

STATE OF NEW YORK

6819--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 8, 2023

Introduced by M. of A. STECK -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to enacting the "trapped at work act"

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

1 Section 1. This act shall be known and may be cited as the "trapped at
2 work act".

3 § 2. The labor law is amended by adding a new article 36 to read as
4 follows:

ARTICLE 36

TRAPPED AT WORK ACT

7 Section 1050. Statement of public policy.

8 1051. Definitions.

9 1052. Scope.

10 1053. Prohibiting the use of employment promissory notes and
11 other similar provisions.

12 1054. Enforcement.

13 1055. Rules.

14 1056. Savings clause.

15 § 1050. Statement of public policy. Workers' ability to freely change
16 jobs is critical to their economic liberty as well as to creating a
17 thriving and innovative economy in the state of New York. Additionally,
18 a tenet of worker protections and empowerment is that the cost of any
19 training required by an employer to perform a job should be borne by the
20 employer, who ultimately stands to financially benefit from a well-
21 trained workforce. Employment provisions that have the effect of indebt-
22 ing workers to their former employers upon separation for the cost of
23 training have the effects of reducing those workers' professional mobil-
24 ity, creating obstacles toward financial security, and chilling the

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

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1 state economy. It is in the interest of individual workers and of the
2 state to protect workers from these employment-based debts and to align
3 the costs of operating a business with its financial benefits by ensur-
4 ing employers maintain expenses for training they require for their
5 workers.

6 § 1051. Definitions. For purposes of this article:

7 1. "Employer" means an individual, partnership, association, corpo-
8 ration, limited liability company, trust, government or government
9 subdivision, or any organized group that hires or contracts with a work-
10 er to work for the employer. For the purposes of this article, this term
11 shall also include any subsidiary of an employer and any individual,
12 partnership, association, corporation, limited liability company, trust,
13 government or government subdivision, or any organized group associated
14 with an employer that provides training to workers.

15 2. "Worker" means an individual who is permitted to work for or on
16 behalf of an employer. The term "worker" includes an employee, independ-
17 ent contractor, extern, intern, volunteer, apprentice, sole proprietor
18 who provides a service or services to an employer or to a client or
19 customer of an employer on behalf of such employer, and an individual
20 who provides service through a business or nonprofit entity or associ-
21 ation. "Worker" does not include an individual, even if the individual
22 performs incidental service for the employer, whose sole relationship
23 with the employer is as a vendor of goods.

24 3. "Employment promissory note" means any instrument, agreement, or
25 contract provision that requires a worker to pay the employer, or his or
26 her agent or assignee, a sum of money if the worker leaves such employ-
27 ment before the passage of a stated period of time. "Employment promis-
28 sory note" includes any such instrument, agreement, or contract
29 provision which states such payment of moneys constitutes reimbursement
30 for training provided to the worker by the employer or by a third party.

31 § 1052. Scope. 1. This article supersedes common law only to the
32 extent that it applies to an employment promissory note but otherwise
33 does not affect principles of law and equity consistent with this arti-
34 cle.

35 2. The rights and remedies provided pursuant to this article shall be
36 in addition to, and shall not supersede, any other rights and remedies
37 provided by statute or common law.

38 § 1053. Prohibiting the use of employment promissory notes and other
39 similar provisions. 1. Beginning on the effective date of this article,
40 no employer may require, as a condition of employment, any worker or
41 prospective worker to execute an employment promissory note. The
42 execution of an employment promissory note as a condition of employment
43 is unconscionable, against public policy, and unenforceable, and any
44 such note shall be void. If any such note is part of a larger agreement,
45 the invalidity of such note shall not affect the other provisions of
46 such agreement.

47 2. Nothing in this section shall prohibit or render void or unenforce-
48 able any agreement between a worker and an employer that:

49 (a) requires the worker to repay to the employer any sums advanced to
50 such worker by the employer, unless such sums were used to pay for
51 training related to the worker's employment with the employer;

52 (b) requires the worker to pay the employer for any property it has
53 sold or leased to such worker;

54 (c) requires educational personnel to comply with any terms or condi-
55 tions of sabbatical leaves granted by their employers; or

1 (d) is entered into as part of a program agreed to by the employer and
2 its workers' collective bargaining representative.

3 § 1054. Enforcement. 1. Any employer found to have violated this arti-
4 cle shall be fined by the commissioner not less than one thousand
5 dollars and not more than five thousand dollars for each violation. Each
6 worker or prospective worker whom an employer required to execute an
7 employment promissory note or against whom an employer seeks to enforce
8 such a note shall constitute a separate violation of this article.

9 2. Any worker or prospective worker for whom an employer requires
10 execution of an employment promissory note as a condition of employment
11 or against whom an employer seeks to enforce such a note may bring an
12 action against such employer to recover actual damages or five thousand
13 dollars, whichever is greater, and injunctive relief. In the event of a
14 successful action, the court shall award any plaintiff reasonable costs
15 and attorney fees.

16 § 1055. Rules. The commissioner may promulgate rules and regulations
17 necessary to carry out the provisions of this article.

18 § 1056. Savings clause. If any portion of this article or the applica-
19 tion thereof to any person, occupation or circumstance is held invalid,
20 the remainder of the article and the application of such provision to
21 other persons, employees, occupations, or circumstances shall not be
22 affected thereby.

23 § 3. This act shall take effect immediately.