



NEW YORK STATE SENATOR

George Onorato

## Legislation Signed Into Law By The Governor

GEORGE ONORATO September 18, 2009

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"Legislation To Expand Protection For Workers From Retaliation For Reporting Wage And Other Labor Violations." SB 3358 ([Chapter 372](#))

### NEWS FROM

State Senator George Onorato

Chairman, New York State

Senate Standing Committee on Labor

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CONTACT: Janet K. Kash (518)455-3486

NEW LAW SPONSORED BY SENATOR ONORATO PROVIDES GREATER PROTECTION  
FROM EMPLOYER RETALIATION FOR WORKERS REPORTING WAGE AND OTHER  
LABOR LAW VIOLATIONS

Penalties for Retaliation Increased for First Time in More Than 50 Years, Discharged

## Employee “Whistleblowers” May be Compensated for Lost Wages

State Senator George Onorato (D-Queens), the chairman of the Senate Standing Committee on Labor, today announced that legislation (S.3358) he sponsored to better protect workers who report wage and other labor law violations from retaliation by their employers has been signed into law (Chapter 372) by Governor David A. Paterson.

“All too often, workers who turn to the State Department of Labor to help them recover unpaid wages or receive help with other labor law violations end up getting fired, or are otherwise victims of workplace retaliation – including reduced hours, losses of benefits, and different work assignments – by their employers,” said Senator Onorato. “Employers who willfully underpay their workers or otherwise violate labor rights and protections must be held accountable for their actions, and worker ‘whistleblowers’ who attempt to stand up for their rights must be able to come forward and seek help without fear of losing their jobs.”

Specifically, the new law, which was requested by the State Department of Labor, will:

- Increase the minimum civil fine for employer retaliation from \$200 to \$1000, and the maximum penalty from \$2000 to \$10,000. These fines have not been increased in more than 50 years, and have not, therefore, served as a significant disincentive to retaliation by employers;

- Expand the Department of Labor’s power to punish retaliatory action by allowing the Department to seek lost compensation for workers who are fired for reporting labor law violations. By improving the Department’s enforcement powers in retaliation cases, employees who might not otherwise seek assistance with wage underpayments and other labor issues may be more likely to come forward.

- Broaden protections to workers who are retaliated against because of a successful

complaint they made to the Department against their employer, or because they provided information to the Department concerning a violation experienced by another employee;

- Extend liability for retaliation to officers and agents of limited liability corporations (LLCs) and partnerships. These business entities have experienced tremendous growth in recent years, but have been exempt from liability for retaliatory actions against workers;

- Ensure that workers who have been underpaid no longer carry the burden, when they are seeking liquidated damages, of proving that their employer acted willfully. Employers must now prove that they did not act willfully in underpaying their workers, and believed they were in good faith compliance with the law; and

- Allow the Department of Labor to bring a court action or administrative proceeding to collect wage underpayments and liquidated damages.

“This new law will be of particular importance to New York’s lowest paid, minimum wage workers, who are already having a very difficult time making ends meet on poverty-level paychecks. These employees clearly have the most to lose if they are fired or otherwise retaliated against for standing up for their rights,” said Senator Onorato.

Beyond the new law’s benefits for New York’s workers, Senator Onorato pointed to a number of other positive impacts that will arise from the legislation.

“By recovering unpaid wages for victimized employees, we will help to ensure that these workers have the income they need to buy basics and support their families, which will help their local economies,” the Senator said. “In addition, honest employers who abide by New York’s labor laws will no longer be placed at a competitive disadvantage by businesses who

willfully underpay their workers and pad their own wallets. All in all, the approval of this law is an important win for workers, honest employers, and New York's economy as a whole."

The new law takes effect in November.

Janet K. Kash

Chief of Staff and Director of Communications

Office of State Senator George Onorato

Room 310 Legislative Office Building

Albany, NY 12247

Ph: 518-455-3486

Fax: 518-426-6929