STATE OF NEW YORK

1396--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. BICHOTTE HERMELYN, GONZALEZ-ROJAS, SHIMSKY, BURDICK -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to clarifying the standard for disparate treatment claims

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

Section 1. Section 292 of the executive law is amended by adding a new subdivision 42 to read as follows:

42. The terms "because of", "because", and "by reason of" in disparate treatment cases, including retaliation cases, mean the unlawful motive was a motivating factor. A "motivating factor" means than an adverse employment decision or action was more likely than not based in whole or in part on discrimination. Such discriminatory reason for the adverse employment action or decision need not be the sole reason or factor for the adverse employment action or decision. Nothing in this definition is intended to preclude or limit use of the disparate impact method of proving liability.

§ 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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