
16 Dispute Settlement.

17 (a) The Division of Public Employment Relations shall be  
18 concerned exclusively with matters of public employment related to  
19 determining negotiating units, elections, certifications and  
20 settlement of public employee representative and public employer  
21 disputes and grievance procedures. For the purpose of complying  
22 with the provisions of Article V, Section IV, paragraph 1 of the  
23 New Jersey Constitution, the Division of Public Employment  
24 Relations is hereby allocated within the Department of Labor and  
25 Workforce Development, and located in the city of Trenton, but  
26 notwithstanding said allocation, the office shall be independent of  
27 any supervision or control by the department or by any board or  
28 officer thereof.

29 (b) The Division of Private Employment Dispute Settlement  
30 shall assist the New Jersey State Board of Mediation in the  
31 resolution of disputes in private employment. The New Jersey State  
32 Board of Mediation, its objectives and the powers and duties  
33 granted by this act and the act of which this act is amendatory and  
34 supplementary shall be concerned exclusively with matters of  
35 private employment and the office shall continue to be located in  
36 the city of Newark.

37 (c) In the case of a private employer not regulated by the  
38 National Labor Relations Board pursuant to the National Labor  
39 Relations Act (29 U.S.C. s.151 et seq.), the New Jersey State Board  
40 of Mediation shall designate a representative for a unit of  
41 employees of the private employer for the purposes of collective  
42 bargaining when:

43 (1) In any case in which the board determines that there is no  
44 current majority representative and only one employee organization  
45 is seeking to be the majority representative, that organization  
46 demonstrates that a majority of employees in the unit have shown  
47 their preference to have that organization be their representative by  
48 signing authorization cards indicating that preference; or

1 (2) The employees in the unit have selected a representative by  
2 an election that conforms with the procedures outlined in section  
3 159 of the National Labor Relations Act (29 U.S.C. s.159).

4 For the purposes of paragraph (1) of this subsection, an  
5 authorization card indicating preference shall not be valid unless it  
6 is printed in a language understood by the employee who signs it.

7 An employee organization seeking to be recognized as a majority  
8 representative, either by a card authorization procedure pursuant to  
9 paragraph (1) of this subsection or by an election pursuant to  
10 paragraph (2) of this subsection, is permitted, but not required, to  
11 petition the New Jersey State Board of Mediation to require the  
12 employer to file, within not more than 48 hours, and in the manner  
13 required by the board, a complete and accurate list of the full  
14 names, current street addresses, and job classifications of the  
15 current employees, and phone numbers or other employee contact  
16 information available to the employer, which the board shall  
17 immediately convey to the employee organization. Any employer  
18 who refuses to provide information requested by the New Jersey  
19 State Board of Mediation or otherwise acts to prevent the board  
20 from carrying out its responsibilities pursuant to this subsection (c)  
21 shall have violated this subsection and shall be liable to a fine of not  
22 more than ~~【\$1,000】~~ \$5,000 for each day that the employer fails to  
23 provide a complete response or otherwise prevents the board from  
24 carrying out its responsibilities, to be recovered under the "Penalty  
25 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) in  
26 the name of the board and to be used by the board for costs of  
27 implementing this subsection. In addition, an employee  
28 organization seeking to represent the employees of the employer  
29 may institute an action in a court of competent jurisdiction to obtain  
30 an injunction to restrain any continuation of the violation, to  
31 reimburse the employee organization or any affected employee for  
32 any damages caused by the violation plus reasonable costs and  
33 attorney's fees of the action.

34 The provisions of this subsection (c) shall not apply to religious  
35 or parochial schools or their employees or to any private nonprofit  
36 organization exempt from federal taxation under section 501 of the  
37 Internal Revenue Code of 1986 (26 U.S.C. s. 501).

38 (d) In the case of a private employer regulated by the National  
39 Labor Relations Board pursuant to the National Labor Relations Act  
40 (29 U.S.C. s. 151 et seq.), the New Jersey State Board of Mediation  
41 shall, based on the mutual agreement of the private employer and an  
42 organization seeking to represent employees of the employer,  
43 designate a representative for a unit of employees of the private  
44 employer for the purposes of collective bargaining when:

45 (1) In any case in which the board determines that only one  
46 employee organization is seeking to be the majority representative,  
47 that organization demonstrates, in a manner mutually agreed upon  
48 by the representative and the employer, that a majority of

1 employees in the unit have shown their preference to have that  
2 organization be their representative by signing authorization cards  
3 indicating that preference; or

4 (2) the employees in the unit have selected the representative by  
5 an election that conforms with the procedures outlined in section  
6 159 of the National Labor Relations Act (29 U.S.C. s.159).

7 (e) For the purposes of subsections (c) and (d) of this section,  
8 "employee unit" means an appropriate group of employees for the  
9 purposes of collective bargaining as determined, if necessary, by  
10 the New Jersey State Board of Mediation.

11 (cf: P.L.2005, c.161, s.1)

12

13 4. (New section) a. Agricultural employers and their  
14 representatives and agents are prohibited from the following unfair  
15 practices:

16 (1) Interfering with, restraining, or coercing employees in their  
17 exercise of rights guaranteed by this act.

18 (2) Dominating or interfering with the formation, existence or  
19 administration of any employee organization, including any  
20 violation of the provisions of section 5 of P.L. , c. (C. )  
21 (pending before the Legislature as this bill).

22 (3) Discharging, threatening to discharge, or otherwise  
23 discriminating with respect to hire or tenure of employment or any  
24 term or condition of employment to encourage or discourage  
25 employees from signing or filing an affidavit, petition or complaint  
26 or disclosing any information or testimony, or exercising any other  
27 rights guaranteed by this act.

28 (4) Refusing to negotiate in good faith with a majority  
29 representative of employees concerning terms and conditions of  
30 employment, refusing to process grievances, or refusing to reduce  
31 to writing and sign a negotiated agreement.

32 (5) Violating any regulations adopted by the division.

33 b. Employee organizations and their representatives and agents  
34 are prohibited from the following unfair practices:

35 (1) Interfering with, restraining or coercing employees in the  
36 exercise of the rights guaranteed to them by this act.

37 (2) Interfering with, restraining or coercing an agricultural  
38 employer in the selection of the employer's representative for the  
39 purposes of negotiations or the adjustment of grievances.

40 (3) Refusing to negotiate in good faith with an agricultural  
41 employer concerning terms and conditions of employment, or  
42 refusing to reduce to writing and sign a negotiated agreement.

43 (4) Violating any regulations adopted by the division.

44 c. The division shall have exclusive power to prevent anyone  
45 from engaging in any unfair practice listed in subsections a. and b.  
46 of this section. Whenever it is charged that any party has engaged  
47 or is engaging in an unfair practice, the division, or its designated  
48 agent, shall have authority to issue and cause to be served upon the

1 party a complaint stating the specific unfair practice charged and  
2 including a notice of hearing containing the date and place of  
3 hearing before the division or its designated agent, except that no  
4 complaint shall be based on an unfair practice occurring more than  
5 six months prior to the filing of the charge unless the aggrieved  
6 person was prevented from filing the charge, in which event the six-  
7 month period shall be computed from the day the person was no  
8 longer prevented. If the division determines that any party charged  
9 has engaged or is engaging in an unfair practice, the division shall  
10 state its findings of fact and conclusions of law and issue and cause  
11 to be served on the party an order requiring the party to cease and  
12 desist from the unfair practice, and to take reasonable remedial or  
13 affirmative action as will effectuate the policies of this act, which  
14 shall, in the case of a discharge or other discrimination against any  
15 employee for exercising rights guaranteed by this act, include  
16 reinstatement to any employment from which the employee was  
17 discharged, the payment of any wages lost due to the  
18 discrimination, reasonable costs of action, and liquidated damages  
19 equal to the wages due. Any case in which a complaint and notice  
20 of hearing are issued by the division shall be prosecuted before the  
21 division by a representative of the employee organization or other  
22 party filing the charge.

23 d. The division shall have the power to apply to the Appellate  
24 Division of the Superior Court for an appropriate order enforcing  
25 any order of the division issued pursuant to subsection c. of this  
26 section, and its findings of fact, if based upon substantial evidence  
27 on the record as a whole, shall not be set aside or modified, and any  
28 order for remedial or affirmative action, if reasonably designed to  
29 effectuate the provisions of this act, shall be affirmed and enforced.

30  
31 5. (New section) a. If an employee organization seeking to be  
32 a majority representative of employees of an agricultural employer  
33 petitions the New Jersey State Board of Mediation to require the  
34 employer to provide a list of the current employees with contact  
35 information pursuant to section 5 of P.L.1968, c.303 (C.34:13A-  
36 5.1), the employer shall, along with providing the list and contact  
37 information, provide the employee organization access to the  
38 employees. The required access to employees shall include, but not be  
39 limited to, permitting representatives of the organization to meet with  
40 employees on the premises of the employer during the work day, and  
41 permitting representatives of the organization to meet with employees  
42 at any employee living quarters under the control of the employer.

43 b. An agricultural employer shall permit any employee  
44 organization which is a majority representative of employees of the  
45 employer:

46 (1) to access the employer's premises to investigate and discuss  
47 with the employees grievances, workplace-related complaints, and  
48 other workplace issues;

1 (2) to conduct worksite meetings during non-work breaks, and  
2 before and after the workday, to discuss workplace issues, collective  
3 negotiations, the administration of collective negotiations agreements,  
4 other matters related to the governance, business, and duties of the  
5 employee organization; and

6 (3) to meet with a newly hired employee within five days after  
7 hire, without charge to the pay or leave time of the employee.

8 c. An agricultural employer shall provide the majority  
9 representative with timely notification of any new hiring by the  
10 employer or change in the contact information of current employees.

11 d. An agricultural employer shall carry out payroll deductions  
12 for membership dues for the majority representative, and payroll  
13 deductions for representation fees from non-members, as agreed to  
14 in negotiations between the employer and the majority  
15 representative, or, if an agreement is not reached, as set by the  
16 division.

17 e. An agricultural employer shall not discourage an employee  
18 from joining, forming or assisting an employee organization, or  
19 encourage employees to resign or relinquish membership in an  
20 employee organization, or revoke authorization of the deduction of  
21 dues or fees to an employee organization.

22 f. An agricultural employer who violates any provision of this  
23 section shall be regarded as having engaged in an unfair practice in  
24 violation of section 4 of P.L. , c. (C. ) (pending before the  
25 Legislature as this bill), and, upon a finding that the violation has  
26 occurred, the division, in addition to implementing any other  
27 remedies authorized by that section, shall order the agricultural  
28 employer to make whole the employee organization for any losses  
29 suffered by the organization as a result of the violation.

30  
31 6. (New section) Notwithstanding any law to the contrary, an  
32 organization representing agricultural laborers, and its members,  
33 representatives, and supporters, shall have the right to engage in  
34 publicity, including picketing, for the purpose of truthfully advising  
35 the public, including consumers, that products or the ingredients of  
36 products are produced by an agricultural employer with which the  
37 organization has a dispute, including publicity which has the effect  
38 of requesting the public to cease patronizing businesses which  
39 distribute or sell those products.

40  
41 7. (New section) The division, in consultation with the New  
42 Jersey State Board of Mediation, shall adopt regulations as needed  
43 regarding the conduct of the selection of majority representatives  
44 through election or authorization card procedures pursuant to  
45 subsection (c) of section 5 of P.L.1968, c.303 (C.34:13A-5.1),  
46 procedures for negotiations between majority representatives and  
47 agricultural employers, the resolution of grievances, the collection

1 of dues and fees for the majority representatives, and other matters  
2 concerning terms and conditions of employment.

3

4 8. (New section) For the purposes of sections 1 through 5 of  
5 P.L. , c. (C. ) (pending before the Legislature as this bill):

6 "Agricultural employer" means any private employer of  
7 agriculture laborers who is not regulated by the National Labor  
8 Relations Board pursuant to the National Labor Relations Act  
9 (29 U.S.C. s.151 et seq.).

10 "Division" means the Division of Private Employment Dispute  
11 Settlement established pursuant to section 5 of P.L.1968, c.303  
12 (C.34:13A-5.1).

13 "Majority representative" means an employee organization  
14 designated by the State Board of Mediation pursuant to subsection  
15 (c) of section 5 of P.L.1968, c.303 (C.34:13A-5.1) to be a  
16 representative of a unit of employees of an agricultural employer.

17

18 9. (New section) This act shall be known and may be cited as  
19 the "Farm Labor Equality Act."

20

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

22 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et  
23 seq.), unless the context clearly requires otherwise:

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

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

1 the beginning of the 12-month period for which the employer's  
2 contribution rate is computed.

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

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

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

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

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

1 of that period. For the purposes of this paragraph, "period of  
2 disability" means the period defined as a period of disability by  
3 section 3 of the "Temporary Disability Benefits Law," P.L.1948,  
4 c.110 (C.43:21-27). An individual who files a claim under the  
5 provisions of this paragraph (2) shall not be regarded as having left  
6 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

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

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

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

42 (2) "Controller" means the Office of the Assistant Commissioner  
43 for Finance and Controller of the Department of Labor and  
44 Workforce Development, established by the 1982 Reorganization  
45 Plan of the Department of Labor.

46 (f) "Contributions" means the money payments to the State  
47 Unemployment Compensation Fund, required by R.S.43:21-7.  
48 "Payments in lieu of contributions" means the money payments to



1 the State Unemployment Compensation Fund by employers electing  
2 or required to make payments in lieu of contributions, as provided  
3 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-  
4 7.3).

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

27 (h) "Employer" means:

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

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

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

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

1 (5) Any employing unit for which service in employment as  
2 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December  
3 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is  
4 performed after December 31, 1977;

5 (6) Any employing unit for which service in employment as  
6 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,  
7 1971 and which in either the current or the preceding calendar year  
8 paid remuneration for employment in the amount of \$1,000.00 or  
9 more;

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

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

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

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

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

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

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

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

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

40 (A) Any service performed prior to January 1, 1972, which was  
41 employment as defined in the "unemployment compensation law"  
42 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other  
43 provisions of this subsection, service performed on or after January  
44 1, 1972, including service in interstate commerce, performed for  
45 remuneration or under any contract of hire, written or oral, express  
46 or implied.

47 (B) (i) Service performed after December 31, 1971 by an  
48 individual in the employ of this State or any of its instrumentalities

1 or in the employ of this State and one or more other states or their  
2 instrumentalities for a hospital or institution of higher education  
3 located in this State, if such service is not excluded from  
4 "employment" under paragraph (D) below.

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

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

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

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

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

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

33 (aa) as an elected official;

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

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

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

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

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

1 providing remunerative work for individuals who because of their  
2 impaired physical or mental capacity cannot be readily absorbed in  
3 the competitive labor market;

4 (v) By an individual receiving work-relief or work-training as  
5 part of an unemployment work-relief or work-training program  
6 assisted in whole or in part by any federal agency or an agency of a  
7 state or political subdivision thereof; or

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

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

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

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

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

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

46 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed  
47 after January 1, 1972 by an officer or member of the crew of an  
48 American vessel or American aircraft on or in connection with such

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

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

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

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

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

29 (bb) for some portion of a day in each of 20 different calendar  
30 weeks, whether or not such weeks were consecutive, in either the  
31 current or the preceding calendar year, employed in agricultural  
32 labor 10 or more individuals, regardless of whether they were  
33 employed at the same moment in time, except that the conditions of  
34 R.S.34:21-19(i)(1)(I)(aa) and (bb) shall not apply after December  
35 31, 2025.

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

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

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

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

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

7 (bb) such other entity shall be treated as having paid cash  
8 remuneration to such individual in an amount equal to the amount  
9 of cash remuneration paid to such individual by the crew leader  
10 (either on his own behalf or on behalf of such other entity) for the  
11 service in agricultural labor performed for such other entity.

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

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

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

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

22 (J) Domestic service after December 31, 1977 performed in the  
23 private home of an employing unit which paid cash remuneration of  
24 \$1,000.00 or more to one or more individuals for such domestic  
25 service in any calendar quarter in the current or preceding calendar  
26 year.

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

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

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

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

43 (4) Services not covered under paragraph (2) of this subsection  
44 and performed entirely without this State, with respect to no part of  
45 which contributions are required and paid under an unemployment  
46 compensation law of any other state or of the federal government,  
47 shall be deemed to be employment subject to this chapter  
48 (R.S.43:21-1 et seq.) if the individual performing such services is a

1 resident of this State and the employing unit for whom such  
2 services are performed files with the division an election that the  
3 entire service of such individual shall be deemed to be employment  
4 subject to this chapter (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

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

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

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

38 (ii) for some portion of a day in each of 20 different calendar  
39 weeks, whether or not such weeks were consecutive, in either the  
40 current or the preceding calendar year, employed in agricultural  
41 labor 10 or more individuals, regardless of whether they were  
42 employed at the same moment in time**】 Deleted by amendment,**  
43 P.L. , c. (C. ) (pending before the Legislature as this bill);

44 (B) Domestic service in a private home performed prior to  
45 January 1, 1978; and after December 31, 1977, unless performed in  
46 the private home of an employing unit which paid cash  
47 remuneration of \$1,000.00 or more to one or more individuals for

1 such domestic service in any calendar quarter in the current or  
2 preceding calendar year;

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

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

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

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

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

43 (H) Services performed as a member of the board of directors, a  
44 board of trustees, a board of managers, or a committee of any bank,  
45 building and loan, or savings and loan association, incorporated or  
46 organized under the laws of this State or of the United States, where  
47 such services do not constitute the principal employment of the  
48 individual;



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (X) Services performed by operators of motor vehicles weighing  
39 18,000 pounds or more, licensed for commercial use and used for  
40 the highway movement of motor freight, who own their equipment  
41 or who lease or finance the purchase of their equipment through an  
42 entity which is not owned or controlled directly or indirectly by the  
43 entity for which the services were performed and who were  
44 compensated by receiving a percentage of the gross revenue  
45 generated by the transportation move or by a schedule of payment  
46 based on the distance and weight of the transportation move;

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

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

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

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

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

24 (A) The limousine franchisee is incorporated;

25 (B) The franchisee is subject to regulation by the Interstate  
26 Commerce Commission;

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

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

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

44 For purposes of this paragraph (10): "legal transcription service"  
45 and "legal transcribing" mean making use, by audio, video or voice  
46 recording, of a verbatim record of court proceedings, depositions,  
47 other judicial proceedings, meetings of boards, agencies,  
48 corporations, or other bodies or groups, and causing that record to

1 be printed in readable form or produced on a computer screen in  
2 readable form; and "legal transcriber" means a person who engages  
3 in "legal transcribing."

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

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

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

11 (m) "Unemployment."

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

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

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

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

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

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

44 (o) "Wages" means remuneration paid by employers for  
45 employment. If a worker receives gratuities regularly in the course  
46 of his employment from other than his employer, his "wages" shall  
47 also include the gratuities so received, if reported in writing to his  
48 employer in accordance with regulations of the division, and if not

1 so reported, his "wages" shall be determined in accordance with the  
2 minimum wage rates prescribed under any labor law or regulation  
3 of this State or of the United States, or the amount of remuneration  
4 actually received by the employee from his employer, whichever is  
5 the higher.

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

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

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

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

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

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

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

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

46 (3) "Base week," commencing on or after January 1, 2001,  
47 means any calendar week during which the individual earned in  
48 employment from an employer remuneration not less than an

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

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

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

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

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

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

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

46 (A) In which participants, trainees, or students are offered an  
47 organized course of study or training designed to transfer to them

1 knowledge, skills, information, doctrines, attitudes or abilities from,  
2 by or under the guidance of an instructor or teacher;

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

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

10 (2) "Institution of higher education" means an educational  
11 institution which:

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

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

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

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

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

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

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

30

31 11. This act shall take effect immediately.

32

33

34

#### STATEMENT

35

36 This bill, the "Farm Labor Equality Act," modifies a number of  
37 labor laws to provide farmworkers with rights and protections equal  
38 to the rights and protections provided to other workers, specifically  
39 in the areas of child labor, overtime pay, employee representation  
40 and collective bargaining, and unemployment benefits.

41

#### Child labor:

42 This bill repeals provisions of the State child labor law,  
43 P.L.1940, c.153 (C.34:2-21.1 et seq.), that currently exempt minors  
44 employed in agriculture from requirements of that law which apply  
45 to most other minors. The bill:

46 1. raises the minimum age that minors may work in agriculture  
47 from 12 years old to 14 years old;  
48

1       2. reduces the number of hours per day that a minor may work  
2 in agriculture from 10 to 8 hours, and clarifies that various limits to  
3 work time that apply to most minors also apply to minors employed  
4 in agriculture, including not working more than six days, or 40  
5 hours, per week, and not working before 7 a.m. or after 7 p.m.; and

6       The bill does not change the provisions of P.L.1940, c.153 which  
7 exempt from its provisions agricultural work done by a minor in  
8 connection with the minor's own home under the minor's parent or  
9 guardian while school is not in session.

10  
11 Overtime pay:

12       The bill repeals provisions of the State wage and hour law,  
13 P.L.1966, c.113 (C.34:11-56a et seq.), that currently exclude  
14 farmworkers from overtime pay, thus requiring employers to pay  
15 farmworkers 1½ times their regular wage for each hour excess of 40  
16 hours per week, as is currently required for most other workers.

17  
18 Employee representation and collective bargaining:

19       Currently, farmworkers are excluded from the protections against  
20 unfair labor practices provided to most private sector workers by  
21 the federal National Labor Relations Act (29 U.S.C. s.151 et  
22 seq.)("NLRA"), and provided to public employees by the State  
23 public employment relations law, P.L.1968, c.303 (C.34:13A-5.1 et  
24 seq.)("PERL") and the Workplace Democracy Enhancement Act,  
25 P.L.2018, c.15 (C.34:13A-5.11 et seq.) ("WDEA").

26       This bill brings farmworkers under protections similar to those  
27 laws, by expanding the responsibilities of the Division of Private  
28 Employment Dispute Settlement in the Department of Labor and  
29 Workforce Development regarding agricultural employment not  
30 regulated by the NLRA. It provides the division with the power to  
31 prevent specified unfair labor practices, thus providing rights to the  
32 farmworkers similar to the rights provided to other private sector  
33 workers under the NLRA, and the rights provided to public  
34 employees under the PERL and the WDEA.

35       The bill prohibits agricultural employers and their  
36 representatives and agents from the following unfair practices:

37       1. Interfering with, restraining, or coercing employees in the  
38 exercise of the rights granted by the bill.

39       2. Dominating or interfering with any employee organization.

40       3. Discriminating against employees for making disclosures or  
41 otherwise exercising their rights.

42       4. Refusing to negotiate in good faith or sign a negotiated  
43 agreement.

44       5. Violating any division regulation.

45       The bill similarly prohibits employee organizations and their  
46 representatives and agents from the following unfair practices:

47       1. Interfering with, restraining or coercing employees in the  
48 exercise of their rights.



1       2. Interfering with, restraining or coercing an agricultural  
2 employer in the selection of a representative for negotiations or  
3 grievance procedures.

4       3. Refusing to negotiate in good faith or sign a negotiated  
5 agreement.

6       4. Violating any division regulation.

7       The division may order an offending party to cease any unfair  
8 practice and take reasonable remedial action, including, in the case  
9 of a discharge, reinstatement, paying lost wages, costs of action,  
10 and damages equal to the wages due. It is also an unfair practice  
11 under the bill for an agricultural employer to encourage or  
12 discourage employees from joining, forming or assisting an  
13 employee organization, or encourage them to end their employee  
14 organization membership or revoke authorization of the deduction  
15 of dues or fees. The division is required to order the employer to  
16 make whole the employee organization for any resulting losses to  
17 the organization.

18       Current law, section 5 of P.L.1968, c.303 (C.34:13A-5.1),  
19 permits the New Jersey State Board of Mediation to designate a  
20 labor organization to represent employees of a private sector  
21 employer not regulated under the NLRA, if the employees select the  
22 organization in an election conforming with NLRA procedures, or,  
23 if only one labor organization seeks to represent the employees, a  
24 majority of the employees sign cards showing that they prefer that  
25 organization.

26       The bill provides that in such cases the employee organization  
27 may petition the board to require the employer to provide a list of  
28 current employees with contact information. If the organization  
29 petitions the board for that information, the employer must also  
30 give the organization access to the employees, including allowing  
31 meetings in the workplace and employer-controlled living quarters.

32       The bill provides that once an employee organization is designated  
33 as the employee representative, the employer must give the  
34 organization access to the employer's premises to investigate and  
35 discuss grievances and other issues, conduct meetings, and meet newly  
36 hired employees.

37       The bill gives farmworker organizations the right to engage in  
38 publicity regarding products produced by an employer with which  
39 the organization has a dispute, including publicity asking the public  
40 to not patronize businesses distributing or selling the products.

41

42 Unemployment benefits:

43       The bill repeals provisions of the State "unemployment  
44 compensation law," R.S.43:21-1 et seq., that currently exclude  
45 farmworkers from unemployment benefits if their employer  
46 employs less than 10 farmworkers during each of 20 weeks in the  
47 preceding year or pays less than \$20,000 in wages to farmworkers  
48 during any calendar quarter in the current or preceding year. This

**S2764 CRUZ-PEREZ**

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1 exclusion applies only to farmworkers, and may prevent laid-off  
2 farmworkers from receiving benefits even if their combined  
3 employment with multiple employers would otherwise make them  
4 eligible.