

Senate Bill 282

By: Senators Strickland of the 17th, Echols of the 49th, Anderson of the 43rd, McLaurin of the 14th and Hufstetler of the 52nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 34 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to labor and industrial relations, so as to prohibit private
3 employers from preventing an employee from engaging in certain protected activities relating
4 to the reporting of violations of or noncompliance with a law, rule, or regulation; to provide
5 for definitions; to prohibit retaliatory action against employees of private employers who
6 engage in certain protective activities; to provide for a cause of action and remedies; to
7 provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 1 of Title 34 of the Official Code of Georgia Annotated, relating to general
11 provisions relative to labor and industrial relations, is amended by adding a new Code section
12 to read as follows:

13 "34-1-11.

14 (a) As used in this Code section, the term:

15 (1) 'Employee' means any individual who is employed by an employer. Such term
16 includes applicants for employment with an employer and former employees, provided

17 that any retaliation by an employer took place during the employment relationship or
18 while applying for employment.

19 (2) 'Employer' means any corporation, limited liability company, limited liability
20 partnership, partnership, sole proprietorship, or any other entity that employs ten or more
21 individuals. Such term shall not include any public employer.

22 (3) 'Government agency' means any agency of the federal, state, or local government
23 charged with the enforcement of laws, rules, or regulations.

24 (4) 'Law, rule, or regulation' means any federal, state, or local statute or ordinance or any
25 rule or regulation adopted pursuant to any federal, state, or local statute or ordinance.

26 (5) 'Protected activity' means any activity constituting a protected disclosure, protected
27 participation, or a protected objection, regardless of whether the activity:

28 (A) Is made or performed during the normal course of duties of the employee;

29 (B) Is made to a supervisor or to a person who participated in an activity that the
30 employee reasonably believed to be a violation of or noncompliance with a law, rule,
31 or regulation;

32 (C) Reveals information that had been previously disclosed;

33 (D) Is made in writing; or

34 (E) Is made or performed while the employee is off duty.

35 (6) 'Protected disclosure' means a formal or informal communication or transmission of
36 information to a supervisor or government agency by an employee which the employee
37 reasonably believes evidences a violation of or noncompliance with a law, rule, or
38 regulation; provided, however, that the employee is unaware of another employee
39 previously communicating that same protected disclosure.

40 (7) 'Protected objection' means an objection to or refusal to participate in any activity,
41 policy, or practice of the employer communicated by the employee:

42 (A) As soon as practicable after learning of such activity, policy, or practice; and

43 (B) Along with reasonable cause supporting such employee's belief that such activity,
44 policy, or practice is in violation of or in noncompliance with a law, rule, or regulation.

45 (8) 'Protected participation' means:

46 (A) The exercise of any appeal, complaint, or grievance right granted by any law, rule,
47 or regulation that concerns or relates to retaliation under this Code section;

48 (B) Testifying for or otherwise lawfully assisting any individual in the exercise of any
49 right referred to in subparagraph (A) of this paragraph; or

50 (C) Cooperating with or disclosing information in an investigation, hearing, or court
51 proceeding in connection with protected activity as provided in this Code section.

52 (9) 'Public employer' means the executive, judicial, or legislative branch of the state or
53 federal government; any other department, board, bureau, commission, authority, or other
54 agency of the state or federal government; or any local or regional governmental entity
55 that receives any funds from the State of Georgia or the federal government or any state
56 or federal agency.

57 (10) 'Retaliate' or 'retaliation' refers to the discharge, suspension, or demotion by an
58 employer of an employee or any other adverse employment action taken by an employer
59 against an employee that might dissuade a reasonable employee from engaging in a
60 protected activity.

61 (11) 'Supervisor' means any individual:

62 (A) To whom an employer has given authority to direct and control the work
63 performance of the affected employee;

64 (B) To whom an employer has given authority to take corrective action regarding the
65 violation of or noncompliance with a law, rule, or regulation of which the employee
66 complains; or

67 (C) Who has been designated by an employer to receive complaints regarding a
68 violation of or noncompliance with a law, rule, or regulation.

69 (b)(1) No employer shall make, adopt, or enforce any policy or practice preventing an
70 employee from engaging in protected activity.

71 (2) No employer shall retaliate against an employee for engaging in protected activity.

72 (3) Paragraphs (1) and (2) of this subsection shall not apply to policies or practices which
73 implement, or to actions by employers against employees who violate, privilege or
74 confidentiality obligations recognized by statutory or common law.

75 (c)(1) An employee who has been the object of retaliation in violation of this Code
76 section may institute a civil action in superior court for relief as set forth in paragraph (2)
77 of this subsection within two years after the retaliation. To prevail, the employee must
78 establish by a preponderance of the evidence that such employee would not have been
79 subjected to retaliation but for engaging in protected activity.

80 (2) In any action brought pursuant to this subsection, the court may order any or all of
81 the following relief in favor of the prevailing employee:

82 (A) An injunction restraining continued violation of this Code section;

83 (B) Reinstatement of the employee to the same position held before the retaliation or
84 to an equivalent position;

85 (C) Reinstatement of full fringe benefits and seniority rights;

86 (D) Compensation for lost wages, benefits, and other remuneration;

87 (E) Any other compensatory damages allowable at law; and

88 (F) Punitive damages in accordance with Code Section 51-12-5.1, except that the
89 provisions of subsection (g) of such Code section shall not apply to actions under this
90 Code section.

91 (d) A court may award reasonable attorney's fees, court costs, and expenses to a prevailing
92 employee."

93 **SECTION 2.**

94 All laws and parts of laws in conflict with this Act are repealed.