



# Happy New Year!



## In the News – State



### Governor’s State of the State Address January 8<sup>th</sup>

Governor Andrew Cuomo will deliver his 10<sup>th</sup> State of the State Address on January 8<sup>th</sup> in the Empire State Plaza Convention Center. In preparation for the Address, the Governor has begun to release his initiatives, teasing out an ambitious, wide-ranging message including:

- 1<sup>st</sup> Proposal:** Preventing Those Who Commit a Serious Crime Out of State From Owning a Gun in NY
- 2<sup>nd</sup> Proposal:** Banning Fentanyl Analogs to Further Combat the Opioid Epidemic
- 3<sup>rd</sup> Proposal:** Mandating Automatic Manual Recounts in Close Elections
- 4<sup>th</sup> Proposal:** Closing the Rape Intoxication Loophole
- 5<sup>th</sup> Proposal:** Banning the Use of Single-Use Styrofoam Food Containers in New York State
- 6<sup>th</sup> Proposal:** Lowering Prescription Drug Prices for All New Yorkers
- 7<sup>th</sup> Proposal:** Advancing the Strongest Net Neutrality Protections in the United States

**8<sup>th</sup> Proposal:** Protecting Consumers from Abusive Debt Collectors

**9<sup>th</sup> Proposal:** Cracking Down on Retailers Who Sell Illegal Cigarettes

**10<sup>th</sup> Proposal:** Eliminating the Pink Tax

**11<sup>th</sup> Proposal:** Preventing Sexual Predators from Using Social Media, Dating Apps & Video Games to Exploit Children

**12<sup>th</sup> Proposal:** Making the "New York Buy American" Act Permanent

**13<sup>th</sup> Proposal:** Developing an Innovative Strategy to Build High Speed Rail in New York

**14<sup>th</sup> Proposal:** Increasing Transparency in Healthcare Costs

**15<sup>th</sup> Proposal:** Legislation Banning Flavored Nicotine Vaping Products and Vaping Ads Aimed at Youth

**16<sup>th</sup> Proposal:** Legalizing Gestational Surrogacy

**17<sup>th</sup> Proposal:** Combating the Scourge of Robocalls

**18<sup>th</sup> Proposal:** Banning Untraceable "Ghost Guns" by Requiring Firearm Parts to Have a Serial Number



## Subminimum Wage Ends For “Miscellaneous Industries” Statewide

*DOL Order Impacts Over 70,000 People Statewide Including:  
Nail Salon Workers, Hairdressers, Aestheticians, Car Wash Workers,  
Valet Parking Attendants, Door-Persons, & Tow Truck Drivers*

The State Department of Labor (DOL) is issuing an [order](#) eliminating the subminimum wage for 'miscellaneous' industries statewide. The order impacts over 70,000 tipped employees. Workers that will be impacted by the new measure include: nail salon workers, hairdressers, aestheticians, car wash workers, valet parking attendants, door-persons, tow truck drivers, dog groomers, and tour guides.

Restaurant workers are not impacted by the change.

The elimination of the tip wage for miscellaneous industries will be phased in over a one-year period, a timetable that will give businesses time to adjust as to not inadvertently incur job loss, according to Governor Andrew Cuomo. Below is a chart outlining the change:

### Minimum Wage for Tipped Workers in Miscellaneous Industries

	<u>NYC</u>			<u>LI &amp; Westchester</u>			<u>Remainder of NY</u>		
	MW	Low Tips	High Tips	MW	Low Tips	High Tips	MW	Low Tips	High Tips
<b>12/31/2019</b>	\$15.00	\$12.75	\$11.35	\$13.00	\$11.05	\$9.80	\$11.80	\$10.05	\$9.80
<b>6/30/2020</b>	\$15.00	\$13.85	\$13.15	\$13.00	\$12.00	\$11.40	\$11.80	\$10.90	\$10.35
<b>12/31/2020</b>	\$15.00	\$15.00	\$15.00	\$14.00	\$14.00	\$14.00	\$12.50	\$12.50	\$12.50

The industries affected by this action were grouped together in a category known as 'miscellaneous' more than 30 years ago, creating the unintended consequence of establishing a tip credit in various industries where the tip credit had previously been prohibited.

The ending the State's tip credit for miscellaneous industries comes as the DOL released a report and recommendations after conducting hearings and receiving testimony from individuals across tipped industries.

Key findings in the DOL report note that:

- The current system of tipping disproportionately impacts the lowest-paid workers in the state: women, minorities and immigrants.
- Miscellaneous workers receive less in tips and have widespread confusion about whether or not they are entitled to earn minimum wage or not.

New York State Law allows certain industries to pay tipped employees below the state minimum wage only if those employees earn enough in tips to make up the difference. In certain workplaces where wages and tips are both generally low, workers' income can rely almost entirely upon tips.



## Chapters of the Laws of 2019

**Chapter 684 – Sponsored by M of A Steck / Senator Skoufis** Relates to eliminating a disincentive for whistleblowers.

**Chapter 688 – Sponsored by M of A Solages / Senator Kaplan** - Relates to the composition of the local advisory board for the Belmont racetrack facility.

**Chapter 689 – Sponsored by M of A Otis / Senator Liu** - Prohibits commercial leases from including a waiver of the right to a declaratory judgment action and states that the inclusion of such a waiver in a commercial lease shall be null and void as against public policy.

**Chapter 696 – Sponsored by M of A Abbate / Senator Gounardes** - Relates to the employer's ability to suspend a police officer without pay pending disciplinary charges.

**Chapter 701 – Sponsored by M of A Fall/ Senator Ramos** - Provides that, for purposes of the unemployment insurance law, the entity which pays an individual shall be the employer even if the work or services are performed for a different entity.

**Chapter 715 – Sponsored by M of A Rosenthal L / Senator Benjamin** - Requires domestic violence and sexual assault awareness education for persons engaged in the practice of nail specialty, waxing, natural hair styling, esthetics and cosmetology.

**Chapter 720 – Sponsored by M of A Fall / Senator Bailey** - Establishes requirements for trampoline parks.

**Chapter 730 – Sponsored by Senator Savino / M of A Rodriguez** - Relates to the authority of the New York black car operators' injury compensation fund, Inc. to provide additional benefits, consistent with its plan of operation, for all black car operators.

**Chapter 731 – Sponsored by M of A McDonald / Senator Kaplan** - Provides that upon an initial violation of a state agency's rules or regulations, a small business shall be afforded a cure period or other opportunity for ameliorative action, which if successful shall prevent the imposition of a fine or fines.

**Chapter 735 – Sponsored by Senator Parker / M of A Peoples-Stokes** - Creates a permanent environmental justice advisory group.

**Chapter 736 – Sponsored by Senator Breslin / M of A Cahill** - Relates to expanding the availability of meaningful service contracts to protect New Yorkers leasing automobiles for their personal use from unanticipated "lease-end" charges related to excess use or wear and tear of the leased vehicle.

**Chapter 740 – Sponsored by Senator Gounardes / M of A Carroll** - Relates to the licensing of drivers where there is evidence of the loss of consciousness by such person.

**Chapter 741 – Sponsored by Senator Montgomery / M of A Rosenthal L** - Relates to equal pay for similar work protections for protected classes.

**Chapter 743 – Sponsored by Senator Benjamin / M of A Simotas** - Relates to fair, non-biased compensation; provides for remedies and enforcement where an employee believes he or she is being discriminated against in terms of compensation.

**Chapter 747 – Sponsored by Senator Krueger / M of A Seawright** -Enacts the "women on corporate boards study."

**Chapter 749 – Sponsored by Senator Comrie / M of A Braunstein** - Authorizes in the city of New York, for certain public work undertaken pursuant to project labor agreements, use of the alternative delivery method known as design-build contracts.

**Chapter 750 – Sponsored by Senator Savino / M of A Crespo** - Requires the licensing of persons engaged in the design, construction, operation, inspection, maintenance, alteration and repair of elevators.

**Chapter 752 – Sponsored by Senator Kennedy/ M of A Rosenthal L** - Enacts the "New York call center jobs act" which provides for clawbacks on grants and incentives given to companies who move call center jobs out of state or out of the country.



## **2019 Bills Vetoed by the Governor**

**Veto 240 – Sponsored by M of A Hunter / Senator Biaggi** - Requires public transportation services to require all employees to undergo a human-trafficking recognition training program established by the division of criminal justice services

**Veto 241 – Sponsored by M of A Rozic / Senator Biaggi** - Relates to coverage for eating disorders; requires comparable coverage for adults and children with eating disorders.

**Veto 242 – Sponsored by M of A Barnwell / Senator Addabbo** - Establishes the "New York seawall study commission."

**Veto 245 – Sponsored by M of A Peoples-Stokes / Senator Breslin** - Prohibits a health care plan from making prescription drug formulary changes during a contract year.

**Veto 255 – Sponsored by Senator Brooks / M of A Pheffer Amato** - Creates a task force on disasters to examine how insurers who write policies that cover loss of or damage to real property, personal property or other liabilities for loss of, damage to, or injury to persons or property in the state respond to disasters.

**Veto 268 – Sponsored by Senator Savino / M of A Joyner** - Relates to orders committing guardianship and custody of a child; enacts provisions relating to post-termination visitation or contact.

**Veto 280 – Sponsored by Senator Ramos / M of A Rozic** - Relates to bicycles with electronic assist and electric scooters.

**Veto 281 – Sponsored by Senator Comrie / M of A Pichardo** - Permits regulatory agencies to adjust any authorized fares to account for credit card processing fees for meters used in for-hire vehicles and requires credit card processing fees to be separately stated on receipts to passengers of such vehicles.

**Veto 285 – Sponsored by Senator Jackson / M of A O'Donnell** - Requires contracts for the transportation of school children in a city of at least one million inhabitants to contain provisions for the retention or preference in hiring of school bus workers.

**Veto 286 – Sponsored by Senator Breslin / M of A Gottfried** - Provides for regulation of pharmacy benefit management.

**Veto 291 – Sponsored by Senator Ramos / M of A Rosenthal L** - Creates a lien remedy for all employees for work performed.

**Veto 292 – Sponsored by Senator Harckham / M of A Rosenthal L** - Relates to medication assisted treatment for substance abuse disorders.

## ***In the News – City***

### **Governor Signs Legislation to Allow NYC to Utilize “Design Build” Construction**

Governor Andrew Cuomo signed legislation (Chapter 749) allowing New York City to combine design and construction bids into one contract, potentially saving the City millions of dollars on public construction projects.

The law will provide project labor agreements to use union labor and language for hiring of minority contractors.



---

“The State has repeatedly demonstrated the value of design-build, successfully deploying design-build to [deliver] projects on time and on budget statewide, including in New York City,” Governor Cuomo said in his approval message.



---

In addition to the construction of the Governor Mario M. Cuomo Bridge, the State has used design build for more than 30 other projects, including the Kosciuszko Bridge replacement and the Long Island Rail Road Rehabilitation of Atlantic Avenue Viaduct. The City of New York was authorized to use design build on certain specific major projects, including the reconstruction of the Brooklyn Queens Expressway and repairs for New York City Housing Authority buildings. The MTA is using design-build for its \$51.4 billion Capital Plan.



"Design Build means less red tape and more new-and-improved libraries, roads, and bridges. Now we'll be able to save time and money on critical projects that truly matter to New Yorkers." Mayor Bill de Blasio said. "On behalf of the entire city, I want to thank Governor Cuomo, Senate Majority Leader Stewart-Cousins, Speaker Heastie, Senator Comrie and Assembly Member Braunstein."

---

Chapter 749 authorizes the New York City Department of Design and Construction, the New York City Department of Environmental Protection, the New York City Department of Transportation, the New York City Department of Parks and Recreation, the New York City Health and Hospitals Corporation, the New York City School Construction Authority and the New York City Housing Authority to use design-build procurement. Contracts would be subject to applicable federal, state and local requirements for disadvantaged business enterprises and minority and women-owned business enterprises.

The law authorizes city entities, which include the city's department of transportation and Department of Design and Construction, to award design-build contracts for projects that cost \$10 million or more; and for the Department of Parks and Recreation that cost \$1.2 million or more. Other projects, such as for improved sidewalk access for those with disabilities, renovations to cultural institutions and libraries and security improvements of at least \$1.2 million may also be delivered via design-build.

The law takes effect immediately, and, starting on June 30, each agency that has issued a design-build contract must submit an annual report that includes a description of the contract, information about the bidding process, the total cost, how much money the agency/department saved by using design-build and how much of the contract went to minority- and women-owned businesses.

According to published reports, there is an agreement between lawmakers and the Governor to enact legislation during the 2020 session to also allow state government agencies to use design-build bids for their projects. Currently, the combined bidding procedure has only been authorized for individual projects.

# Briefs

## **New York Judge Partially Blocks Farmworker Bill Meant to Expand Labor Rights**

A federal judge has temporarily blocked part of the New York Farm Workers Act which affords workers labor protections including the right to unionize and receive overtime pay as well as the guarantee of at least one day off per week. The law was to take effect January 1<sup>st</sup>.

Following a lawsuit filed by the Northeast Dairy Producers Association and the New York State Vegetable Growers Association in the Western District of New York, Judge Lawrence Vilaro issued a temporary restraining order this week. The State cannot enforce the provisions of the Act until the next scheduled court hearing on Jan. 24.

The lawsuit claims the new regulations conflict with federal law and erroneously include farm owners, family members and supervisors in the same class as laborers. Specifically, the groups argue that the measure includes the supervisory roles and grants them collective bargaining rights although they are considered “agents” of the business and therefore barred from assisting or discouraging the formation of a union.

## **NYS DOH Cuts Medicaid Payments by 1%**

The New York State Department of Health has proposed cutting state Medicaid payments by 1 percent effective Wednesday, January 1<sup>st</sup>. The across-the-board rate cut would impact providers such as hospitals, nursing homes, doctors and others who provide care through the state’s Medicaid program, which serves approximately 6 million New Yorkers.

The proposal, published in the *State Register*, is expected to save \$124 million in "gross Medicaid expenditures" in the final quarter of the current fiscal year, and \$496 million in each subsequent year, according to the notice. The State Medicaid program is facing a deficit estimated at \$3 million to \$ 4 million.

“Today the Department of Health issued public notice of its request for federal approval of a one percent uniform reduction of all non-exempt Medicaid payments, effective January 1,” the department said in a statement. “This reduction in spending growth was approved by the Legislature as part of the FY 2020 budget and is being implemented in the fourth quarter of the state’s fiscal year as the Department of Health works with its partners to develop an overall plan to reduce Medicaid spending growth while continuing to provide high-quality care to over 6 million New Yorkers.”

Some Medicaid payments will be exempt from the proposed cut, such as those for federally qualified health centers, Medicare prescription drug coverage, school health services, hospice services. Payments funded exclusively with federal or local funds will also be exempt, including certain managed care payments, services provided to inmates of local correctional facilities, and certain disproportionate share payments to non-state operated or owned governmental hospitals.



## **Steven Cohen named Gateway Program Development Corporation Chairman**

Steven Cohen was named chairman of the Gateway Program Development Corporation (GPDC) for 2020. The GPDC has three trustees — Cohen from New York, Jerry Zaro from New Jersey and Amtrak Chairman Tony Coscia. The chairmanship rotates annually between the appointees from New Jersey and New York. Cohen last served as chairman in 2018.

Coscia remains vice chairman. Zaro, who served as chairman in 2019, will become treasurer.

Both states agreed in 2019 to form a new Gateway Development Commission consisting of seven commissioners — three from New Jersey, three from New York and one from Amtrak.

## **\$51.5B MTA Capital Plan Approved**

The Metropolitan Transportation Authority's (MTA) \$51.5 billion Capital Plan was approved Wednesday January 1<sup>st</sup> as the deadline for State Capital Program Review Board action came with the close of 2019.

“The MTA is pleased the bold 2020-2024 capital plan has been deemed approved by the Capital Program Review Board,” MTA Chairman Pat Foye said in a statement.

On Thursday, January 2<sup>nd</sup>, the MTA issued a Request for Qualifications seeking new contractors for projects in all five boroughs including 17 Subway Stations, three Staten Island Railway Stations, two LIRR Stations and one Metro-North Station.

## **Mayor de Blasio Appoints 28 Judges to Family, Criminal, and Civil Court**

Mayor de Blasio has made 28 judicial appointments and reappointments for the New Year, including one appointment and four reappointments to Family Court; six appointments and ten reappointments to Criminal Court; and three appointments and four reappointments to Civil Court. Judges appointed or reappointed to Civil Court sit in either Family or Criminal Court. The appointments were effective January 1<sup>st</sup>.

### Family Court

Judge Linda Capitti (appointment)  
Judge Sarah Cooper (reappointment)  
Judge Alicea Elloras-Ally (reappointment)  
Judge Lisa J. Friederwitzer (reappointment)  
Judge Jane Pearl (reappointment)

### Civil Court:

Judge Ashley B. Black (appointment)  
Judge Paul McDonnell (appointment)  
Judge Jean T. Walsh (appointment)  
Judge Deepa Ambekar (reappointment)  
Judge Quynnda Santacrocce (reappointment)  
Judge Jonathan H. Shim (reappointment)  
Judge Jay L. Weiner (reappointment)

Criminal Court:

Judge Michael Gaffey (appointment)  
Judge Wanda (Wendy) Licitra (appointment)  
Judge Archana Rao (appointment)  
Judge Audrey Stone (appointment)  
Judge Jonathan Svetkey (appointment)  
Judge Kerry Ward (appointment)  
Judge Abena Darkeh (reappointment)  
Judge Curtis J. Farber (reappointment)  
Judge William Garnett (reappointment)  
Judge John T. Hecht (reappointment)  
Judge Salvatore J. Modica (reappointment)  
Judge Edwin Novillo (reappointment)  
Judge Kim Petersen (reappointment)  
Judge Raymond Rodriguez (reappointment)  
Judge Elizabeth N. Warin (reappointment)  
Judge Stephanie Zaro (reappointment)

## **Civil Liberties/Tech Group Sues NYPD Over FOIL Request Denial**

### *Upturn seeking Information on NYPD's Mobile Device Forensic Tools*

Upturn, a civil rights and technology nonprofit, is suing the New York Police Department (NYPD) for refusing to turn over records on its mobile device forensic tools. The lawsuit was filed in Manhattan Supreme Court after the NYPD rejected its request under the Freedom of Information Law.

The lawsuit requests that the court order the department to turn over the requested documents.

According to published reports, Upturn filed requests for information on the technology used by more than 100 law enforcement agencies around the country in 2019 and said many agencies, including the Manhattan district attorney's office, have complied. The company asserts that NYPD initially denied being able to find any records on the phone searching devices, and when the group appealed, rejected the request and said the documents are exempt from open records laws.

## ***Coming Up***

### ***New York State***

***The Legislature is in session Wednesday January 8<sup>th</sup> through Thursday January 9<sup>th</sup>***

## **Wednesday January 8<sup>th</sup>**

### **Governor Andrew Cuomo's State of the State Address**

Empire State Convention Center, 1:30 p.m.

## **New York City**

### **Wednesday January 8<sup>th</sup>**

**City Council Stated Meeting**, Council Chambers – City Hall, 12 p.m.

*Charter Meeting*

### **Thursday January 9<sup>th</sup>**

**Committee on Immigration**, Committee Room – City Hall, 1 p.m.

---

**Disclaimer:** The materials in this *This Week in New York* report are provided for informational purposes only and are not intended to be a comprehensive review of legislative or governmental or political developments, to create a client-consultant/lobbyist relationship, or to provide consulting, lobbying or political advice. Readers are cautioned not to attempt to solve specific problems on the basis of information contained in this *This Week in New York*. If consulting, lobbying or government relations advice is required, please consult a professional expert in such matters. The information contained herein, does not necessarily reflect the opinions of Pitta Bishop & Del Giorno LLC, or any of its members or employees or its clients. Neither Pitta Bishop & Del Giorno LLC, nor its members or employees make any warranty, expressed or implied, and assume no legal liability with respect to the information in this report, and do not guarantee that the information is accurate, complete, useful or current. Accordingly, Pitta Bishop & Del Giorno LLC is not responsible for any claimed damages resulting from any alleged error, inaccuracy, or omission. This communication may be considered an advertisement or solicitation.

---

To request that copies of this publication be sent to a new address or fax number, to unsubscribe, or to comment on its contents, please contact Theresa Cosgrove at [tcosgrove@pittabishop.com](mailto:tcosgrove@pittabishop.com) or at (518) 449-3320.

**To Our Clients:** If you have any questions regarding any of the matters addressed in this newsletter, or regarding any legislative, government relations or political or consulting or related issues in general, please contact the Pitta Bishop & Del Giorno LLC professional with whom you usually work.

---

*This Week in New York* is a publication of Pitta Bishop & Del Giorno LLC.

120 Broadway, 28th Floor  
New York, New York 10271  
Telephone (212) 652-3890  
Facsimile (212) 652-3891

111 Washington Avenue, St. 401  
Albany, New York 12210  
Telephone (518) 449-3320  
Facsimile (518) 449-5812

25 Hyatt Street, St. 202  
Staten Island, New York 10301  
Telephone (718) 943-1050  
Facsimile (718) 943-1051