

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

HOUSE BILL 2152

4  
5 By: Representative Nickels

## For An Act To Be Entitled

8 AN ACT TO PROVIDE PROTECTION TO WORKERS' COMPENSATION  
9 CLAIMANTS AGAINST RETALIATORY DISCRIMINATION; AND FOR  
10 OTHER PURPOSES.

## Subtitle

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14 TO PROVIDE PROTECTION TO WORKERS'  
15 COMPENSATION CLAIMANTS AGAINST  
16 RETALIATORY DISCRIMINATION; AND FOR OTHER  
17 PURPOSES.

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

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

32 (b)~~(1)~~ In addition, the prevailing ~~party~~ claimant shall be entitled to  
33 recover costs and a reasonable attorney's fee payable ~~from the fine~~ by the  
34 employer.

35 ~~(2) Provided, however, if the employee is the nonprevailing~~  
36 ~~party, the attorney's fee and costs shall, at the election of the employer,~~



1 ~~be paid by the employee or deducted from future workers' compensation~~  
2 ~~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  
5 to 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~~ with this  
8 section, including, but not necessarily limited to without limitation: Wal-  
9 Mart Stores, Inc. v. Baysinger, 306 Ark. 239, 812 S.W.2d 463 (1991); Mapco,  
10 Inc. v. Payne, 306 Ark. 198, 812 S.W.2d 483 (1991); and Thomas v. Valmac  
11 Industries, Inc., 306 Ark. 228, 812 S.W.2d 673 (1991).

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