STATE OF NEW YORK

8336

2025-2026 Regular Sessions

IN ASSEMBLY

May 13, 2025

Introduced by M. of A. BRONSON -- read once and referred to the Committee on Labor

AN ACT to amend the labor law and the executive law, in relation to enacting the "faithless servant reform act"

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

Section 1. Short title. This act shall be known and may be cited as the "faithless servant reform act".

§ 2. Legislative intent. The purpose of this act is to safeguard all employees from retaliatory legal actions by employers in the context of employment disputes and to ensure that all claims of employee disloyalty are substantiated, narrowly limited, and consistently and appropriately applied. The second purpose of this act is to ensure that even in the very limited class of cases where some forfeiture of employee compensation may otherwise be permissible under this act, such forfeiture shall be limited to compensation for pay periods during which the disloyal acts occurred and shall not encompass any part of an employee's minimum wage or overtime compensation.

§ 3. The labor law is amended by adding a new section 215-d to read as follows:

§ 215-d. Prohibited retaliation; additional provisions. 1. Rebuttable presumption of retaliation. In any action where an employee asserts a claim under this chapter, for unpaid wages, benefits, or wage supplements, and the employer responds by filing or threatening to file a claim, counterclaim, or affirmative defense seeking the forfeiture of any employment compensation, there shall be a rebuttable presumption that such employer's action is retaliatory under section two hundred fifteen of this article.

2. Burden of proof for employers. (a) The forfeiture of any unpaid wages, benefits, or wage supplements shall not be an available remedy to an employer against an employee arising from within the scope of the

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

LBD05454-02-5

employment relationship, unless such employer proves by clear and convincing evidence that:

(i) such employee's conduct was so pervasive and egregious as to negate the central purpose of the employment relationship;

(ii) such forfeiture is based on more than a single act of such employee; and

(iii) such employer did not know of and tolerate such employee's conduct.

(b) Forfeiture of unpaid wages, benefits, or wage supplements under paragraph (a) of this subdivision shall be limited to instances where the employee unfairly competes with the employer, diverts business opportunities away from such employer to such employee to the financial detriment of such employer, or accepts improper kickbacks.

3. Limitation on the remedy of forfeiture. In the limited instances where it may be available, an employer's remedy of forfeiture against an employee shall be strictly limited to compensation due for the pay periods during which such employee's affirmative acts under subdivision two of this section occurred. Notwithstanding such potential availability of a partial forfeiture of an employee's compensation, such partial forfeiture shall not include minimum wage and overtime payments as required by article nineteen of this chapter or any wage orders promulgated thereunder.

4. Existing rights. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any other law, rule or regulation or under any collective bargaining agreement or employment contract.

§ 4. The executive law is amended by adding a new section 296-e to read as follows:

§ 296-e. Unlawful discriminatory practices; additional provisions. 1. Rebuttable presumption of discrimination. In any action where an employee asserts a claim under this article and the employer responds by filing or threatening to file a claim, counterclaim, or affirmative defense seeking the forfeiture of any employment compensation, there shall be a rebuttable presumption that such employer's action is discriminatory under section two hundred ninety-six of this article.

2. Burden of proof for employers. (a) The forfeiture of any unpaid wages, benefits, or wage supplements shall not be an available remedy to an employer against an employee arising from within the scope of the employment relationship, unless such employer proves by clear and convincing evidence that:

(i) such employee's conduct was so pervasive and egregious as to negate the central purpose of the employment relationship;

(ii) such forfeiture is based on more than a single act of such employee; and

(iii) such employer did not know of and tolerate such employee's conduct.

(b) Forfeiture of unpaid wages, benefits, or wage supplements under paragraph (a) of this subdivision shall be limited to instances where the employee unfairly competes with the employer, diverts business opportunities away from such employer to such employee to the financial detriment of such employer, or accepts improper kickbacks.

3. Limitation on the remedy of forfeiture. In the limited instances where it may be available, an employer's remedy of forfeiture against an employee shall be strictly limited to compensation due for the pay periods during which such employee's affirmative acts under subdivision two of this section occurred. Notwithstanding such potential availability of

a partial forfeiture of an employee's compensation, such partial forfeiture shall not include minimum wage and overtime payments as required by article nineteen of the labor law or any wage orders promulgated thereunder.

4. Existing rights. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any other law, rule or regulation or under any collective bargaining agreement or employment contract.

§ 5. This act shall take effect immediately.