

By: Pena

H.B. No. 3378

Substitute the following for H.B. No. 3378:

By: Herrero

C.S.H.B. No. 3378

A BILL TO BE ENTITLED

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AN ACT

relating to damages that may be awarded against an employer who terminates or refuses to reemploy certain employees who are members of the state military forces.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 431.006, Government Code, is amended by amending Subsection (b) and adding Subsections (e)-(h) to read as follows:

(b) A person injured by a violation of this section is entitled to:

(1) compensatory damages [~~in an amount not exceeding six months' compensation at the rate at which the person was compensated when ordered to training or duty~~]; [~~and~~]

(2) punitive damages; and

(3) reasonable attorney's fees approved by the court.

(e) A complainant may recover punitive damages against a respondent if the complainant demonstrates that the respondent's violation of this section was with malice or with reckless indifference to the rights of the complainant.

(f) Compensatory damages awarded under this section may not include:

(1) back pay; or

(2) interest on back pay.

(g) The sum of the amount of compensatory damages awarded

1 under this section for future pecuniary losses, emotional pain,
2 suffering, inconvenience, mental anguish, loss of enjoyment of
3 life, and other nonpecuniary losses and the amount of punitive
4 damages awarded under this section may not exceed the amounts found
5 in Chapter 21, Section 21.2585 of the Texas Labor Code.

6 SECTION 2. The change in law made by this Act applies only
7 to an action filed under Section 431.006, Government Code, on or
8 after the effective date of this Act. An action filed under Section
9 431.006, Government Code, before the effective date of this Act is
10 governed by the law in effect on the date the action was filed, and
11 the former law is continued in effect for that purpose.

12 SECTION 3. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2005.