

2007 DRAFTING REQUEST

Senate Amendment (SA-SB165)

Received: **09/11/2007**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **David Hansen (608) 266-5670**

By/Representing: **John Wagnitz**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Discrimination**

Extra Copies: **Russ Whitsel, LC**

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Employment discrimination; compensatory and punitive damages; limitations on

Instructions:

See Attached--place limitations on the amount of compensatory damages for future economic losses and for noneconomic losses and the amount of punitive damages that may be awarded as under 42 USC 1981a (b) (3)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1			nmatzke 09/12/2007	_____	cduerst 09/12/2007	cduerst 09/12/2007	

FE Sent For:

<END>

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1964 [42 U.S.C. 2000e-5 (g)].

42 USC 1981a (b)(3)

(3) Limitations

The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and the amount of punitive damages awarded under this section, shall not exceed, for each complaining party—

- (A) in the case of a respondent who has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$50,000;
- (B) in the case of a respondent who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$100,000; and
- (C) in the case of a respondent who has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$200,000; and
- (D) in the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$300,000.

(4) Construction

Nothing in this section shall be construed to limit the scope of, or the relief available under, section 1981 of this title.

(c) Jury trial

If a complaining party seeks compensatory or punitive damages under this section—

- (1) any party may demand a trial by jury; and
- (2) the court shall not inform the jury of the limitations described in subsection (b)(3) of this section.

(d) Definitions

As used in this section:

(1) Complaining party

The term "complaining party" means—

- (A) in the case of a person seeking to bring an action under subsection (a)(1) of this section, the Equal Employment Opportunity Commission, the Attorney General, or a person who may bring an action or proceeding under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or
- (B) in the case of a person seeking to bring an action under subsection (a)(2) of this section, the Equal Employment Opportunity Commission, the Attorney General, a person who may bring an action or proceeding under section 794a (a)(1) of title 29, or a person who may bring an action or proceeding under title I of the Americans with Disabilities Act of 1990 [42 U.S.C. 12111 et seq.].

(2) Discriminatory practice

The term "discriminatory practice" means the discrimination described in paragraph (1), or the discrimination or the violation described in paragraph (2), of subsection (a) of this section.

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa0702/0
GMM.....

Soon

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bjk

SENATE AMENDMENT,
TO 2007 SENATE BILL 165

→ NOTE

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1 At the locations indicated, amend the bill as follows:

2 1. Page 3, line 3: delete "If" and substitute "Subject to sub. (1m), if".

3 2. Page 3, line 15: after that line insert:

4 "(1m) The sum of the amount of compensatory damages for future economic
5 losses and for pain and suffering, emotional distress, mental anguish, loss of
6 enjoyment of life, and other noneconomic losses and the amount of punitive damages
7 that a circuit court may order a defendant to pay to a person discriminated against
8 may not exceed the following:

9 (a) In the case of a defendant that employs 100 or fewer employees for each
10 working day in each of 20 or more calendar weeks in the current or preceding year,
11 \$50,000.

employs

1 (b) In the case of a defendant that employs more than 100, but fewer than 201,
2 employees for each working day in each of 20 or more calendar weeks in the current
3 or preceding year, \$100,000.

4 (c) In the case of a defendant that employs more than 200, but fewer than 501,
5 employees for each working day in each of 20 or more calendar weeks in the current
6 or preceding year, \$200,000.

7 (c) In the case of a defendant that employs more than 500 employees for each
8 working day in each of 20 or more calendar weeks in the current or preceding year,
9 \$300,000.".

10 (END)

D-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa0702/1dn

GMM:.....

gpl
bjk

Date

Senator Hansen:

- * Because the federal Equal Employment Opportunities law only applies to employees employing 15 or more employees, the \$50,000 cap on compensatory and punitive damages in 42 USC 1981a (b) (3) (A) only applies to employers employing more than 14, but less than 101, employees. The Wisconsin Fair Employment law, however, applies to an employer employing as few as one employee. Accordingly, this amendment applies the \$50,000 cap to employers employing between one and 100 employees.

employers

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa0702/1dn
GMM:bjk:nwn

September 11, 2007

Senator Hansen:

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