

By Mr. Businger of Brookline, petition of John A. Businger for legislation to protect employees who report violations of state, local or federal laws. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT TO PROTECT EMPLOYEES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 149 of the General Laws is hereby
2 amended by inserting the following new sections: —

3 Section 24L. PROTECTION OF EMPLOYEES.

4 DEFINITIONS. As used in this act:

5 “Employee” means a person who performs a service for wages
6 or other remuneration under a contract of hire, written or oral,
7 express or implied. Employee includes a person employed by the
8 state or a political subdivision of the state.

9 “Employer” means a person who has one or more employees.
10 Employer includes an agent of an employer and the state or a
11 political subdivision of the state.

12 “Person” means an individual, sole proprietorship, partnership,
13 corporation, association, or any other legal entity.

14 “Damages” means damages for injury or loss caused by each
15 violation of this section, including reasonable attorney’s fees.

1 SECTION 2. PROTECTION. An employer shall not dis-
2 charge, threaten, or otherwise discriminate against an employee
3 regarding the employee’s compensation, terms, conditions,
4 location, or privileges of employment because the employee, or
5 a person acting on behalf of the employee, reports or is about to
6 report, verbally or in writing, a violation or a suspected violation
7 of a law or regulation or rule promulgated pursuant to a law of
8 this state, a political subdivision of this state, or the United States;
9 or if the employee reports or is about to report acts or practices

10 in which the employer is engaged which may pose or threaten to
11 pose a risk to health, safety, or the environment, or because an
12 employee is requested by a public body to participate in an
13 investigation, hearing, or inquiry held by that public body, or a
14 court action. Employees shall enjoy such protection unless the
15 employer demonstrates by clear and convincing evidence that the
16 employee did not possess a good faith belief that the employee's
17 report was true.

1 SECTION 3. STATUTE OF LIMITATIONS. An employe
2 who alleges a violation of this section may bring a civil action for
3 appropriate injunctive relief, or damages or both within 180 days
4 after the occurrence of the alleged violation of this section.

5 i. An action commenced pursuant to subsection (3) may be
6 brought in the superior court for the county where the alleged
7 violation occurred, the county where the complainant resides, or
8 the county where the person against whom the civil complaint is
9 filed resides or has his or her principal place of business.

1 SECTION 4. RELIEF AND DAMAGES. A court, in
2 rendering a judgment in an action brought pursuant to this
3 section, shall order, as the court considers appropriate,
4 reinstatement of the employee, the payment of back wages, full
5 reinstatement of fringe benefits and seniority rights, actual
6 damages, or any combination of these remedies. The court may
7 order that treble damages be assessed against an employer who
8 knowingly or willfully violates this section. A court may also
9 award the complainant all or a portion of the costs of litigation,
10 including reasonable attorney's fees and witness fees.

1 SECTION 5. FINES. An employer who violates this section
2 shall be liable for a civil fine of not more than \$10,000.

3 i. A civil fine which is ordered pursuant to this section shall
4 be submitted to the state treasurer for deposit in the General Fund.

1 SECTION 6. COLLECTIVE BARGAINING AND COM-
2 MON LAW. This section shall not be construed to diminish or
3 impair the rights of an employee under any collective bargaining
4 agreement, other state, local or federal statute, or at common law.

1 SECTION 7. NOTICE. An employer shall post notices and
2 use other appropriate means to keep his or her employees
3 informed of their protections and obligations under this act.

1 SECTION 8. SEVERABILITY. The provisions of this section
2 are severable. If a court declares invalid any such provision or
3 its application to any person or circumstance, its invalidity shall
4 not affect the validity of any other provision or the application
5 of the provision to any other person or circumstance.

1 SECTION 9. This act shall take effect ninety days after
2 becoming law.

