



COMMITTEE ON  
Labor

2019 ANNUAL REPORT

NEW YORK STATE ASSEMBLY



CARL E. HEASTIE, *Speaker*

MARCOS A. CRESPO, *Chairperson*



MARCOS A. CRESPO  
Assembly Member  
85<sup>th</sup> Assembly District  
Bronx County

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

CHAIR  
Labor Committee

COMMITTEES  
Cities  
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MEMBER  
Puerto Rican/Hispanic Task Force  
Black, Puerto Rican, Hispanic & Asian  
Legislative Caucus

December 15, 2019

The Honorable Carl E. Heastie  
Speaker of the Assembly  
Room 932  
Legislative Office Building  
Albany, New York 12248

Dear Speaker Heastie,

As Chair of the Assembly Standing Committee on Labor, I am pleased to submit to you the Committee's 2019 Annual Report. As in past years, the Committee has remained dedicated to its mission of advancing legislation that strengthens and supports New York State's diverse and robust workforce. The following report is a summary of significant actions taken by the Committee and the Assembly during the 2019 Legislative Session to help achieve such goal.

Ensuring that workers receive the full wages to which they are rightfully and legally entitled has continued to be one of the Committee's top priorities. This year, the Assembly passed a bill that would require car wash workers in New York City as well as Nassau, Suffolk, and Westchester Counties to be paid the minimum wage without an allowance for gratuities. Studies and investigations have revealed that wage theft is rampant in this industry, particularly in New York City and Long Island. To address these concerns, this bill would ensure that car wash workers receive appropriate wages by requiring them to be paid the statutory state minimum wage, rather than a tipped wage.

Throughout the years, the Committee has also remained committed to strengthening equal pay laws for women and minorities and closing existing loopholes that allow for harmful pay inequities to persist in New York State, despite our role in leading the nation towards closing the gender wage gap. To that end, this year the Committee advanced legislation, which has since been enacted into law, to require equal pay for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and when performed under substantially similar working conditions. The law also extends such pay equity provisions to all individuals with status within one or more protected class or classes covered by the New York State Human

Rights Law, including, but not limited to, age, race, creed, color, national origin, sexual orientation, and gender identity and expression. The Committee also contributed to another chapter of the laws of this legislative session, which prohibits employers from asking about an individual's salary or wage history as a condition for an interview, job application, job offer, or promotion, or relying on such history when determining an individual's salary or wage rate or whether to offer employment to an applicant. While these types of practices have led to continued wage inequality and increasing wage gaps among women and minorities, these new laws will be imperative to ensuring that all workers in New York State receive fair wages and equal compensation going forward.

Another notable achievement of the 2019 Legislative Session was the Assembly's passage of several bills designed to protect employees against discrimination and retaliation in the workplace. One such bill would prohibit discriminatory or retaliatory actions against an employee on the basis of such employee's or their dependent's reproductive health decision making, regardless of how their employer learned of such decisions. Another piece of legislation clarifies existing anti-retaliation provisions under the New York State Labor Law to stop employers from using threats or retaliation based on an employee's immigration status in an effort to discourage such employees from reporting complaints, testifying in investigations, filing actions against the employer, or simply exercising any of their other lawful rights set forth under the Labor Law.

In 2019, the Committee also took part in two public hearings devoted to combatting sexual harassment in the workplace, which prompted an extensive effort to deliver stronger remedies for individuals who have experienced discrimination and harassment in the workplace. Several bills which originated in the Committee – including those with provisions to require employers to provide their sexual harassment prevention policies and training materials in multiple languages, to require the New York State Department of Labor and Division of Human Rights to periodically review and update their model guidance documents and policies for employers, and to ensure that employees who enter into non-disclosure agreements are notified that they still retain the right to report and discuss discrimination claims with law enforcement, their attorney, or relevant federal, state, or local agencies – were all included in a comprehensive new law that enhances protections for employees that have been subjected to discriminatory harassment in the workplace. Among other significant measures, this legislation also requires the Commissioner of Labor, in collaboration with the Commissioner of Human Rights, to conduct a study on expanding the requirements for employers to provide sexual harassment prevention training and maintain a sexual harassment prevention policy in order to further combat other forms of unlawful harassment and discrimination in the workplace.

Finally, one of the most significant achievements of the Committee this year was the passage of legislation establishing the Farm Laborers Fair Practices Act to provide farm workers with important labor protections from which they have historically and unjustly been excluded, including overtime pay, a day of rest, collective bargaining rights, and disability benefits. Throughout the 2019 Legislative Session, the Committee worked closely with advocates, workers, farm owners, and legal experts, in conjunction with the New York State Assembly Standing Committee on Agriculture, to craft a fair and balanced approach towards enhancing the rights of farm workers while also remaining cognizant of the potential impacts on farm owners.

For the first time since the State Labor Relations Act (now known as the New York State Employment Relations Act) was enacted in 1937, this legislation finally brings justice to farm workers by awarding them collective bargaining rights and overtime pay while helping to ensure the safety and viability of New York State's agriculture industry for years to come.

Under your leadership, Mr. Speaker, this Committee looks forward to meeting the challenges of the upcoming 2020 Legislative Session with a continued promise to advocate for policies that ensure equal employment opportunities for all workers, in all industries, and provide greater protections and benefits to injured and unemployed workers. I would like to thank the Members of the Assembly Standing Committee on Labor for their hard work and unwavering dedication to supporting New York State's workforce and its families, and to you, Mr. Speaker, for your guidance and steadfast commitment to the people of this great State.

Sincerely,

A handwritten signature in black ink, appearing to read "Marcos A. Crespo". The signature is written in a cursive, flowing style.

Marcos A. Crespo  
*Chair, Assembly Standing Committee on Labor*

**2019 ANNUAL REPORT  
OF THE  
NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON LABOR**

**Hon. Marcos A. Crespo, *Chair***

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Michael G. DenDekker  
Nily Rozic  
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Brian Barnwell  
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Karines Reyes  
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Peter Lawrence  
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Aubree Heydrick, *Senior Analyst*  
Jeannie Shepler, *Administrative Assistant*  
Kathryn Madigan, *Committee Clerk*

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## ▪ INTRODUCTION ▪

The Assembly Standing Committee on Labor (“the Committee”) is tasked with considering legislation relevant to the working people and employers in New York State. The Committee is responsible for protecting the fundamental rights of workers, such as minimum wage, workplace safety, the right to organize, and a day of rest. Each piece of legislation examined by the Committee affects the well-being and livelihood of New York State’s workforce, as well as the overall economy.

The Committee reviews bills from a number of sources, including advocates and stakeholders, constituents, and Members of the Assembly. The Committee also considers bills from the Governor and various departments of the executive branch, including the New York State Department of Labor, Workers’ Compensation Board, Office of the Attorney General, and Office of the State Comptroller. Many of these bills seek to address various administrative issues which would allow these departments and the programs they administer to run more efficiently; others pursue greater enforcement of current laws in order to strengthen protections for workers. A representative sample of the legislative proposals acted upon this year include a bill that would expand existing pay equity statutes to require equal pay for substantially similar work and apply to all protected classes, a bill that would prohibit retaliation against immigrant employees, and a bill that would establish requirements for the training, licensing, and certification of persons engaged in the design, construction, inspection, maintenance, alteration, and repair of elevators.

Each year, the Committee also holds roundtables and public hearings on issues and concerns impacting the workforce in New York State. These forums often serve as a sounding board in which professionals, academics, workers, businesses, and other constituents may provide formal testimony and engage in meaningful discussions with various Members of the Assembly as well as each other. The Assembly Standing Committee on Labor sponsored a number of public hearings this year, including two significant hearings focused on combatting sexual harassment in the workplace. Additionally, the Committee hosted a roundtable discussion alongside the Assembly Standing Committee on Agriculture to examine and discuss the labor protections provided to farm workers in New York State.

▪ **2019 LEGISLATIVE ACTION** ▪

**A. Wage and Hour Standards**

One of the most significant issues impacting both full-time and part-time workers in New York State is wage and hour laws. In conjunction with the federal Fair Labor Standards Act, the New York State Labor Law establishes employment guidelines for hours of work, payment of wages, rest and meal periods, overtime, minimum wage, equal pay, child labor, farm labor, recordkeeping, and other basic labor standards. Each year, the Committee strives to advance fair and balanced legislation that will help protect and improve existing wage and hour standards for the benefit of all employees in New York State. In 2019, the Committee reported several bills to expand wage and hour protections, reduce wage theft violations against car wash workers, and ensure equal pay in the workplace.

**1. Definition of “Public Work”**

**A.1261 (Bronson) / S.1947 (Ramos) – Advanced to Third Reading**

This bill would establish a definition for “public work” under the New York State Labor Law in order to determine when requirements for prevailing wage should apply. It would provide an exemption for homeowners, certain affordable housing projects, and small non-profits that receive less than \$100,000 in public funding. Further, the bill would allow the New York State Department of Labor to issue a stop-work order on any public work project where there are alleged violations of such prevailing wage requirements.

**2. Additional Information Provided to Laborers on Public Work Contracts**

**A.2101-A (Woerner) / S.5679-A (Savino) – Chapter 744 of the Laws of 2019**

This legislation increases transparency with regard to supplemental benefits paid to laborers receiving prevailing wage on public work contracts by requiring contractors and subcontractors to provide more information regarding the calculation and payment of such benefits to such workers.

**3. Minimum Wage for Car Wash Workers**

**A.6346-C (Crespo) / S.4030-A (Ramos) – Passed Both Houses**

This bill would require car wash workers employed in New York City and the counties of Nassau, Suffolk, and Westchester to be paid minimum wage without an allowance for gratuities.

**4. Minimum Wage for Employees with Disabilities**

**A.7077-A (Steck) / S.4018-A (Skoufis) – Reported to Codes Committee**

This bill would repeal provisions of the New York State Labor Law which allow for the employment of individuals whose earning capacity is affected or impaired by

youth or age, or by physical or mental deficiency or injury, at a wage rate lower than the minimum wage.

**5. Prevailing Wage for Building Service Employees Performing Work at Certain Cooperative and Condominium Properties**  
**A.8082 (De La Rosa) / S.6219-A (Benjamin) – Passed Both Houses**

This bill would ensure that building service employees performing building service work at certain properties that receive the Cooperative and Condominium Tax Abatement under section 467-a of the New York State Real Property Tax Law are paid the prevailing wage beginning July 1, 2020.

**6. Prevailing Wage for Building Service Employees Performing Work at Certain Utility Facilities**  
**A.8083-A (Niou) / S.6265-A (Gianaris) – Passed Both Houses**

This bill would require privately-owned public utility companies regulated by the Public Service Commission, pursuant to a franchise granted under the New York State Public Service Law, to pay prevailing wage to building service employees performing work in connection with the care and maintenance of facilities used in the generation or distribution of gas, electricity, and steam by such companies.

**7. Equal Pay for Substantially Similar Work and All Protected Classes**  
**A.8093-A (McMahon) / S.5248-B (Biaggi) – Chapter 93 of the Laws of 2019**

This legislation expands existing pay equity provisions under the New York State Labor Law to require equal pay for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and when performed under substantially similar working conditions. This legislation also prohibits pay differentials based on an individual's status within one or more protected class or classes, including age, race, creed, color, national origin, sexual orientation, gender identity and expression, military status, disability, predisposing genetic characteristics, familial status, marital status, and domestic violence victim status.

**B. Employee Rights and Protections**

Despite New York State's aggressive laws and regulations that are designed to protect the rights of workers and prohibit discrimination and retaliation, many employees continue to find that their rights are being violated in the workplace. Further, many employees also face significant obstacles in seeking justice from their employers when such violations do occur. As a result, the Committee remains dedicated to advancing legislation that protects the rights of employees and functions to ensure that all workplaces are free of discrimination, retaliation, and other harmful employment practices. In 2019, the Committee worked towards eliminating disincentives for whistleblowers, protecting employees' personal information regarding their reproductive health decisions, prohibiting retaliation against immigrant employees, and establishing overtime and collective bargaining rights for farm workers.

**1. Eliminating Disincentives for Whistleblowers**  
**A.375 (Steck) / S.2736 (Skoufis) – Chapter 684 of the Laws of 2019**

This legislation eliminates a provision of law that limits workers' rights by requiring employees to give up other causes of action in order to bring a whistleblower claim against their employer.

**2. Reproductive Health Decision Making**  
**A.584 (Jaffee) / S.660 (Metzger) – Chapter 457 of the Laws of 2019**

This legislation prohibits an employer from accessing an employee's or their dependent's personal information regarding their reproductive health decisions without the employee's informed, written consent. It also bars discrimination or retaliatory actions against an employee on the basis of such employee's or their dependent's reproductive health decisions, regardless of how the employer learned of such decisions.

**3. Notice of Electronic Monitoring**  
**A.1920 (Rosenthal, L.) / S.4586 (Sanders) – Advanced to Third Reading**

This bill would require private employers engaged in electronic monitoring of their employees to give prior written notice of such activity upon hire. Employers would also be required to post such notice in a conspicuous location in the workplace.

**4. Prohibiting Access to Employees' Personal Accounts**  
**A.2479-A (Dinowitz) / S.5544-A (Ramos) – Ordered to Third Reading**

This bill would prohibit employers from requiring an employee or job applicant to disclose the username, password, or other identifying information for accessing a personal account through an electronic communications device. Employers would also be prohibited from requiring such individuals to access such accounts in their presence or reproduce any information contained in such accounts.

**5. Prohibiting Retaliation Against Immigrant Employees**  
**A.5501 (Crespo) / S.5791 (Ramos) – Chapter 126 of the Laws of 2019**

This legislation amends existing anti-retaliation provisions of the New York State Labor Law to clarify that "to threaten, penalize, or in any other manner discriminate or retaliate against any employee" includes: contacting or threatening to contact United States immigration authorities; reporting or threatening to report an employee's suspected citizenship or immigration status to a federal, state, or local agency; or reporting or threatening to report the suspected citizenship or immigration status of an employee's family or household member to a federal, state, or local agency.

**6. Notification of Contraceptive Coverage**

**A.6650-A (Seawright) / No Same-As – Advanced to Third Reading**

This bill would ensure that employees receive notice when their employer alters, restricts, or terminates contraceptive coverage as part of an employment-based health plan. Employers would also be required to inform prospective employees if such policy or contract does not offer any or all contraceptive coverage. Such information must be presented on any written application for employment, or on a separate written notice, and on the employer’s website.

**7. Notice of Employee Rights and Remedies**

**A.6678 (Jaffee) / S.4413 (Metzger) – Chapter 556 of the Laws of 2019**

This legislation amends a chapter of the laws of 2019, as proposed in legislative bill numbers A.584 and S.660, to extend the effective date of the provision which requires employers to notify employees of their rights against employment discrimination based on the employee’s or their dependent’s reproductive health decision making. The effective date is extended from immediately to sixty days after enactment in order to give employers more time to modify their policies, while still allowing employees to benefit immediately from the new anti-discrimination and anti-retaliation protections.

**8. Prohibiting Non-Compete Agreements**

**A.7193 (Dinowitz) / S.5790 (Ramos) – Advanced to Third Reading**

This bill would prohibit employers from seeking, requiring, demanding, or accepting non-compete agreements from employees earning less than \$75,000 annually. It would also set forth requirements for such agreements entered into by all other employees and establish a private right of action for violations made by employers. A “non-compete agreement” would be defined as an agreement or clause contained in an employment contract that prohibits or restricts an employee from obtaining employment for a specified period of time, in a certain geographical area, with any particular employer, or any particular industry after the conclusion of employment with the current employer.

**9. Dependent Worker Act**

**A.8343 (Crespo) / S.6538 (Savino) – Reported to Codes Committee**

This bill would establish a definition of “dependent worker” to include any individual that provides personal services to a consumer through a private third-party that establishes the amounts earned by the worker or charged to the consumer, or collects payment from the consumer or pays the individual. The bill would also extend wage, anti-retaliation, and collective bargaining protections to such workers and require the New York State Department of Labor to examine other employment rights and benefits which could be provided to such workers in the future.

## **10. Farm Laborers Fair Labor Practices Act**

### **A.8419 (Nolan) / S.6578 (Ramos) – Chapter 105 of the Laws of 2019**

This legislation establishes the Farm Laborers Fair Labor Practices Act to provide farm workers with important labor protections granted to nearly all other workers in New York State, including overtime, a day of rest, collective bargaining rights, and disability insurance. While setting an initial 60-hour per week overtime threshold, the legislation requires the Commissioner of Labor to convene a wage board and hold public hearings to provide recommendations on overtime work for farm workers, such as lower overtime thresholds or a phase-in schedule.

This law also extends eligibility for unemployment insurance, workers' compensation, and disability benefits to all farm workers employed in the State, while eliminating the requirement for employers to make unemployment insurance contributions for federal H-2A visa agricultural workers. Finally, this legislation amends the New York State Public Health Law to apply the State Sanitary Code to all farm and food processing labor camps housing migrant workers and makes several changes to the New York State Workers' Compensation Law to enhance workplace safety and prohibit discrimination against employees who request a claim form for injuries received in the course of employment.

## **C. Unemployment Insurance**

Since 1935, the New York State Unemployment Insurance (UI) program has served as a financial safety net for people who find themselves out of work through no fault of their own. To collect weekly benefits, an individual must be ready, willing, and able to work and actively looking for work during each week in which they are claiming benefits. UI ensures that individuals are able to meet their basic financial needs in order to protect the welfare of themselves and their families while searching for new employment opportunities. In 2019, the Committee advanced several pieces of legislation to ensure proper access to unemployment insurance benefits.

### **1. Calculation of Partial Unemployment Insurance Benefits**

#### **A.446 (Stirpe) / S.5754 (Ramos) – Passed Assembly**

Under current law, claimants' unemployment insurance (UI) benefits are reduced by 25% for each day worked per week, regardless of how many hours they worked on any such day. This bill would revise the calculation of such benefits by establishing a "partial benefit credit" based on the claimant's weekly benefit rate for total unemployment, which would then be applied against the claimant's actual weekly earnings, resulting in a more reasonable computation of partial UI benefits that is proportionate to claimants' wages.

**2. Extending the Self-Employment Assistance Program  
A.2156 (Schimminger) / S.6020 (Ramos) – Chapter 447 of the Laws of 2019**

This law extends for two years the provisions of law that establish the Self-Employment Assistance Program (SEAP), until December 7, 2021. SEAP helps unemployment insurance claimants (UI) in New York State start a new business while receiving UI benefits.

**3. Unemployment Insurance Benefits for Striking Workers  
A.6592 (Ryan) / S.4573 (Kennedy) – Passed Both Houses**

This bill would reduce the amount of time that workers on strike must wait before filing a claim for unemployment insurance benefits, from seven weeks to one week, to be consistent with non-striking claimants.

**4. Definition of Employer  
A.8035 (Fall) / S.6469 (Ramos) – Chapter 701 of the Laws of 2019**

This law establishes that when the supervision, direction, and control of an employee is exercised jointly by multiple entities, the “employer” responsible under the Unemployment Insurance Law shall mean the entity that pays the employee for the services that constitute employment.

**E. Workers’ Compensation and Disability Benefits**

Workers’ compensation insurance provides weekly cash benefits and medical care, including rehabilitation, to workers who become partially or totally disabled as a result of disease or injury connected with their employment. If a worker dies from a compensable injury or illness, it also provides payments to their qualified dependents. New York State also requires employers to obtain temporary disability benefits coverage for employees in order to provide weekly cash benefits to replace, in part, wages lost due to an off-the-job injury or illness. Employers are allowed, but not required, to offset the cost of providing such coverage through employee contributions. The New York State Workers’ Compensation Board is the state agency charged with the administration and adjudication of workers’ compensation and disability claims. Each year, the Committee considers bills that would facilitate access to disability benefits and processing of claims as well as ensure that injured workers are provided with adequate access to quality care and treatment options that meet their needs.

**1. Temporary Disability Benefits for Domestic Workers  
A.1326 (Crespo) / S.3961 (Salazar) – Advanced to Third Reading**

This bill would establish that an employer of one or more domestic employees in a private home, working a minimum of 20 hours per week for such employer on each of 30 days in any calendar year, would be required to provide temporary disability benefits coverage to such workers.

**2. Notice to Withdraw from the New York State Insurance Fund  
A.4350-A (Zebrowski) / No Same-As – Ordered to Third Reading**

Under current law, any employer may withdraw from the New York State Insurance Fund (NYSIF) by turning in their insurance contract for cancellation, provided such employer has given written notice of their intention to withdraw not less than 30 days before the effective date of such cancellation. This bill would waive the 30 days' notice requirement when such written notice includes the effective date of cancellation and proof that the employer has secured a new insurance policy with another carrier. The effective date of cancellation of such employer's contract with NYSIF would be the date that the new insurance contract takes effect.

**3. Pre-Audit of Expenditures of the New York State Insurance Fund  
A.8086 (Rodriguez) / S.5789 (Ramos) – Reported to Rules Committee**

This bill would eliminate unconstitutional language that prohibits the pre-audit of expenditures of the New York State Insurance Fund by the New York State Comptroller.

**4. Additional Health Benefits for Black Car Operators  
A.8129-A (Rodriguez) / S.6239-A (Savino) – Chapter 730 of the Laws of 2019**

This legislation authorizes the New York Black Car Operators' Injury Compensation Fund to provide additional health benefits to black car operators, consistent with its plan of operation, provided that it has complied with all applicable statutory and regulatory requirements.

**F. Other Significant Legislation**

**1. Study on the Impact of Job Automation  
A.665 (Rosenthal) / No Same-As – Reported to Rules Committee**

This bill would require the New York State Department of Labor to conduct a study and publish a report to the Governor and Legislature regarding the impact of job automation on the workforce in New York State.

**2. Wage Data Clearinghouse  
A.1056 (Bronson) / No Same-As – Reported to Ways and Means Committee**

This bill would require the Commissioner of Labor, in consultation with the Commissioner of Education and the State Workforce Investment Board, to establish a wage data clearinghouse within New York State for the purpose of analyzing available wage data, supplementing current data analysis, and assessing the outcomes and effectiveness of workforce preparation programs. Such a clearinghouse would be administered by an academic institution in New York with proven expertise in analyzing labor data, to be selected through a request for proposals (RFP) process.

**3. Licensing for the Purchase, Use, and Storage of Certain Explosive Materials  
A.4452 (Buchwald) / S.1456 (Sanders) – Chapter 734 of the Laws of 2019**

This legislation requires individuals to obtain a certificate from the New York State Department of Labor when purchasing, using, or storing two or more materials that, when combined, would lead to detonation or combustion. Such certificates, and subsequent renewals, would be valid for one year. The sale of such materials and the issuance of a certificate would be prohibited to any person under the age of 18.

**4. Licensing for Individuals Performing Work on Elevators  
A.4509-A (Crespo) / S.4080-C (Savino) – Chapter 750 of the Laws of 2019**

This bill would establish requirements for the training, licensing, and certification of persons engaged in the design, construction, inspection, maintenance, alteration, and repair of elevators and other automated people moving devices. For elevator work performed within New York City, such requirements would be enforced by the New York City Commissioner of Buildings; the New York State Department of Labor would enforce such requirements in the rest of the State. The bill would also establish New York State Elevator Safety and Standards Board to advise the Commissioner of Labor on the implementation of the bill's requirements and develop recommendations for enforcement.

**5. Preventing Workplace Violence in Public Schools  
A.6157 (Titus) / S.1720 (Ramos) – Veto No. 209 of 2019**

This bill would eliminate the exclusion of public schools from the types of public employers required to develop and implement workplace violence prevention programs under the New York State Labor Law. Public school districts would be required to develop and implement programs to prevent workplace violence, evaluate the potential risks of workplace violence that exist within their workplaces, and develop and implement a written workplace violence prevention program to prevent and minimize the hazard of workplace violence to their employees.

**▪ STATE FISCAL YEAR 2019-20 ENACTED BUDGET ▪**

Each year during budget negotiations, the Committee advocates strongly for proposals that support working families and strengthen existing labor programs. The Committee also works closely with the Assembly Standing Committee on Ways and Means to secure funding for various programs and initiatives that help to improve the security and well-being of New York State's workers and job seekers. This year, the State Fiscal Year (SFY) 2019-20 enacted budget included legislation to expand the types of medical professionals authorized under New York State's workers' compensation system.

The law authorizes duly licensed acupuncturists, nurse practitioners, occupational therapists, physical therapists, physician assistants, and social workers to provide treatment and care to injured workers under the workers' compensation system and establishes the procedures by which such providers shall apply to the New York State Workers' Compensation Board for authorization. The legislation also modifies the dispute resolution process by requiring all disputed medical bills to be decided through a single arbitrator process.

Further, the law enacts important protections for injured workers, including:

- Prohibiting employers, carriers, and third-party administrators from interfering with an injured worker's selection of a medical provider for treatment or directing the injured worker to seek treatment from a specific provider or type of provider;
- Clarifying that the Medical Treatment Guidelines shall be issued or maintained for the purpose of expediting authorization of treatment of injured workers; and
- Providing that the Medical Treatment Guidelines shall not prohibit varied treatment when the treating provider demonstrates the appropriateness and medical necessity of such treatment.

## ▪ PUBLIC HEARINGS AND ROUNDTABLES ▪

### **A. Sexual Harassment in the Workplace**

On February 13, 2019 and May 24, 2019, the New York State Assembly Standing Committees on Labor and Governmental Operations and the New York State Assembly Task Force on Women's Issues, in conjunction with the New York State Senate Committees on Investigations and Government Operations, Ethics and Governance, and Women's Issues, conducted two public hearings in Albany and New York City, respectively, to examine sexual harassment in the workplace. Following the groundbreaking legislation enacted in the State Fiscal Year 2018-19 Budget to help address these issues, the Committees sought to continue the conversation on these issues and examine additional suggestions and recommendations on how to prevent such behavior and provide stronger recourse for those who have been subjected to harassment in the workplace.

Over the course of more than 26 hours of in-person witness testimony, the Committees heard from several federal, state, and local agencies that enforce laws preventing discrimination and inequality in the workplace, including the U.S. Equal Employment Opportunity Commission, New York State Division of Human Rights, New York State Department of Labor, New York State Governor's Office of Employee Relations, New York State Joint Commission on Public Ethics, and the New York City Commission on Human Rights. The Committees also heard testimony from many dedicated advocates, including the Sexual Harassment Working Group, National Employment Lawyers Association, National Women's Law Center, New York State Bar Association, Restaurant Opportunities Center of New York, and the National Domestic Workers Alliance, in addition to numerous individuals who offered invaluable insight with their own personal experiences of discrimination and harassment. These conversations provided a strong and meaningful foundation for the Committees to review our State laws regarding sexual harassment and other forms of discrimination in the workplace.

### **B. Farm Workers in New York State**

On May 28, 2019, the New York State Assembly Standing Committees on Labor and Agriculture hosted a roundtable in Albany to discuss the labor protections provided to farm workers in New York State, the need for enhancing such protections, and the potential impacts on employers. The Committees helped facilitate a productive dialogue among stakeholders within the agriculture industry as well as labor advocates and farm workers, including the New York Farm Bureau, New York State AFL-CIO, Cornell University, New York Civil Liberties Union, Hispanic Federation, New York Center for Agricultural Medicine and Health, Workers' Center of Central NY, North East Dairy Producers Association, and Rural and Migrant Ministry. As a result of this conversation, the Committees were able to build on the concerns of both workers and employers to help address the working conditions of farm laborers in New York State.

### **C. Workers in the Gig Economy**

On December 5, 2019, the New York State Assembly Standing Committee on Labor conducted a public hearing in Albany to examine various legislative proposals that aim to extend labor rights and protections to workers in the gig economy in New York State. The Committee received feedback on proposals such as codifying the “ABC Test” to determine whether an individual should be classified as an employee versus independent contractor, creating a brand new classification of workers, and exploring other ways to apply existing labor rights to workers in the gig economy. The hearing examined the potential impacts of enacting such proposals on employers and workers in New York State and the feasibility of extending such rights and protections to this diverse workforce. The Committees heard from organizations including the New York State AFL-CIO, the Business Council of New York State, SEIU 32BJ, Internet Association, Legal Aid Society, and various groups representing on-demand platforms, gig workers, and freelancers here in New York; the Committee also received numerous written testimony from other advocates and stakeholders.

## ▪ OUTLOOK FOR 2020 ▪

In the upcoming 2020 Legislative Session, the Assembly Standing Committee on Labor will persist in its commitment to advancing legislation that aims to strengthen and protect the health, safety, and viability of New York State's workforce.

In 2020, the Committee will continue to ensure that construction projects receiving public funds and benefits are subject to prevailing wage requirements under the New York State Labor Law. Over the years, the interpretation and application of Article 1, Section 17 of the New York State Constitution, which states that labor is not a commodity and that laborers on public work projects shall not be paid less than the rate of wages prevailing in the same trade or occupation in the locality where the work is being performed, have been muddled and weakened by the courts. These standards have also become increasingly convoluted due to new and complex funding opportunities that have become available for public work projects. Thus, legislation is necessary in order to restore the original intent of the State's Constitution and ensure that all laborers on such projects receive their lawful wages and supplements.

Along the same line, the Committee will also continue to advocate for the rights of low-income workers and ensure that unscrupulous employers are held accountable for abuses of the New York State Labor Law, including retaliation, discrimination, wage theft violations, and other harmful employment practices. In the upcoming legislative session, the Committee will remain dedicated to protecting the rights afforded to employees, including the right to minimum wage, in order to support working families and prevent the further erosion of basic labor protections.

Additionally, the Committee will continue to examine the growth of the gig economy and its impact on New York State's workforce, including the classification of "gig workers," who obtain their work on a job-by-job basis through online platforms or "apps". While ambiguities in the law have led to uncertainty for these individuals, it has become clear that such workers continue to experience low and unstable earnings, lack important worker protections and benefits, and often face dangerous health and safety hazards on the job. The Committee will remain committed to curbing labor abuses in order to protect all workers in New York State.

In 2020, the Committee will also continue to monitor the State's workers' compensation system in order to ensure that all workers have access to the rights and benefits promised to them and that they receive timely and appropriate medical care as needed for on-the-job injuries and illnesses.

As evidenced by this report, the 2019 Legislative Session held immense success for all New Yorkers and the Committee looks forward to building on that momentum and continuing to serve the working people of the great State of New York.

**APPENDIX A**

**2019 SUMMARY SHEET**

**Summary of Action on All Bills Referred to the  
New York State Assembly Standing Committee on Labor**

**Total Number of Committee Meetings Held: 7**

	<b>Assembly Bills</b>	<b>Senate Bills</b>	<b>Total Bills</b>
<b>Bills Reported Favorable To:</b>			
Codes	15	0	15
Judiciary	0	0	0
Ways and Means	6	0	6
Rules	5	0	5
Floor	3	0	3
<b>TOTAL</b>	<b>29</b>	<b>0</b>	<b>29</b>
<b>Committee Action</b>			
Held for Consideration	1	0	1
Defeated	0	0	0
Enacting Clause Stricken	1	0	1
<b>Remaining in Committee</b>	<b>239</b>	<b>16</b>	<b>255</b>
<b>Bills Reference Changed To:</b>			
Ways and Means	1	0	1
<b>TOTAL</b>	<b>1</b>	<b>0</b>	<b>1</b>

**APPENDIX B**

**CHAPTER LAWS OF 2019**

<b>CHAPTER NUMBER</b>	<b>ASSEMBLY BILL (SPONSOR)</b>	<b>SENATE BILL (SPONSOR)</b>	<b>DESCRIPTION</b>
93	A.8093-A (McMahon)	S.5248-B (Biaggi)	Requires equal pay for “substantially similar work” and expands such requirements to all protected classes.
105	A.8419 (Nolan)	S.6578 (Ramos)	Establishes the Farm Laborers Fair Practices Act to provide farm workers with labor rights and protections including overtime pay, a day of rest, collective bargaining rights, and disability benefits.
126	A.5501 (Crespo)	S.5791 (Ramos)	Prohibits employers from retaliating against immigrant employees.
447	A.2156 (Schimminger)	S.6020 (Ramos)	Extends the effective date of the Self-Employment Assistance Program for two years, until December 7, 2021.
457	A.584 (Jaffee)	S.660 (Metzger)	Prohibits employers from discriminating or retaliating against an employee because of such employee’s reproductive health decisions.
556	A.6678 (Jaffee)	S.4413 (Metzger)	Amends a chapter of the laws of 2019, as proposed in legislative bill numbers A.584 and S.660, to extend the effective date of the requirement for employers to notify employees of their rights against discrimination or retaliation based on an employee’s or their dependent’s reproductive health decision making, from immediately to sixty days.
684	A.375 (Steck)	S.2736 (Skoufis)	Eliminates a provision of law that requires employees to relinquish other causes of action in order to pursue a whistleblower claim.
701	A.8035 (Fall)	S.6469 (Ramos)	Clarifies the definition of “employer” under the Unemployment Insurance law when the supervision, direction, and control of an employee are exercised jointly by multiple entities.

<b>CHAPTER NUMBER</b>	<b>ASSEMBLY BILL (SPONSOR)</b>	<b>SENATE BILL (SPONSOR)</b>	<b>DESCRIPTION</b>
730	A.8129-A (Rodriguez)	S.6239-A (Savino)	Authorizes the New York Black Car Operators' Injury Compensation Fund to provide additional health benefits to black car operators.
734	A.4452 (Buchwald)	S.1456 (Sanders)	Requires individuals to obtain a certificate from the New York State Department of Labor when purchasing, using, or storing two or more materials that, when combined, leads to detonation or combustion.
744	A.2101-A (Woerner)	S.5679-A (Savino)	Requires additional information regarding supplemental benefits to be provided to laborers receiving prevailing wage on public work projects.
750	A.4509-A (Crespo)	S.4080-C (Savino)	Establishes requirements for the training, licensing, and certification of persons engaged in the design, construction, inspection, maintenance, alteration, and repair of elevators and other automated people moving devices.

**APPENDIX C**

**BILLS VETOED IN 2019**

<b>VETO MEMO</b>	<b>ASSEMBLY BILL (SPONSOR)</b>	<b>SENATE BILL (SPONSOR)</b>	<b>DESCRIPTION</b>
209	A.6157 (Titus)	S.1720 (Ramos)	Would require public school districts to develop and implement workplace violence prevention programs.

**APPENDIX D**

**PASSED BOTH HOUSES IN 2019**

<b>ASSEMBLY BILL (SPONSOR)</b>	<b>SENATE BILL (SPONSOR)</b>	<b>DESCRIPTION</b>
A.6346-C (Crespo)	S.4030-A (Ramos)	Requires car wash workers in New York City and Nassau, Suffolk, and Westchester Counties to be paid minimum wage without an allowance for gratuities.
A.6592 (Ryan)	S.4573 (Kennedy)	Reduced the amount of time that workers on strike must wait before filing a claim for unemployment insurance benefits.
A.8082 (De La Rosa)	S.6219-A (Benjamin)	Requires building service employees performing work at certain cooperative and condominium properties to be paid prevailing wage.
A.8083-A (Niou)	S.6265-A (Gianaris)	Requires building service employees performing work at facilities owned by certain privately-owned utility companies to be paid prevailing wage.

**APPENDIX E**

**PASSED ASSEMBLY IN 2019**

<b>ASSEMBLY BILL</b>	<b>SPONSOR</b>	<b>DESCRIPTION</b>
A.446	Stirpe	Would revise the calculation of partial unemployment benefits by establishing a “partial benefit credit” based on the claimant’s weekly benefit rate for total unemployment and applied against such claimant’s actual weekly earnings.