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P.L. 1999, CHAPTER 370, *approved January 14, 2000*
Assembly, No. 3636

1 AN ACT requiring certain motor carrier employees to be paid overtime
2 wage rates and amending P.L.1966, c.113.

3

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

6

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

9 5. Every employer shall pay to each of his employees wages at a
10 rate of not less than \$5.05 per hour as of April 1, 1992 and, after
11 January 1, 1999 the minimum hourly wage rate set by section 6(a)(1)
12 of the federal "Fair Labor Standards Act of 1938" (29 U.S.C.
13 s.206(a)(1)) for 40 hours of working time in any week and 1 1/2 times
14 such employee's regular hourly wage for each hour of working time in
15 excess of 40 hours in any week, except this overtime rate shall not
16 include any individual employed in a bona fide executive,
17 administrative, or professional capacity or, if an applicable wage order
18 has been issued by the commissioner under section 17
19 (C.34:11-56a16) of this act, not less than the wages prescribed in said
20 order. The wage rates fixed in this section shall not be applicable to
21 part-time employees primarily engaged in the care and tending of
22 children in the home of the employer, to persons under the age of 18
23 not possessing a special vocational school graduate permit issued
24 pursuant to section 15 of P.L.1940, c.153 (C.34:2-21.15), or to
25 persons employed as salesmen of motor vehicles, or to persons
26 employed as outside salesmen as such terms shall be defined and
27 delimited in regulations adopted by the commissioner, or to persons
28 employed in a volunteer capacity and receiving only incidental benefits
29 at a county or other agricultural fair by a nonprofit or religious
30 corporation or a nonprofit or religious association which conducts or
31 participates in that fair.

32 The provisions of this section for the payment to an employee of
33 not less than 1 1/2 times such employee's regular hourly rate for each
34 hour of working time in excess of 40 hours in any week shall not apply
35 to employees engaged to labor on a farm or employed in a hotel or to
36 an employee of a common carrier of passengers by motor bus or to a
37 limousine driver who is an employee of an employer engaged in the
38 business of operating limousines or to employees engaged in labor
39 relative to the raising or care of livestock.

40 Employees engaged on a piece-rate or regular hourly rate basis to
41 labor on a farm shall be paid for each day worked not less than the

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 minimum hourly wage rate multiplied by the total number of hours
2 worked.

3 Full-time students may be employed by the college or university at
4 which they are enrolled at not less than 85% of the effective minimum
5 wage rate.

6 Notwithstanding the provisions of this section to the contrary,
7 every trucking industry employer shall pay to all drivers, helpers,
8 loaders and mechanics for whom the Secretary of Transportation may
9 prescribe maximum hours of work for the safe operation of vehicles,
10 pursuant to section 31502(b) of the federal Motor Carrier Act, 49
11 U.S.C. s.31502(b), an overtime rate not less than 1 1/2 times the
12 minimum wage required pursuant to this section and N.J.A.C. 12:56-
13 3.1. Employees engaged in the trucking industry shall be paid no less
14 than the minimum wage rate as provided in this section and N.J.A.C.
15 12:56-3.1. As used in this section, "trucking industry employer" means
16 any business or establishment primarily operating for the purpose of
17 conveying property from one place to another by road or highway,
18 including the storage and warehousing of goods and property. Such an
19 employer shall also be subject to the jurisdiction of the Secretary of
20 Transportation pursuant to the federal Motor Carrier Act, 49 U.S.C.
21 s.31501 et seq., whose employees are exempt under section 213(b)(1)
22 of the federal Fair Labor Standards Act, 29 U.S.C. s.213(b)(1), which
23 provides an exemption to employees regulated by section 207 of the
24 federal Fair Labor Standards Act, 29 U.S.C. 207, and the Interstate
25 Commerce Act, 49 U.S.C. 501 et al.
26 (cf: P.L.1999, c.6, s.1)

27

28 2. This act shall take effect immediately.

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STATEMENT

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33 This bill explicitly requires drivers, helpers, loaders and mechanics
34 employed by motor carriers, who are subject to requirements for
35 maximum hours prescribed by the United States Secretary of
36 Transportation pursuant to the Federal Motor Carrier Act (49 U.S.C.
37 13501 et seq.), to be paid an overtime wage rate not less than one and
38 one-half times the State's minimum wage rate. The bill is considered
39 necessary in light of the United States Court of Appeals for the Third
40 Circuit's decision in Keeley v. Loomis Fargo & Co., 1999 WL 504705
41 (3d Cir. July 19, 1999) which held that the New Jersey Commissioner
42 of Labor exceeded his statutory authority when he promulgated a
43 regulation that excluded certain trucking industry employees from
44 New Jersey's statutory overtime pay requirement. This bill, by
45 inserting the substance of the regulation in P.L.1966, c.113, would
46 permit these employees to be excluded from the overtime requirement
47 otherwise applicable.

1

2

3 Requires certain motor carrier employees to be paid an overtime wage
4 rate not less than one and one-half times the State's minimum wage
5 rate.

ASSEMBLY, No. 3636

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED JANUARY 6, 2000

Sponsored by:

Assemblyman ALEX DECROCE

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

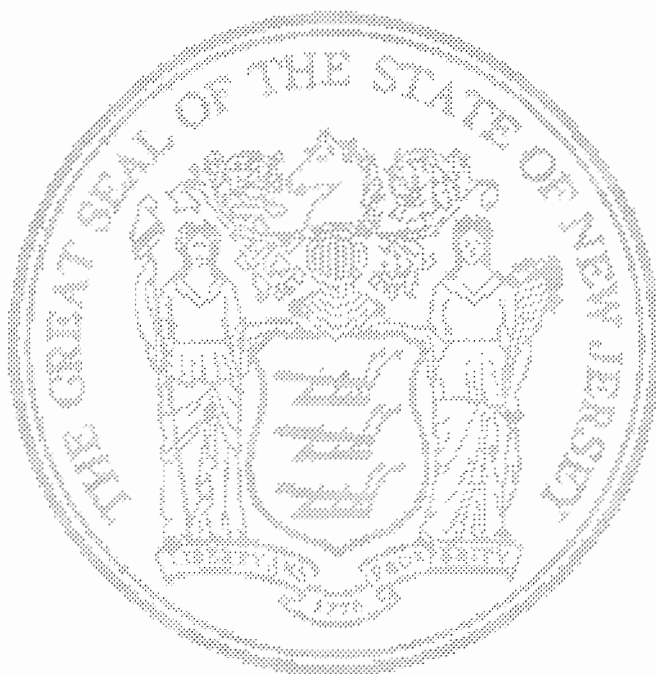
Senator Ciesla

SYNOPSIS

Requires certain motor carrier employees to be paid an overtime wage rate not less than one and one-half times the State's minimum wage rate.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/11/2000)

A3636 DECROCE

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SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2290

STATE OF NEW JERSEY

DATED: DECEMBER 13, 1999

The Senate Commerce Committee reports favorably Senate Bill No. 2290.

This bill requires trucking industry employers to pay at least 1½ times the State's minimum wage for overtime hours to their drivers, helpers, loaders and mechanics for whom the United States Secretary of Transportation may prescribe maximum hours of work for safe operation of vehicles.

Office of the GovernorPO BOX 004
TRENTON, NJ 08625**NEWS RELEASE**CONTACT: Gene Herman
609-777-2600

RELEASE: January 14, 2000

Governor Christie Whitman signed today the following pieces of legislation:

S-279 (Girgenti) (Russo) - Clarifies duties and responsibilities of municipal prosecutors.

S-504 (Ciesla/Matheussen) (Blee/Malone) - Requires public school districts to provide transportation to all nonpublic schools in certain situations.

S-912 (Palaia/Bark) (Roberts/Geist) - Authorizes certain charges to office of county fire marshal and allows creation of arson investigation unit therein.

SCS for S-1196 (Kosco/Bryant/Furnari) (Cohen/DiGaetano) - Amends "Check Cashers Regulatory Act" to make it a crime to cash a check for consideration without a license and requires the revocation of license under certain circumstances; amends "Casino Control Act" to require casino licensees to file suspicious transaction report.

S-1492 (Sinagra/Bassano) (Cruz-Perez/Vandervalk) - "Physician- Dentist Fellowship and Education Program to Provide Health Care to Persons with Developmental Disabilities," appropriates \$2,500,000.

S-2217 (Gormley) (LeFevre/Blee) - Clarifies that cooperative to condominium conversions are not subject to realty transfer fee.

AS for SCS for S-949 (Blee/Cruz-Perez/Previte/Bryant/Gormley) (Jones/Asselta) - Makes Division of Criminal Justice investigators and probation officers eligible for body armor grants.

A-2965 (Bodine/Gregg) (Sinagra/Vitale) - Clarifies that only large water systems are required annually to mail drinking water quality information to customers; requires certain entities to post water quality test results.

A-3270 (Malone/Cottrell) (Singer/Allen) - Requires a board of education providing certain services to nonpublic school pupils to provide consultation with representatives of the nonpublic school on any change in the provision of services.

A-3408 (Biondi/Heck) (Kavanaugh/Robertson) - Provides sales tax exemptions for certain purchases by flood victims of Hurricane Floyd.

A-3571 (Blee) (Bryant/Matheussen) - Revises certain procedures for the receipt of State matching funds against contributions and donations made to institutions of higher education and institutional foundations.

S-1842 (Singer/Bark) (Malone/Conaway) - Establishes a special license plate to aid Deborah Hospital Foundation.

S-1869 (O'Connor) (Asselta/Gregg) - Makes permanent the Vietnam Veterans' Memorial Fund contribution gross income tax return check-off.

SCS for S-2034 (Ciesla/Codey) (Moran/Impeveduto) - Establishes certain licensing requirements for limousine drivers and additional requirements for owners of limousines.

A-2055 (Weinberg/Zisa) (Bassano/Singer) - Establishes Prostate Cancer Awareness, Education and Research Program in DHSS; appropriates \$1 million.

A-3245 (Lance/Gregg) (Schluter) - Appropriates \$200,000 for deer control research.

A-3410 (Lance/Smith) (Lynch) - Authorizes municipalities to establish grant programs to provide relief to certain real property owners for damages due to floods, hurricanes and other natural disasters.

A-3568 (Felice/Doria) (Bassano/Codey) - Continues health service corporation member on Individual Health Coverage and Small Employer Health Benefits Program boards.

A-3622 (Kramer) (Inverso) - Excludes certain hedge fund activity income of corporations of foreign nations from taxation under the corporation business tax.

A-3636 (DeCroce/Ciesla) - Exempts motor carrier employees from the State's statutory overtime wage rate requirements.

njhome