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New York Anti-Discrimination Law Heightens Risks for Employers, Business Insurance, ft. Keith Gutstein

Keith Gutstein, Esq., co-managing partner of the Long Island office of Kaufman Dolowich & Voluck, LLP and co-chair of the KD Labor & Employment Law practice group, was quoted in a *Business Insurance article by Judy Greenwald on July 9, 2019.*

Anti-discrimination legislation approved by the New York Legislature in June will increase employers' potential liability, say observers.

Some experts believe the omnibus bill approved by the New York state Senate and Assembly, which expands statewide laws already in place in New York City as well as 2018 state legislation, will be influential in other states.

A spokesman for the office of New York Gov. Andrew Cuomo said the legislation will be reviewed, although observers say he is expected to sign it.

Key provisions of the legislation include expanding the definition of unlawful discrimination and harassment to all forms of discrimination, not just sexual harassment, and to nonemployees, including contractors and vendors; eliminating a longstanding affirmative defense in discrimination cases; and prohibiting requiring employees to sign mandatory arbitration agreements.

The legislation's provisions have various enactment dates and apply to all employers in the state, regardless of size.

The legislation is partly reflective of Democratic control of both houses of the state legislature, experts say.

"This is a seismic shift in New York state human rights law," said Keith J. Gutstein, Woodbury, New York-based co-chair of Kaufman Dolowich Voluck LLP's labor and employment law practice group.

"No one really sues under the human rights law as the first stop," he said. It is usually a piggyback claim when there is litigation under the federal law, but now the state human rights law is "going to be made very relevant."

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