



Chamber of Commerce

**Summary:**  
**Reduce amount of award to employees who are wrongfully discharged**

EXHIBIT 1  
DATE 3/8/13  
SB 148

**Bill Number: SB 148**  
**Sponsor: Sen. Llew Jones**

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- In 1987, the Montana Legislature codified the rights and responsibilities of employers and employees with regard to the termination of employment.
- Montana’s Act was the legislative reaction to more than a half decade of case law by the Montana Supreme Court and state district courts that had found more and more terminations to be in violation of the then existent employment at will rules, which eventually required employers to act in “good faith” to terminate. These cases exposed employers to large damage awards or settlements.
- Montana’s Act balanced the interests of employees who wanted to have a valid business reason for being terminated against the rights of employers to manage their workforce.
- The compromise resulted in employers giving up what remained of the eroded concept of employment at will, which allowed for no-cause terminations, in return for protections against the large settlements that could put an employer out of business.
- Montana’s current Wrongful Discharge from Employment Act allows employees to seek remedy for being fired if:
  - It was in retaliation for the employee’s refusal to violate public policy or for reporting a violation of public policy;
  - The discharge was not for good cause and the employee had completed the employer’s probationary period of employment; or
  - The employer violated the express provisions of its written personnel policy.
- Per current statute, a wrongfully discharged employee can receive up to 4 years of lost wages and benefits plus interest.
- The Problem:
  - The damage limit in current law has not prevented large damage awards as it intended. In 2007, a worker was awarded nearly \$400,000 in a wrongful discharge case even though the worker was fired for insubordination, which is “good cause” in Montana.
  - Large “lost wages and benefits” awards have perpetuated the negative perception of Montana’s legal climate, which is ranked 6<sup>th</sup> worse in the nation by the U.S. Chamber of Commerce Institute for Legal Reform.
- SB 148 Recommendation:
  - Further limit how much lost wages and benefits a worker can be awarded to 2 years of lost wages and benefits.
- The Wrongful Discharge from Employment Act does not apply to employees that are under a collective bargaining agreement.
- SB 148 takes a small, balanced step toward improving Montana’s legal climate in order to incentivize business expansion and attraction.