

HOUSE BILL NO. 623

Introduced: 02/03/83

Referred to Committee on Labor & Employment Relations; 02/03/83

Hearing: 2/8/83

Report: 02/10/83, Do Pass

2nd Reading: 02/12/83, Do Pass

3rd Reading: 02/15/83, Do Pass

Transmitted to Senate: 2/15/83

Referred to Committee on Labor & Employment Relations: 02/16/83

Hearing: 3/10/83

Report: 03/14/84, Be Not Concurred In. Report Adopted.

Bill Killed

1 ~~HOUSE~~ BILL NO. 623  
2 INTRODUCED BY Smiley  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT RETALIATION  
5 AGAINST AN EMPLOYEE BY AN EMPLOYER BECAUSE THE EMPLOYEE HAS  
6 FILED A COMPLAINT OR PARTICIPATED IN A PROCEEDING UNDER LAW;  
7 PROVIDING FOR HEARING PROCEDURES, REMEDIES, AND  
8 ENFORCEMENT."  
9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11 Section 1. Definition. As used in [sections 1 through  
12 8], "department" means the department of labor and industry  
13 provided for in 2-15-1701.  
14 Section 2. Retaliation prohibited. No employer may  
15 discharge or otherwise retaliate against an employee because  
16 the employee has filed a complaint or participated in any  
17 manner in an investigation or proceeding under law,  
18 including but not limited to:  
19 (1) a claim for unemployment insurance, workers'  
20 compensation, minimum wage or overtime compensation, any  
21 other employee benefit, or any other administrative  
22 proceeding;  
23 (2) a criminal investigation;  
24 (3) a judicial proceeding, including jury duty or  
25 responding to a subpoena; or

1 (4) any other proceeding for the protection of the  
2 public health, safety, or welfare.  
3 Section 3. Complaint of violation. (1) An employee  
4 claiming to be aggrieved by a violation of [section 2] may  
5 file a complaint with the department, stating the particular  
6 circumstances of the violation and any other information  
7 required by the department.  
8 (2) A complaint must be filed within 90 days after the  
9 alleged violation occurred or was discovered.  
10 Section 4. Notice of complaint and hearing. Within 20  
11 days after a complaint has been filed, the department shall  
12 serve the employer with a notice and copy of the complaint  
13 and shall serve the employer and complainant with a notice  
14 of the hearing to be held pursuant to [section 6].  
15 Section 5. Investigative powers of department. (1) An  
16 authorized representative of the department may enter and  
17 inspect such places, question such employees, and  
18 investigate such matters as are appropriate to determine  
19 whether an employer has violated [section 2] or that may aid  
20 in the enforcement of the provisions of [section 2].  
21 (2) An authorized representative of the department may  
22 administer oaths and examine witnesses under oath; issue  
23 subpoenas; compel the attendance of witnesses and the  
24 production of papers, books, accounts, records, payrolls,  
25 and other documents; and take depositions and affidavits for

1 the purposes of enforcing [section 2].

2 Section 6. Informal disposition -- hearing. (1) The  
3 department shall attempt to dispose of the complaint  
4 informally by stipulation, agreed settlement, consent order,  
5 or default, in accordance with 2-4-603.

6 (2) If the department is unable to informally dispose  
7 of the complaint, it shall, within 60 days after serving  
8 notice of the hearing on the parties, hold a hearing in  
9 accordance with Title 2, chapter 4, part 6.

10 (3) Upon conclusion of the hearing, the department  
11 shall make findings of fact and conclusions of law and shall  
12 issue an order.

13 Section 7. Content of order. (1) If the department  
14 finds that an employer has violated [section 2], the  
15 department shall order the employer to make the employee  
16 whole.

17 (2) If the department finds that the employer has not  
18 violated [section 2], the department shall order the  
19 complaint dismissed.

20 Section 8. Court enforcement of department's decision.

21 (1) An order of the department pursuant to [sections 6 and  
22 7] may be enforced by the district court upon petition of  
23 the department to the court within 60 days after the date of  
24 the department's final order.

25 (2) The department shall make its petition to the

1 district court of the county in which the employer has its  
2 principal place of business or in the first judicial  
3 district of the state.

4 Section 9. Individual action. Nothing in [this act]  
5 precludes an individual from prosecuting a private action in  
6 the district court alleging a violation of the provisions of  
7 [section 2]. However, a private action must be filed in  
8 district court within 90 days after the alleged violation  
9 occurred or was discovered.

-End-

Approved by Committee  
on Labor & Employment  
Relations

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