

# STATE OF NEW YORK

1958--A

Cal. No. 384

2021-2022 Regular Sessions

## IN SENATE

January 16, 2021

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the labor law, in relation to clarifying that workers shall not be punished or subjected to discipline by employers for lawful absences

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

1 Section 1. Paragraph (a) of subdivision 1 of section 215 of the labor  
2 law, as amended by chapter 564 of the laws of 2010, the closing para-  
3 graph as added by chapter 126 of the laws of 2019, is amended as  
4 follows:  
5 (a) No employer or his or her agent, or the officer or agent of any  
6 corporation, partnership, or limited liability company, or any other  
7 person, shall discharge, threaten, penalize, or in any other manner  
8 discriminate or retaliate against any employee (i) because such employee  
9 has made a complaint to his or her employer, or to the commissioner or  
10 his or her authorized representative, or to the attorney general or any  
11 other person, that the employer has engaged in conduct that the employ-  
12 ee, reasonably and in good faith, believes violates any provision of  
13 this chapter, or any order issued by the commissioner (ii) because such  
14 employer or person believes that such employee has made a complaint to  
15 his or her employer, or to the commissioner or his or her authorized  
16 representative, or to the attorney general, or to any other person that  
17 the employer has violated any provision of this chapter, or any order

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

LBD03487-11-2

1 issued by the commissioner (iii) because such employee has caused to be  
2 instituted or is about to institute a proceeding under or related to  
3 this chapter, or (iv) because such employee has provided information to  
4 the commissioner or his or her authorized representative or the attorney  
5 general, or (v) because such employee has testified or is about to  
6 testify in an investigation or proceeding under this chapter, or (vi)  
7 because such employee has otherwise exercised rights protected under  
8 this chapter, or (vii) because the employer has received an adverse  
9 determination from the commissioner involving the employee, or (viii)  
10 because such employee has used any legally protected absence pursuant to  
11 federal, local, or state law.

12 An employee complaint or other communication need not make explicit  
13 reference to any section or provision of this chapter to trigger the  
14 protections of this section.

15 As used in this section, to threaten, penalize, or in any other manner  
16 discriminate or retaliate against any employee includes; threatening to  
17 contact or contacting United States immigration authorities or otherwise  
18 reporting or threatening to report an employee's suspected citizenship  
19 or immigration status or the suspected citizenship or immigration status  
20 of an employee's family or household member, as defined in subdivision  
21 two of section four hundred fifty-nine-a of the social services law, to  
22 a federal, state or local agency; or assessing any demerit, occurrence,  
23 any other point, or deductions from an allotted bank of time, which  
24 subjects or could subject an employee to disciplinary action, which may  
25 include but not be limited to failure to receive a promotion or loss of  
26 pay.

27 § 2. This act shall take effect on the ninetieth day after it shall  
28 have become a law. Effective immediately, the addition, amendment and/or  
29 repeal of any rule or regulation necessary for the implementation of  
30 this act on its effective date are authorized to be made and completed  
31 on or before such date.