



## FLOOR MEMO

**DATE:** April 28, 2009  
**TO:** Members of the Wisconsin Senate  
**FROM:** Pete Hanson, Director of Government Relations  
**RE:** Wisconsin Restaurant Association opposition to AB-31

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Assembly Bill 31 represents a serious legal threat to small businesses in your district. Essentially, the bill creates an avenue to pursue punitive and compensatory (i.e. "emotional distress") damages for discrimination claims in state courts. **Thankfully, Wisconsin workers already have the ability to pursue these damages in federal court, making this bill completely unnecessary.** In addition:

- The punitive and compensatory damages could encourage disgruntled employees and their attorneys to file unwarranted claims in the hopes of a settlement or a big pay day.
- WRA is strongly supportive of the staff of the Equal Rights Division (ERD) at DWD, and the highly professional job they do. Employees currently have the ability to file a claim against an employer and have it investigated by ERD, at no cost to the employee. An administrative law judge can award them actual damages such as back wages, and order an employer to hire them back if they were unjustly fired.
- Under AB-31, employees will have to hire an attorney to complete the discrimination claim process against an employer, which will end in circuit court.
- The bill includes an unprecedented 10 percent surcharge on damages awarded that would be paid to DWD. This provision creates the unintended consequence of encouraging DWD to find probable cause and send more cases to court in order to increase its budget.
- AB-31 will clog the court system, which is already overburdened. Not only will DWD and plaintiffs be encouraged to go to court with claims that are currently solved in the administrative process, but employers will be less likely to settle claims quickly. With the unlimited damages allowed by AB-31, employers are not going to suggest the claim has any merit by settling. Employees may have to wait years to get the financial relief they can currently get in a matter of months.
- This bill will encourage plaintiffs and their attorneys to file claims in state court that would have otherwise been filed in federal court, in pursuit of the higher punitive and compensatory damages created by the indexing provision in amended AB-31. This will further clog state courts.

**WRA's 7000 member establishments ask you to oppose Assembly Bill 31.**