# STATE OF NEW YORK

1051

2019-2020 Regular Sessions

# IN SENATE

January 10, 2019

Introduced by Sen. PERSAUD -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the executive law, in relation to defining retaliatory acts in the workplace and establishing an affirmative defense

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

Section 1. Subdivision 7 of section 296 of the executive law, as amended by chapter 166 of the laws of 2000, is amended to read as follows:

7. It shall be an unlawful discriminatory practice for any person engaged in any activity to which this section applies to retaliate or discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article. **For purposes of this subdivision, an act shall be deemed retaliatory in the workplace if an aggrieved employee is treated less favorably than any other employee, provided that an employer may raise an affirmative defense that: (a) the employer planned to demote, discharge, or penalize the employee prior to learning that the employee had opposed a practice forbidden under this article or the employee had filed a complaint, testified or assisted in a proceeding under this article, or (b) the employer proves that its treatment of the aggrieved employee occurred without any consideration to the employee's opposition to a practice forbidden under this article or the employee's filing of a complaint, testifying or assisting in a proceeding under this article.**

§ 2. This act shall take effect immediately.

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

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