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, ENGLEBRIGHT, 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 Assembly, do enact as follows:

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

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

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

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

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

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

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

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

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

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