

# STATE OF NEW YORK

5192

2021-2022 Regular Sessions

## IN SENATE

February 26, 2021

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

AN ACT to amend the civil rights law, in relation to electronic mail monitoring of employees

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

1 Section 1. The civil rights law is amended by adding a new section  
2 52-d to read as follows:

3 § 52-d. Employers engaged in electronic monitoring; prior notice  
4 required. 1. For purposes of this section, employer means any individ-  
5 ual, corporation, partnership, firm, or association with a place of  
6 business in the state.

7 2. (a) Any employer who monitors or otherwise intercepts electronic  
8 mail or transmissions, by an employee by any electronic device or  
9 system, shall give prior written notice upon hiring to all employees who  
10 are subject to electronic mail monitoring. The notice required by this  
11 subdivision shall be in writing, in an electronic record, or in another  
12 electronic form and acknowledged by the employee either in writing or  
13 electronically.

14 (b) For purposes of written notice required by paragraph (a) of this  
15 subdivision, an employee shall be advised that any and all electronic  
16 mail or transmissions by an employee by any electronic device or system,  
17 may be subject to monitoring at any and all times and by any lawful  
18 means.

19 3. The attorney general may enforce the provisions of this section.  
20 Any employer found to be in violation of this section shall be subject  
21 to a maximum civil penalty of one thousand dollars for each offense.

22 4. The provisions of this section shall not apply to processes that  
23 are designed to manage the type or volume of incoming or outgoing elec-  
24 tronic mail that are not targeted to monitor or intercept the electronic

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

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1 mail of a particular individual, and that are performed solely for the  
2 purpose of computer system maintenance and/or protection.  
3 § 2. This act shall take effect on the one hundred eightieth day after  
4 it shall have become a law.