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Act Now!

Call-in Pay Regulation could cost your business!
Action Requested to send comments to NYS Labor Department
Comments Accepted Until January 6.

The New York State Department of Labor (NYSDOL) has proposed regulations that would revise the call-in pay requirements of the Minimum Wage Order for Miscellaneous Industries and Occupations. Your business can be adversely affected if your labor needs are impacted by the weather or other factors outside your control. Below is a letter you can use to send to the NYSDOL at regulations@labor.ny.gov. Also you can send this letter electronically through the New York Farm Bureau E-Lobby system [website \(http://capwiz.com/nyfb/issues/alert/?alertid=79386626&type=CU&show_alert=1\)](http://capwiz.com/nyfb/issues/alert/?alertid=79386626&type=CU&show_alert=1).

NYSTA urges you to consider the impact the regulatory rule would have on your business and contact the NYSDOL immediately. Copy and paste the letter below or use the Farm Bureau E-Lobby system. Comments are being accepted until **January 6, 2018**.

Thank you to the Vandervort Group for drafting the letter and to NY Farm Bureau for access to their E-Lobby System.

NYS Department of Labor
State Office Campus
Building 12, Room 509
Albany, NY 12240

ID No. LAB-47-17-00011-P

I am writing to express my concerns regarding the proposed regulation that would revise the call-in pay requirements of the Minimum Wage Order for Miscellaneous Industries and Occupations. As an operator of a small business that is very dependent upon the weather, scheduling decisions are often out of my control. Therefore, I find these draft regulations extremely burdensome and costly.

The proposed regulations would require employers pay workers an additional two hours of call-in pay when they report to work for a shift not scheduled at least 14 days in advance. Also, it would require employers to pay employees an additional four hours of call-in pay when their shift is cancelled less than 72 hours prior to the start of that shift.

The hours worked in the landscape, horticulture, and golf course management businesses are significantly impacted by weather events which makes it very difficult to schedule employee shifts 14 days in advance. Rain will delay or cancel work plans with little warning. Snow storms require an immediate response to address

roads and driveways. These are only two examples that makes the proposed regulations insensitive to businesses whose work schedules are driven by weather conditions.

The regulatory impact statement issued with this draft rule states there will be no economic impact on businesses because employers would be able to comply with the regulations. Unfortunately, work place realities will force small business employers to pay the additional wages or face civil penalties for violating labor regulations. Neither option is fair nor reflective of the many factors dictating the ability of employers to schedule workers with the lead times outlined in the draft regulations.

The draft regulation recognizes "acts of God" as justification for not triggering "call-in pay". However, under this scheme, industries dependent on weather could face significant regulatory burdens to justify the weather driven decision to call in or release workers due to a weather event. Currently, New York labor law requires employers to keep six years of records. Asking small businesses to maintain six years of weather reports, to justify an "act of God", is asking too much. Therefore, businesses dependent on weather to conduct normal business practices should be exempt from these proposed regulations.

For these reasons, I urge the New York State DOL not finalize the proposed Employee Scheduling "Call-in Pay" rules as currently written. Specifically, weather dependent businesses, including farms, professional landscaping / horticultural businesses and golf course maintenance businesses should be exempt. Thank you for your time and consideration.

Sincerely,

[Your Name]
[Your Address]
[Your Email]