

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 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 2532

4
5 By: Representative L. Smith
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For An Act To Be Entitled

8
9 AN ACT TO AMEND § 11-9-107 TO PROVIDE PROTECTION
10 FOR CLAIMANTS AGAINST RETALIATORY DISCRIMINATION;
11 AND FOR OTHER PURPOSES.
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Subtitle

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14 AN ACT TO AMEND § 11-9-107 TO PROVIDE
15 PROTECTION FOR CLAIMANTS AGAINST
16 RETALIATORY DISCRIMINATION.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 11-9-107 is amended to read as follows:
22 11-9-107. Penalties for discrimination for filing claim.

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

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

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

34 ~~(2) Provided, however, if the employee is the nonprevailing~~
35 ~~party, the attorney's fee and costs shall, at the election of the employer,~~
36 ~~be paid by the employee or deducted from future workers' compensation~~



1 ~~benefits.~~

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

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

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

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