

STATE OF NEW YORK

4413

2019-2020 Regular Sessions

IN SENATE

March 11, 2019

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

AN ACT to amend the labor law, in relation to notice of employee rights and remedies

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

1 Section 1. Section 203-e of the labor law, as added by a chapter of
2 the laws of 2019, amending the labor law relating to discrimination
3 based on an employee's or a dependent's reproductive health decision
4 making, as proposed in legislative bill numbers S. 660 and A. 584, is
5 amended to read as follows:

6 § 203-e. Prohibition of discrimination based on an employee's or a
7 dependent's reproductive health decision making. 1. An employer shall be
8 prohibited from accessing an employee's personal information regarding
9 the employee's or the employee's dependent's reproductive health deci-
10 sion making, including but not limited to, the decision to use or access
11 a particular drug, device or medical service without the employee's
12 prior informed affirmative written consent.

13 2. An employer shall not:

14 (a) discriminate nor take any retaliatory personnel action against an
15 employee with respect to compensation, terms, conditions, or privileges
16 of employment because of or on the basis of the employee's or depen-
17 dent's reproductive health decision making, including, but not limited
18 to, a decision to use or access a particular drug, device or medical
19 service; or

20 (b) require an employee to sign a waiver or other document which
21 purports to deny an employee the right to make their own reproductive
22 health care decisions, including use of a particular drug, device, or
23 medical service.

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

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1 3. [~~An employer that provides an employee handbook to its employees~~
2 ~~must include in the handbook notice of employee rights and remedies~~
3 ~~under this section.~~

4 4.] An employee may bring a civil action in any court of competent
5 jurisdiction against an employer alleged to have violated the provisions
6 of this section. In any civil action alleging a violation of this
7 section, the court may:

8 (a) award damages, including, but not limited to, back pay, benefits
9 and reasonable attorneys' fees and costs incurred to a prevailing plain-
10 tiff;

11 (b) afford injunctive relief against any employer that commits or
12 proposes to commit a violation of the provisions of this section;

13 (c) order reinstatement; and/or

14 (d) award liquidated damages equal to one hundred percent of the award
15 for damages pursuant to paragraph (a) of this subdivision unless an
16 employer proves a good faith basis to believe that its actions in
17 violation of this section were in compliance with the law.

18 [5.] 4. Nothing in this section shall be construed to limit any rights
19 of an employee provided through any other provision of law, common law
20 or collective bargaining unit.

21 [6.] 5. Any act of retaliation for an employee exercising any rights
22 granted under this section shall subject an employer to separate civil
23 penalties under this section. For the purposes of this section, retali-
24 ation or retaliatory personnel action shall mean discharging, suspend-
25 ing, demoting, or otherwise penalizing an employee for:

26 (a) making or threatening to make, a complaint to an employer,
27 co-worker, or to a public body, that rights guaranteed under this
28 section have been violated;

29 (b) causing to be instituted any proceeding under or related to this
30 section; or

31 (c) providing information to, or testifying before, any public body
32 conducting an investigation, hearing, or inquiry into any such violation
33 of a law, rule, or regulation by such employer.

34 § 2. Section 203-e of the labor law, as added by a chapter of the laws
35 of 2019, amending the labor law relating to discrimination based on an
36 employee's or a dependent's reproductive health decision making, as
37 proposed in legislative bill numbers S. 660 and A. 584, is amended by
38 adding a new subdivision 6 to read as follows:

39 6. An employer that provides an employee handbook to its employees
40 must include in the handbook notice of employee rights and remedies
41 under this section.

42 § 3. This act shall take effect on the same date and in the same
43 manner as a chapter of the laws of 2019, amending the labor law relating
44 to discrimination based on an employee's or a dependent's reproductive
45 health decision making, as proposed in legislative bill numbers S. 660
46 and A. 584, takes effect; provided, however that section two of this act
47 shall take effect on the sixtieth day after such chapter of the laws of
48 2019, takes effect.