



General Assembly

February Session, 2022

Substitute Bill No. 5245



**AN ACT CONCERNING FORCED ARBITRATION AGREEMENTS AND
ALLOWING CERTAIN COURT ACTIONS TO BE BROUGHT ON
BEHALF OF THE STATE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2022*) (a) As used in this section:

2 (1) "Public enforcement action" means a civil action brought pursuant
3 to this section to enforce protections enforceable by the state pursuant
4 to chapter 557 or 558 of the general statutes or section 46a-60 or 46a-81c
5 of the general statutes;

6 (2) "Responsible state official" means a person authorized to enforce
7 any provision of chapter 557 or 558 of the general statutes or section 46a-
8 60 or 46a-81c of the general statutes or to impose or seek penalties or
9 other remedies for violations of such chapter or section, including
10 persons delegated to act on the responsible state official's behalf with
11 respect to enforcing such chapter or section, imposing or seeking
12 penalties or other remedies for violations of such chapter or section or
13 receiving and disposing of notices pursuant to this section;

14 (3) "Relator" means a whistle-blower or a representative organization
15 that acts as a qui tam plaintiff in a public enforcement action under this
16 section;

17 (4) "Representative organization" means a nonprofit corporation or a
18 labor organization that assists in enforcement pursuant to this section
19 and that has been selected by a whistle-blower, in writing, in a form
20 prescribed by the Attorney General, to initiate a public enforcement
21 action on the whistle-blower's behalf; and

22 (5) "Whistle-blower" means any current or former employee,
23 contractor, subcontractor or employee of a contractor or subcontractor
24 of a defendant.

25 (b) A relator may, on behalf of the state and in the name of the state,
26 initiate a public enforcement action pursuant to the procedures specified
27 in this section. Such action may be brought in the Superior Court and
28 may allege one or more violations of chapter 557 or 558 of the general
29 statutes or section 46a-60 or 46a-81c of the general statutes that have
30 affected one or more individuals aggrieved by the same defendant and
31 may seek any injunctive and declaratory relief that the state would be
32 entitled to seek.

33 (c) For purposes of a public enforcement action brought pursuant to
34 this section, whenever the state is authorized to assess a civil penalty,
35 the court is authorized to assess such a civil penalty. To the extent that
36 the state is authorized to determine whether an employer has violated a
37 provision of this section, the court may determine whether an employer
38 has committed such a violation.

39 (d) For any violation of a provision of this section where no civil
40 penalty is provided, there shall be a civil penalty of five hundred dollars.
41 Such civil penalty shall be awarded for each party aggrieved by each
42 violation during each two-week period that such violation is found to
43 have occurred.

44 (e) The court may award civil penalties in an amount that is less than
45 the amount specified in subsection (d) if the court determines that to do
46 otherwise would result in an award that is arbitrary and oppressive or
47 confiscatory.

48 (f) The state may assess penalties if the state has intervened in a public
49 enforcement action brought pursuant to this section.

50 (g) Nothing in this section shall limit the state's right to seek
51 restitution and damages, where available, for relators as part of a public
52 enforcement action in which it has intervened.

53 (h) A relator that prevails in a public enforcement action pursuant to
54 this section shall be entitled to an award by the court of reasonable
55 attorney's fees and costs, whether or not the state has intervened in such
56 action.

57 (i) Any civil penalty awarded in a public enforcement action
58 pursuant to this section shall be distributed as follows: (1) Where the
59 state has not intervened, (A) thirty per cent to the relator, (B) twenty per
60 cent to the Office of the Attorney General, and (C) fifty per cent to the
61 office of the state official responsible for enforcement of such action,
62 twenty-five per cent of which shall be deposited into the community
63 outreach and workplace account in accordance with subsection (b) of
64 section 2 of this act; and (2) where the state has intervened, (A) twenty
65 per cent to the relator, (B) thirty per cent to the Office of the Attorney
66 General, and (C) fifty per cent to the office of the state official responsible
67 for enforcement of such action, twenty-five per cent of which shall be
68 deposited into the community outreach and workplace account in
69 accordance with subsection (b) of section 2 of this act.

70 (j) The relator shall equitably distribute all penalties due to the relator
71 among the parties aggrieved by the practices complained of in the
72 public enforcement action. The relator shall submit a written
73 distribution summary to the state and the state may order a different
74 distribution not later than sixty days after receipt of the summary,
75 provided the relator shall receive compensation in an amount that
76 reflects the burdens and risks assumed by the relator in prosecuting the
77 action, including any costs incurred by a representative organization
78 that serves as a relator.

79 (k) The right to bring a public enforcement action under this section
80 shall not be impaired by any private agreement.

81 (l) Notwithstanding any other provision of the general statutes, a
82 public enforcement action to recover penalties imposed pursuant to this
83 section shall be commenced within the same period of time that the state
84 is authorized to file a public enforcement action based on the same set
85 of alleged violations. The statute of limitations for bringing a public
86 enforcement action pursuant to this section shall be tolled from the date
87 a relator files a notice pursuant to subsection (q) of this section or the
88 date the state commences an investigation, whichever is earlier.

89 (m) A relator may not bring a public enforcement action pursuant to
90 this section: (1) If the state, on the same facts and theories, cites a person
91 within the period of time that the state is authorized to file a public
92 enforcement action for a violation of the same authority under which
93 such relator is attempting to recover a civil penalty or other remedy; or
94 (2) for any violation of a posting, notice, agency reporting or filing
95 requirement, except where the filing or reporting requirement involves
96 mandatory payroll or injury reporting.

97 (n) No person shall retaliate in any manner against any relator or
98 potential relator or other person, or threaten to retaliate against any
99 relator, potential relator or another person, because: (1) The relator or
100 potential relator or other person has brought or is perceived to have
101 brought a public enforcement action, (2) the relator or potential relator
102 or other person has cooperated in a public enforcement action, or (3) the
103 person believes that the relator or potential relator or other person may
104 bring a public enforcement action or cooperate with one.

105 (o) Any person aggrieved by a violation of subsection (n) of this
106 section may bring an action in the Superior Court for compensatory,
107 liquidated and punitive damages or equitable relief, including restraint
108 of prohibited acts, restitution of wages or benefits, reinstatement of
109 employment, costs, reasonable attorney's fees and other appropriate
110 relief.

111 (p) There is a rebuttable presumption that any adverse action taken
112 against a relator not later than ninety days after the relator has filed an
113 action pursuant to subsection (b) of this section is retaliatory.

114 (q) Before filing a public enforcement action pursuant to this section,
115 a relator shall submit written notice of such action to each responsible
116 state official and to the Attorney General. The notice shall be construed
117 by the responsible state office and the Attorney General in the light most
118 favorable to the relator and shall include: (1) The name, address and
119 contact information of the alleged violator; (2) the name and contact
120 information of the relator; (3) the name, address and contact information
121 of the representative organization and, if the action is brought by a
122 representative organization, a statement of the organization's
123 qualifications as a representative organization; (4) the name, address
124 and contact information of the relator's legal counsel, if such relator has
125 legal counsel; and (5) a statement of the underlying claim.

126 (r) If the state intends to investigate the alleged violation contained in
127 the public enforcement action, it shall notify the relator of its decision
128 not later than sixty days after receiving notice pursuant to subsection (q)
129 of this section.

130 (s) After the filing of a public enforcement action, the state may
131 intervene as of right and proceed with any and all claims in the action.

132 (t) The provisions of this section shall be construed in light of its
133 remedial purpose to expand the enforcement of state law protecting
134 employees.

135 Sec. 2. (NEW) (*Effective October 1, 2022*) (a) There is established an
136 account to be known as the "community outreach and workplace
137 account" which shall be a separate, nonlapsing account within the
138 General Fund. The account shall contain any moneys required by law to
139 be deposited in the account. Moneys in the account shall be expended
140 by the Labor Department for the purpose of awarding grants as
141 provided in subsection (c) of this section.

142 (b) Twenty-five per cent of any civil penalties distributed in
143 accordance with subparagraph (C) of subdivision (1) of subsection (i) of
144 section 1 of this act and subparagraph (C) of subdivision (2) of
145 subsection (i) of section 1 of this act shall be deposited into the
146 community outreach and workplace account.

147 (c) The Labor Commissioner shall, from time to time, distribute funds
148 from the community outreach and workplace account to labor or
149 nonprofit organizations to fund outreach, education and technical
150 assistance pertaining to employee rights in the workplace. Grants
151 provided under this section shall be used for activities to assist workers
152 in enforcing employment rights, including, but not limited to, outreach,
153 community-based education events, training materials, technical
154 assistance, counseling, research and referral services. When considering
155 applications for such grants, the commissioner shall give priority to
156 projects that provide services to especially vulnerable workers,
157 including low-wage, immigrant, refugee and contingent workers,
158 women, lesbian, gay, bisexual or transgendered workers, workers with
159 disabilities and injured workers.

160 (d) The Labor Department may adopt regulations in accordance with
161 the provisions of chapter 54 of the general statutes to implement the
162 provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	New section
Sec. 2	October 1, 2022	New section

Statement of Legislative Commissioners:
In Section 1(j) the word "to" was added before "the relator" for clarity.

LAB Joint Favorable Subst. -LCO