

# STATE OF NEW YORK

9590

## IN ASSEMBLY

January 25, 2018

Introduced by M. of A. WEINSTEIN, SIMOTAS, DINOWITZ, NOLAN, CAHILL --  
Multi-Sponsored by -- M. of A. BARRON, CYMBROWITZ, D'URSO, ENGLE-  
BRIGHT, GALEF, GLICK, GOTTFRIED, JAFFEE, JENNE, LUPARDO, MAGNARELLI,  
SIMON -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to retaliatory personnel  
actions by employers

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

1 Section 1. Paragraph (a) of subdivision 2 of section 740 of the labor  
2 law, as amended by chapter 442 of the laws of 2006, is amended to read  
3 as follows:

4 (a) discloses, or threatens to disclose to a supervisor or to a public  
5 body an activity, policy or practice of the employer [~~that~~] which the  
6 employee reasonably believes is in violation of law, rule or regulation  
7 [~~which violation creates and presents~~] or which the employee reasonably  
8 believes poses a substantial and specific danger to the public health or  
9 safety, or which constitutes health care fraud;

10 § 2. Paragraph (c) of subdivision 4 of section 740 of the labor law,  
11 as added by chapter 660 of the laws of 1984, is amended to read as  
12 follows:

13 (c) It shall be a defense to any action brought pursuant to this  
14 section that the personnel action was predicated upon grounds other than  
15 the employee's exercise of any rights protected by this section. [~~It~~  
16 ~~shall also be a defense that the individual was an independent contrac-~~  
17 ~~tor.~~]

18 § 3. Paragraphs (d) and (e) of subdivision 5 of section 740 of the  
19 labor law, as added by chapter 660 of the laws of 1984, are amended to  
20 read as follows:

21 (d) the compensation for lost wages, benefits and other remuneration;  
22 [~~and~~]

23 (e) the payment by the employer of reasonable costs, disbursements,  
24 and attorney's fees; and

25 (f) the payment by the employer of punitive damages, if the violation  
26 was malicious or wanton.

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

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1 § 4. This act shall take effect on the thirtieth day after it shall  
2 have become a law; provided, however, that effective immediately, the  
3 addition, amendment and/or repeal of any rule or regulation necessary  
4 for the implementation of this act on its effective date are authorized  
5 to be made by the commissioner of labor of the state of New York on or  
6 before such effective date.