

SENATE BILL 2126

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 21; Title 8, Chapter 50 and Title 50, Chapter 1, relative to employment litigation in Tennessee.

WHEREAS, the purpose of this act is to clarify existing Tennessee statutory employment law and to harmonize Tennessee law with federal law with regard to individual liability and damages caps in employment litigation; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-21-301, is amended by deleting the section in its entirety and by substituting instead the following:

4-21-301.

(a) It is a discriminatory practice for a person or for two (2) or more persons to:

(1) Retaliate or discriminate in any manner against a person because such person has opposed a practice declared discriminatory by this chapter or because such person has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing under this chapter;

(2) Willfully interfere with the performance of a duty or the exercise of a power by the commission or one of its members or representatives;

(3) Willfully obstruct or prevent a person from complying with this chapter or an order issued under this chapter; or

(4) Violate the terms of a conciliation agreement made pursuant to this chapter.

(b) No individual employee or agent of an employer shall be liable for any violation of this chapter that any employer shall be found to have committed.

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 21, Part 3, is amended by adding the following new sections:

4-21-313.

(a) For any cause of action arising under §§ 4-21-401, 8-50-103, or 50-1-304, the sum of the amount of compensatory damages awarded for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, shall not exceed, for each complaining party:

(1) In the case of an employer who has eight (8) or more but fewer than fifteen (15) employees at the time the cause of action arose, twenty-five thousand dollars (\$25,000);

(2) In the case of an employer who has more than fourteen (14) and fewer than one hundred one (101) employees at the time the cause of action arose, fifty thousand dollars (\$50,000);

(3) In the case of an employer who has more than one hundred (100) and fewer than two hundred one (201) employees at the time the cause of action arose, one hundred thousand dollars (\$100,000);

(4) In the case of an employer who has more than two hundred (200) and fewer than five hundred one (501) employees at the time the cause of action arose, two hundred thousand dollars (\$200,000); and

(5) In the case of an employer who has more than five hundred (500) employees at the time the cause of action arose, three hundred thousand dollars (\$300,000).

(b) The limitations in subsection (a) shall not apply to backpay, interest on backpay, front pay, or any equitable relief.

(c) The court shall not inform a jury of the limitations in subsection (a), but the court shall conform any judgment to comply with the limitations.

(d) For the purpose of determining when the cause of action arose under subsection (a), the court shall determine the number of employees employed by the employer on the date when the adverse employment action giving rise to the employee's claim occurred.

4-21-314.

No employee may concurrently maintain any cause of action in state court under §§ 4-21-401, 8-50-103, or 50-1-304, while at the same time prosecuting an action in federal court based on a common nucleus of operative facts. Upon motion of the employer, the state court shall dismiss any action maintained under §§ 4-21-401, 8-50-103, or 50-1-304, in which the employee is concurrently prosecuting an action based on a common nucleus of operative facts in federal court.

SECTION 3. Tennessee Code Annotated, Section 8-50-103, is amended by adding the following new subsection (d):

(d) For purposes of this section, "employer" means the state, or any political or civil subdivision thereof, and persons employing eight (8) or more persons within the state.

SECTION 4. Tennessee Code Annotated, Section 50-1-304(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) No employee shall be discharged or terminated solely for refusing to participate in, or for refusing to remain silent about, illegal activities that the employee reports to an individual or entity other than the employee's employer or the employer's corporate affiliate prior to the termination of the employee's employment.

SECTION 5. Tennessee Code Annotated, Section 50-1-304(d)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) Any employee terminated in violation of subsection (b) shall have a cause of action against the employer for retaliatory discharge and any other damages to which the employee may be entitled, subject to the limitations set out in § 4-21-313.

SECTION 6. Tennessee Code Annotated, Section 50-1-304(g), is amended by deleting the phrase "under Tennessee common law".

SECTION 7. Tennessee Code Annotated, Section 50-1-304, is amended by adding the following new subsection (h):

(h) This section abrogates and supersedes the common law with respect to any claim that could have been brought under this section.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.