

STATE OF NEW YORK

7891

2019-2020 Regular Sessions

IN ASSEMBLY

May 28, 2019

Introduced by M. of A. LiPETRI -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to retaliation against employees for using a firearm in self-defense in the course of employment

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

1 Section 1. The labor law is amended by adding a new section 742 to
2 read as follows:

3 § 742. Prohibition; employee penalized for using a firearm. 1. Definitions. For purposes of this section, unless the context specifically
4 indicates otherwise:

5 (a) "Employee" means an individual who performs services for and under
6 the control and direction of an employer for wages or other remuneration.

7 (b) "Employer" means any person, firm, partnership, institution,
8 corporation, or association that employs one or more employees.

9 (c) "Law, rule or regulation" includes any duly enacted statute or
10 ordinance or any rule or regulation promulgated pursuant to any federal,
11 state or local statute or ordinance.

12 (d) "Retaliatory personnel action" means the discharge, suspension or
13 demotion of an employee, or other adverse employment action taken
14 against an employee in the terms and conditions of employment.

15 2. Prohibitions. An employer shall not take any retaliatory personnel
16 action against an employee because such employee uses a firearm, for
17 which the employee has a conceal carry permit, in self-defense in the
18 course of employment on a perpetrator during the course of a crime.

19 3. Violation; remedy. (a) An employee who has been the subject of a
20 retaliatory personnel action in violation of this section may institute
21 a civil action in a court of competent jurisdiction for relief as set
22 forth in this section.

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

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1 forth in subdivision four of this section within one year after the
2 alleged retaliatory personnel action was taken.

3 (b) Any action authorized by this section may be brought in the county
4 in which the alleged retaliatory personnel action occurred, in the coun-
5 ty in which the complainant resides, or in the county in which the
6 employer has its principal place of business.

7 (c) It shall be a defense to any action brought pursuant to this
8 section that the personnel action was predicated upon grounds other than
9 the employee's exercise of any rights protected by this section. It
10 shall also be a defense that the individual was an independent contrac-
11 tor.

12 4. Relief. In any action brought pursuant to subdivision three of this
13 section, the court may order relief as follows:

14 (a) an injunction to restrain continued violation of this section;

15 (b) the reinstatement of the employee to the same position held before
16 the retaliatory personnel action, or to an equivalent position;

17 (c) the reinstatement of full fringe benefits and seniority rights;

18 (d) the compensation for lost wages, benefits and other remuneration;
19 and

20 (e) the payment by the employer of reasonable costs, disbursements,
21 and attorney's fees.

22 5. Employer relief. A court, in its discretion, may also order that
23 reasonable attorneys' fees and court costs and disbursements be awarded
24 to an employer if the court determines that an action brought by an
25 employee under this section was without basis in law or in fact.

26 6. Existing rights. Nothing in this section shall be deemed to dimin-
27 ish the rights, privileges, or remedies of any employee under any other
28 law or regulation or under any collective bargaining agreement or
29 employment contract; except that the institution of an action in accord-
30 ance with this section shall be deemed a waiver of the rights and reme-
31 dies available under any other contract, collective bargaining agree-
32 ment, law, rule or regulation or under the common law.

33 § 2. This act shall take effect immediately.