

# 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:

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

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

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

15 § 215-d. Prohibited retaliation; additional provisions. 1. Rebuttable  
16 presumption of retaliation. In any action where an employee asserts a  
17 claim under this chapter, for unpaid wages, benefits, or wage supple-  
18 ments, and the employer responds by filing or threatening to file a  
19 claim, counterclaim, or affirmative defense seeking the forfeiture of  
20 any employment compensation, there shall be a rebuttable presumption  
21 that such employer's action is retaliatory under section two hundred  
22 fifteen of this article.

23 2. Burden of proof for employers. (a) The forfeiture of any unpaid  
24 wages, benefits, or wage supplements shall not be an available remedy to  
25 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.

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

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

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

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

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

14 3. Limitation on the remedy of forfeiture. In the limited instances  
15 where it may be available, an employer's remedy of forfeiture against an  
16 employee shall be strictly limited to compensation due for the pay peri-  
17 ods during which such employee's affirmative acts under subdivision two  
18 of this section occurred. Notwithstanding such potential availability of  
19 a partial forfeiture of an employee's compensation, such partial forfei-  
20 ture shall not include minimum wage and overtime payments as required by  
21 article nineteen of this chapter or any wage orders promulgated there-  
22 under.

23 4. Existing rights. Nothing in this section shall be deemed to dimin-  
24 ish the rights, privileges, or remedies of any employee under any other  
25 law, rule or regulation or under any collective bargaining agreement or  
26 employment contract.

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

29 § 296-e. Unlawful discriminatory practices; additional provisions. 1.  
30 Rebuttable presumption of discrimination. In any action where an employ-  
31 ee asserts a claim under this article and the employer responds by  
32 filing or threatening to file a claim, counterclaim, or affirmative  
33 defense seeking the forfeiture of any employment compensation, there  
34 shall be a rebuttable presumption that such employer's action is discri-  
35 minatory under section two hundred ninety-six of this article.

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

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

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

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

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

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

1 a partial forfeiture of an employee's compensation, such partial forfei-  
2 ture shall not include minimum wage and overtime payments as required by  
3 article nineteen of the labor law or any wage orders promulgated there-  
4 under.

5 4. Existing rights. Nothing in this section shall be deemed to dimin-  
6 ish the rights, privileges, or remedies of any employee under any other  
7 law, rule or regulation or under any collective bargaining agreement or  
8 employment contract.

9 § 5. This act shall take effect immediately.