

Regular Session, 2012

HOUSE BILL NO. 364

BY REPRESENTATIVE LEGER

EMPLOYMENT: Provides with respect to an employee's protection against reprisal

1 AN ACT

2 To amend and reenact R.S. 23:967, relative to workplace reprisal; to extend the protection
3 for employees; to provide for notice to the employer; to provide venues for suit; to
4 provide relative to employee liability; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 23:967 is hereby amended and reenacted to read as follows:

7 §967. Employee protection from reprisal; prohibited practices; remedies

8 A. An employer shall not take reprisal against an employee who in good
9 faith, and after advising the employer, unless such notification would be futile, ~~of the~~
10 a suspected or known workplace act, practice, or omission that the employee
11 reasonably believes is a violation of law or otherwise endangers public health or
12 safety:

13 (1) Discloses or threatens to disclose a workplace act, ~~or practice,~~ or
14 omission that the employee reasonably believes is in violation of ~~state~~ law.
15 However, the employee shall not be protected from reprisal if the disclosure was
16 made to a competitive business enterprise.

17 (2) Provides information to or testifies before any public body conducting
18 an investigation, hearing, or inquiry into any workplace act, practice, or omission
19 that the employee reasonably believes is a violation of law.

20 (3) Objects to or refuses to participate in an employment act, ~~or practice,~~ or
21 omission that the employee reasonably believes is in violation of law.

1 B. An employee may commence a civil action in a district court where the
 2 violation occurred, where the employee resides, or where the employer maintains
 3 his principal place of business, against any employer who engages in a practice
 4 prohibited by Subsection A of this Section. If the court finds the provisions of
 5 Subsection A of this Section have been violated, the plaintiff may recover from the
 6 employer damages, reasonable attorney fees, and court costs.

7 C. For the purposes of this Section, the following terms shall have the
 8 definitions ascribed below:

9 ~~(2)~~ (1) "Damages" include compensatory damages, back pay, benefits,
 10 reinstatement, reasonable attorney fees, and court costs resulting from the reprisal.

11 (2) "Law" includes any federal, state, or local statute, ordinance, rule, or
 12 regulation.

13 ~~(1)~~ (3) "Reprisal" includes firing, layoff, loss of benefits, or any
 14 ~~discriminatory retaliatory~~ retaliatory action the court finds was taken as a result of an action by
 15 the employee that is protected under Subsection A of this Section; however, nothing
 16 in this Section shall prohibit an employer from enforcing an established employment
 17 policy, procedure, or practice or exempt an employee from compliance with such.

18 D. If suit or complaint is brought in bad faith ~~or if it should be determined~~
 19 ~~by a court that the employer's act or practice was not in violation of the law~~, the
 20 employer may be entitled to reasonable attorney fees and court costs from the
 21 employee.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Leger

HB No. 364

Abstract: Provides for protection against workplace reprisal for employees who report employer violations of federal, state, or local law, or endangerment to public health or safety.

Present law prohibits an employer from acting in a retaliatory manner or taking reprisal against an employee who in good faith discloses or threatens to disclose a workplace act, practice, or omission that is a violation of law; provides information to or testifies before any

public body conducting an investigation, hearing, or inquiry into any potential violation of law; or objects to or refuses to participate in a workplace act, practice, or omission that is a violation of law.

Proposed law extends protection for a disclosure of any such workplace act, practice, or omission that an employee reasonably believes is in violation of any federal, state, or local law, statute, ordinance, or rule or regulation, or otherwise endangers public health or safety.

Present law requires that an employee first notify the employer of a violation of law prior to protection from disclosure.

Proposed law provides an exception to the employer notification requirement in present law when the notification would be futile.

Present law provides that an employee may only bring suit for reprisal in the district court in which the violation occurred.

Proposed law extends present law to allow an employee to bring suit for reprisal in the district court where the complainant resides, or the employer maintains his principal place of business.

Present law provides that an employer may not take reprisal, which means firing, laying off, reducing benefits, or taking discriminatory action against an employee for engaging in protected disclosure activities.

Proposed law extends present law by defining reprisal as firing, laying off, reducing benefits, or taking any retaliatory action against an employee for engaging in protected disclosure activities.

Present law provides that an employee may be liable for an employer's reasonable attorney fees and costs if the court finds that the claim was brought in bad faith or the employer was not in violation of the law.

Proposed law narrows present law to limit an employee's liability for an employer's reasonable attorney fees and costs to claims the court finds were brought in bad faith.

(Amends R.S. 23:967)