

Recent New York Legislation Prohibits Employers From Threatening to Report an Employee's Suspected Immigration Status in Retaliation for Labor Law Complaints

New York has for many years had a law on the books that prohibits employers from retaliating against an employee because the employee has complained about an alleged violation of the wage and hour laws. Specifically, New York Labor Law Section 215 states that an employer may not “discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee” because the employee complained of an alleged violation of the Labor Law or otherwise cooperated with a Department of Labor or Attorney General investigation regarding an alleged violation of the Labor Law.

On July 29, 2019, Governor Cuomo signed [legislation](#) amending the statute to specify that the phrase “threaten, penalize, or in any manner discriminate or retaliate against any employee” includes threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report the citizenship or suspected immigration status of an employee or an employee's family member. The legislation is effective 90 days after the date on which the Governor signed it.

The penalties for violating Labor Law Section 215 remain the same. A civil penalty of up to \$10,000 can be imposed for a first violation. That penalty can be increased to up to \$20,000 if the employer is found to have previously violated the statute in the preceding six years. An employee who is discharged from employment may also be entitled to back pay and liquidated damages for each violation. Perhaps most significantly, a person who violates the statute could be found guilty of a Class B misdemeanor, which, according to a [press release](#) issued by the Attorney General in February when the legislation was introduced, could result in imprisonment for up to three months.

If you have any questions about this Information Memo, please contact [Subhash Viswanathan](#), any of the [attorneys](#) in our [Labor and Employment Law Practice](#), or the attorney in the firm with whom you are regularly in contact.



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