



Pre 1965: Events
Leading to the
Creation of EEOC

The Civil Rights Act of 1991

1965 - 1971: A
"Toothless Tiger"
Helps Shape the Law
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The 1970s: The
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On November 21, 1991, Congress enacted the [Civil Rights Act of 1991](#). Congress acted to address a series of no fewer than seven decisions by the Supreme Court, some of which were regarded as changing the well-established landscape of discrimination law, and calling into doubt existing precedent. Among the decisions that Congress addressed were [Price Waterhouse v. Hopkins](#) (1989) and [Wards Cove Packing Co. v. Antonio](#) (1989). In Price Waterhouse, the Court provided that, even where a plaintiff demonstrates that an employer was motivated by discrimination, the employer can still escape liability by proving that it would have taken the same action based upon lawful motives. Wards Cove reinterpreted the disparate impact method of proof, and held that an employer can avoid liability merely by showing a business justification for the practice causing a disparate impact, and that the plaintiff has the burden of proving a lack of a business justification. Both cases were seen as having made it more difficult for plaintiffs to prevail in employment discrimination lawsuits.

The 1991 Act amended several of the statutes enforced by EEOC, both substantively and procedurally. Previously, jury trials were possible only in cases brought under the EPA or the ADEA. Under the provisions of the 1991 Act, parties could now obtain jury trials, and recover compensatory and punitive damages in Title VII and ADA lawsuits involving intentional discrimination. The Act placed statutory caps on the amount of damages that could be awarded for future pecuniary losses, pain and suffering, and punitive damages, based on employer size. The maximum award of compensatory and punitive damages combined was set at \$300,000 for the largest employers (more than 500 employees).

In addition, the 1991 Act added a new subsection to Title VII, codifying the disparate impact theory of discrimination, essentially putting the law back as it had been prior to Wards Cove. And in response to Price-Waterhouse, the Act provided that where the plaintiff shows that

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discrimination was a motivating factor for an employment decision, the employer is liable for injunctive relief, attorney's fees, and costs (but not individual monetary or affirmative relief) even though it proves it would have made the same decision in the absence of a discriminatory motive. The Act also provided employment discrimination protection to employees of Congress and some high-level political appointees. Lastly, Title VII and ADA coverage was extended to include American and American-controlled employers operating abroad.

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