

STATE OF NEW YORK

866

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. GLICK, DINOWITZ,
COLTON, MAGNARELLI, SIMON,
REYES, GONZALEZ-ROJAS, BURDICK, GALLAGHER,
MAMDANI, RIVERA, MITAYNES,
SIMONE, R. CARROLL -- read once and referred to
the Committee on Labor

AN ACT to amend the labor law and the workers'
compensation law, in
relation to the employee status of an individual

The People of the State of New York, represented
in Senate and Assem-
bly, do enact as follows:

1 Section 1. Paragraphs (a) and (b) of
subdivision 1 of section 511 of
2 the labor law, as amended by chapter 607 of the
laws of 1971, subpara-
3 graph 1-a of paragraph (b) as added by chapter 903
of the laws of 1986,

4 subparagraph 1-b of paragraph (b) as added by
chapter 418 of the laws of
5 2010, subparagraph 1-c of paragraph (b) as added by
chapter 558 of the
6 laws of 2013, and subparagraph 3 of paragraph
(b) as added by chapter
7 668 of the laws of 1992, are amended to read as
follows:

8 (a) any service under any contract of employment
for hire, express or
9 implied, written, or oral; and

10 (b) (1) any service by a person providing labor
or services for remun-
11 eration unless the hiring entity demonstrates that
all of the following
12 conditions are satisfied:

13 (i) the person is free from the control and
direction of the hiring
14 entity in connection with the performance of the
work, both under the
15 contract for the performance of the work and in
fact; and

16 (ii) the person performs work that is outside the
usual course of the
17 hiring entity's business; and

18 (iii) the person is customarily engaged in an
independently estab-
19 lished trade, occupation, or business of the
same nature as that
20 involved in the work performed.

21 (2) for the purposes of this section, any
person providing labor or
22 services for remuneration pursuant to subparagraph
one of this paragraph

EXPLANATION--Matter in italics (underscored) is
new; matter in brackets

[-] is old law to be omitted.

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1 shall be considered an employee rather than an
independent contractor;

2 and
3 (c) any service by a person for an employer:
4 (1) as an agent-driver or commission-driver
engaged in distributing
5 meat, vegetable, fruit, or bakery products;
beverages other than milk;
6 or laundry or dry-cleaning services; or
7 (1-a) as a professional musician or a person
otherwise engaged in the
8 performing arts, and performing services as such
for a television or
9 radio station or network, a film production, a
theatre, hotel, restau-
10 rant, night club or similar establishment unless,
by written contract,
11 such musician or person is stipulated to be
an employee of another
12 employer covered by this chapter. "Engaged in the
performing arts" shall
13 mean performing services in connection with
the production of or
14 performance in any artistic endeavor which
requires artistic or techni-
15 cal skill or expertise; or
16 (1-b) as an employee in the construction industry
unless the presump-
17 tion of employment can be overcome, as
provided under section eight
18 hundred sixty-one-c of this chapter; or
19 (1-c) as an employee in the commercial goods
transportation industry
20 unless the presumption of employment can be
overcome, as provided under
21 section eight hundred sixty-two-b of this chapter;
or
22 (2) as a traveling or city [~~salesman~~] salesperson
engaged on a full-
23 time basis in soliciting orders for merchandise
for resale or supplies
24 for use in the purchaser's business operations
if the contract of
25 service contemplates that substantially all of
such services are to be

26 performed personally by such person; such
person does not have a
27 substantial investment in facilities used in
connection with the
28 performance of such services, excepting facilities
for transportation;
29 and the services are not in the nature of a single
transaction which is
30 not part of a continuing relationship with the
employer.

31 (3) as a professional model, where:

32 (i) the professional model performs modeling
services for; or

33 (ii) consents in writing to the transfer of [~~his
or her~~] such profes-
34 sional model's exclusive legal right to the use
of [~~his or her~~] such

35 professional model's name, portrait, picture or
image, for advertising

36 purposes or for the purposes of trade, directly
to a retail store, a

37 manufacturer, an advertising agency, a
photographer, a publishing compa-

38 ny or any other such person or entity, which
dictates such professional

39 model's assignments, hours of work or
performance locations and which

40 compensates such professional model in return for a
waiver of [~~his or~~

41 ~~her~~] such professional model's privacy rights
enumerated above, unless

42 such services are performed pursuant to a written
contract wherein it is

43 stated that the professional model is the employee
of another employer

44 covered by this chapter. For purposes of this
subparagraph, the term

45 "professional model" means a person who, in the
course of [~~his or her~~]

46 such person's trade, occupation or
profession, performs modeling

47 services. For purposes of this subparagraph,
the term "modeling

48 services" means the appearance by a professional
model in photographic

49 sessions or the engagement of such model in live,
filmed or taped model-

50 ing performances for remuneration.

51 § 2. Subdivision 3 of section 160 of the labor
law, the opening para-

52 graph as amended by chapter 481 of the laws of
2010, is amended to read

53 as follows:

54 3. a. For all other employees, except those
engaged in farm work and

55 those affected by subdivision four of section two
hundred twenty of this

56 chapter, eight hours.

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1 b. For the purposes of this subdivision, an
individual providing labor

2 or services for remuneration has the status of an
employee rather than

3 an independent contractor unless the hiring entity
demonstrates all of

4 the following conditions:

5 (i) The individual is free from the control
and direction of the

6 hiring entity in connection with the performance of
the work, both under

7 the contract for the performance of the work and in
fact.

8 (ii) The individual performs work that is outside
the usual course of

9 the hiring entity's business.

10 (iii) The individual is customarily engaged in an
independently estab-

11 lished trade, occupation, or business of the
same nature as that

12 involved in the work performed.

13 c. This subdivision shall not prevent an
agreement for overwork at an

14 increased compensation, except upon work by or for
the state or a munic-

15 ipal corporation, or by contractors or
subcontractors therewith, and

16 except as otherwise provided in this chapter.
17 § 3. Subdivision 5 of section 651 of the labor
law is amended by
18 adding a new closing paragraph to read as follows:
19 Unless otherwise excluded by the provisions of
this subdivision or by
20 regulations promulgated by the commissioner, an
individual providing
21 labor or services for remuneration has the status
of an employee rather
22 than an independent contractor unless the hiring
entity demonstrates all
23 of the following conditions:
24 (a) The individual is free from the control
and direction of the
25 hiring entity in connection with the performance of
the work, both under
26 the contract for the performance of the work and in
fact.
27 (b) The individual performs work that is
outside the usual course of
28 the hiring entity's business.
29 (c) The individual is customarily engaged in an
independently estab-
30 lished trade, occupation, or business of the
same nature as that
31 involved in the work performed.
32 § 4. Subdivision 6 of section 201 of the workers'
compensation law is
33 amended by adding a new paragraph E to read as
follows:
34 E. (A) The term "employment" includes, unless
specifically excluded by
35 a provision of this subdivision, any service by a
person providing labor
36 or services for remuneration unless the hiring
entity demonstrates that
37 all of the following conditions are satisfied:
38 (i) the person is free from the control and
direction of the hiring
39 entity in connection with the performance of the
work, both under the
40 contract for the performance of the work and in
fact; and

41 (ii) the person performs work that is outside the
42 usual course of the

43 hiring entity's business; and

44 (iii) the person is customarily engaged in an
45 independently estab-

46 lished trade, occupation, or business of the
47 same nature as that

48 involved in the work performed.

49 (B) For the purposes of this section, any
50 person providing labor or

51 services for remuneration pursuant to subparagraph
52 (A) of this paragraph

53 shall be considered an employee rather than an
54 independent contractor.

55 § 5. This act shall take effect immediately.