

# STATE OF NEW YORK

8336--A

2025-2026 Regular Sessions

## IN ASSEMBLY

May 13, 2025

Introduced by M. of A. BRONSON -- 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 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. 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 § 4. The labor law is amended by adding a new section 198-f to read as  
24 follows:

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

LBD05454-03-5

1 § 198-f. Limitations on forfeiture of wages, benefits, or wage supple-  
2 ments. 1. Burden of proof for employers. (a) The forfeiture of any  
3 unpaid wages, benefits, or wage supplements shall not be an available  
4 remedy to an employer against an employee arising from within the scope  
5 of the employment relationship, unless such employer proves by clear and  
6 convincing evidence that:

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

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

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

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

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

27 3. Existing rights. Nothing in this section shall be deemed to dimin-  
28 ish the rights, privileges, or remedies of any employee under any other  
29 law, rule or regulation or under any collective bargaining agreement or  
30 employment contract.

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

33 § 296-e. Unlawful discriminatory practices; rebuttable presumption of  
34 discrimination. In any action where an employee asserts a claim under  
35 this article and the employer responds by filing or threatening to file  
36 a claim, counterclaim, or affirmative defense seeking the forfeiture of  
37 any employment compensation, there shall be a rebuttable presumption  
38 that such employer's action is discriminatory under section two hundred  
39 ninety-six of this article.

40 § 6. This act shall take effect immediately.