S T A T E O F N E W Y O R K

6526

I N S E N A T E

January 22, 2016

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil rights law, in relation to electronic mail monitoring of employees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The civil rights law is amended by adding a new section 52-a to read as follows:

S 52-A. EMPLOYERS ENGAGED IN ELECTRONIC MONITORING; PRIOR NOTICE REQUIRED. 1. FOR PURPOSES OF THIS SECTION, EMPLOYER MEANS ANY INDIVIDUAL, CORPORATION, PARTNERSHIP, FIRM, OR ASSOCIATION WITH A PLACE OF BUSINESS IN THE STATE.

2. (A) ANY EMPLOYER WHO MONITORS OR OTHERWISE INTERCEPTS ELECTRONIC MAIL OR TRANSMISSIONS, BY AN EMPLOYEE BY ANY ELECTRONIC DEVICE OR SYSTEM, SHALL GIVE PRIOR WRITTEN NOTICE UPON HIRING TO ALL EMPLOYEES WHO ARE SUBJECT TO ELECTRONIC MAIL MONITORING. THE NOTICE REQUIRED BY THIS SUBDIVISION SHALL BE IN WRITING, IN AN ELECTRONIC RECORD, OR IN ANOTHER ELECTRONIC FORM AND ACKNOWLEDGED BY THE EMPLOYEE EITHER IN WRITING OR ELECTRONICALLY.

(B) FOR PURPOSES OF WRITTEN NOTICE REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION, AN EMPLOYEE SHALL BE ADVISED THAT ANY AND ALL ELECTRONIC MAIL OR TRANSMISSIONS BY AN EMPLOYEE BY ANY ELECTRONIC DEVICE OR SYSTEM, MAY BE SUBJECT TO MONITORING AT ANY AND ALL TIMES AND BY ANY LAWFUL MEANS.

3. THE ATTORNEY GENERAL MAY ENFORCE THE PROVISIONS OF THIS SECTION. ANY EMPLOYER FOUND TO BE IN VIOLATION OF THIS SECTION SHALL BE SUBJECT TO A MAXIMUM CIVIL PENALTY OF ONE THOUSAND DOLLARS FOR EACH OFFENSE.

4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO PROCESSES THAT ARE DESIGNED TO MANAGE THE TYPE OR VOLUME OF INCOMING OR OUTGOING ELECTRONIC MAIL THAT ARE NOT TARGETED TO MONITOR OR INTERCEPT THE ELECTRONIC MAIL OF A PARTICULAR INDIVIDUAL, AND THAT ARE PERFORMED SOLELY FOR THE PURPOSE OF COMPUTER SYSTEM MAINTENANCE AND/OR PROTECTION.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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