

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S2/20/01
A Bill

SENATE BILL 490

5 By: Senators DeLay, Everett
6 By: Representatives Ledbetter, *Rodgers*
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9 **For An Act To Be Entitled**

10 AN ACT TO AMEND THE LAW PERTAINING TO DISCRIMINATION
11 FOR FILING A CLAIM FOR WORKERS' COMPENSATION; AND FOR
12 OTHER PURPOSES.
13

14 **Subtitle**

15 TO AMEND THE LAW PERTAINING TO
16 DISCRIMINATION FOR FILING A CLAIM FOR
17 WORKERS' COMPENSATION.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code 11-9-107 is amended to read as follows:

23 11-9-107. Penalties for discrimination for filing claim.

24 (a)(1) Any employer who willfully discriminates in regard to the hiring
25 or tenure of work or any term or condition of work of any individual on
26 account of the individual's claim for benefits under this chapter, or who in
27 any manner obstructs or impedes the filing of claims for benefits under this
28 chapter, shall be subject to a fine or liquidated damages of up to ten
29 thousand dollars (\$10,000) as determined by the Workers' Compensation
30 Commission.

31 (2) This fine shall be payable to the ~~Second Injury Trust Fund~~
32 claimant and paid by the employer and not by the carrier.

33 ~~(b)(1) In addition, the prevailing party~~ If the claimant prevails, the
34 claimant shall be entitled to recover costs and a reasonable attorney's fee
35 payable from the fine or liquidated damages.

36 ~~(2) Provided, however, if the employee is the nonprevailing~~

1 ~~party, the attorney's fee and costs shall, at the election of the employer, be~~
2 ~~paid by the employee or deducted from future workers' compensation benefits.~~

3 ~~(c) The employer may also be guilty of a Class D felony.~~

4 (d) This section shall not be construed as establishing an exception to
5 the "employment at will" doctrine.

6 (e) A purpose of this section is to preserve the exclusive remedy
7 doctrine and specifically annul any case law inconsistent herewith, including,
8 but not necessarily limited to: Wal-Mart Stores, Inc. v. Baysinger, 306 Ark.
9 239, 812 S.W.2d 463 (1991); Mapco, Inc. v. Payne, 306 Ark. 198, 812 S.W.2d 483
10 (1991); and Thomas v. Valmac Industries, Inc., 306 Ark. 228, 812 S.W.2d 673
11 (1991).

12 /s/ DeLay
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