

STATE OF NEW YORK

2558

2025-2026 Regular Sessions

IN SENATE

January 21, 2025

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to discrimination and retaliation against employees

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

1 Section 1. Section 120 of the workers' compensation law, as amended by
2 chapter 61 of the laws of 1989, the section heading as amended by
3 section 31 of part SS of chapter 54 of the laws of 2016 and the opening
4 paragraph as amended by chapter 105 of the laws of 2019, is amended to
5 read as follows:
6 § 120. Discrimination and retaliation against employees. It shall be
7 unlawful for any employer or [~~his or her~~] such employer's duly author-
8 ized agent to discharge or fail to reinstate pursuant to section two
9 hundred three-b of this chapter, or in any other manner discriminate
10 against an employee as to [~~his or her~~] their employment or retaliate
11 against an employee because such employee has claimed or attempted to
12 claim compensation from such employer, requested a claim form for inju-
13 ries received in the course of employment, or claimed or attempted to
14 claim any benefits provided under this chapter or because [~~he or she~~]
15 such employee has testified or is about to testify in a proceeding under
16 this chapter and no other valid reason is shown to exist for such action
17 by the employer. As used in this section, to discriminate or retaliate
18 against an employee includes threatening to contact or contacting United
19 States immigration authorities or otherwise reporting or threatening to
20 report an employee's suspected citizenship or immigration status or the
21 suspected citizenship or immigration status of an employee's family or
22 household member, as defined in subdivision two of section four hundred
23 fifty-nine-a of the social services law, to a federal, state or local
24 agency.

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

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1 Any complaint alleging such an unlawful discriminatory practice must
2 be filed within two years of the commission of such practice. Upon find-
3 ing that an employer has violated this section, the board shall make an
4 order that any employee so discriminated or retaliated against shall be
5 restored to employment or otherwise restored to the position or privi-
6 leges [~~he or she~~] such employee would have had but for the discrimi-
7 nation or retaliation and shall be compensated by [~~his or her~~] their
8 employer for any loss of compensation arising out of such discrimination
9 or retaliation together with such fees or allowances for services
10 rendered by an attorney or licensed representative as fixed by the
11 board. Any employer who violates this section shall be liable to a
12 penalty of not less than [~~one~~] five hundred dollars or more than two
13 thousand five hundred dollars, as may be determined by the board. All
14 such penalties shall be paid into the state treasury. All penalties,
15 compensation and fees or allowances shall be paid solely by the employ-
16 er. The employer alone and not [~~his or her~~] such employer's carrier
17 shall be liable for such penalties and payments. Any provision in an
18 insurance policy undertaking to relieve the employer from liability for
19 such penalties and payments shall be void.

20 An employer found to be in violation of this section and the aggrieved
21 employee must report to the board as to the manner of the employer's
22 compliance within thirty days of receipt of a final determination. In
23 case of failure to report on compliance, or failure to comply with an
24 order or penalty of the board within thirty days after the order or
25 notice of penalty is served, except where timely application to the
26 board for a modification, rescission or review of such order or penalty
27 has been filed under section twenty-three of this chapter, the chair in
28 any such case or, on the chair's consent, any party may enforce the
29 order or penalty in a like manner as an award of compensation.

30 § 2. This act shall take effect on the ninetieth day after it shall
31 have become a law.