

# The Anti-Jerk Law

You've probably had a boss who was a jerk. Indeed, you may be working under a jerk of a boss right now. Question: Would it be a good idea to pass an Anti-Jerk Law to protect workers from these jerky employers? Like existing employment discrimination laws, the Anti-Jerk Law would allow aggrieved employees to sue their employer for jerkiness – and received handsome compensation if they prove their charge in a court of law.

I doubt many people would endorse this Anti-Jerk Law. On what basis, though, would they object?

Libertarians might stand up for the “right to be a jerk,” but few non-libertarians would find that convincing.

Economists might appeal to the standard economics textbook conclusion that mandated benefits – including the right to sue your employer for jerkiness – are inefficient. But few non-economists would find *that* convincing.

Why, then, would *normal* people refuse to endorse an Anti-Jerk Law? If pressed, the reason would probably be along the lines of, “Jerkiness is way too subjective.” If you call your boss a jerk, he's probably thinking, “No, *you're* the jerk.” Even if a large majority of the workers at a firm consider their boss a jerk, a contrarian might insist, “The boss is tough but fair. You folks simply don't measure up.” Other people might muse: “Personality conflicts are a fact of life. You can't legislate them out of existence.”

What happens if you scoff at the subjectivity of jerkiness and pass your Anti-Jerk Law anyway? All of the following:

1. Bosses try to avoid the *appearance* of jerkiness. But bosses with poor social skills or bad luck still get sued.
2. Since bosses try to avoid the appearance of jerkiness, litigious employees don't have a lot to work with.
3. As long as judges and juries are sympathetic, however, they lower the de facto burden of proof, allowing the war on jerks to continue indefinitely.
4. Bosses, in turn, defend themselves by trying to pre-emptively discredit litigious employees.
5. Cynical bosses go a step further by trying not to hire employees who are relatively likely to cry “jerk.”

6. Human resource departments institute Orwellian anti-jerk training, where participants get punished for pointing out that the HR folks are domineering and insulting. In other words, HR reps exemplify the very thing they claim to oppose.

7. If so-called jerky managerial styles enhance productivity (think: athletic coaches), society forfeits major benefits.

As far as I know, no country has an Anti-Jerk Law in place. But many countries ban “discrimination,” and the effects are much the same. Once you pass discrimination laws...

1. Bosses try to avoid the *appearance* of discrimination. But bosses with poor social skills or bad luck still get sued.

2. Since bosses try to avoid the appearance of discrimination, litigious employees don’t have a lot to work with.

3. As long as judges and juries are sympathetic, however, they lower the de facto burden of proof, allowing the war on discrimination to continue indefinitely.

4. Bosses, in turn, defend themselves by trying to pre-emptively discredit litigious employees.

5. Cynical bosses go a step further by trying not to hire employees who are relatively likely to cry “discrimination.”

6. Human resource departments institute Orwellian anti-discrimination training, where participants get punished for pointing out that the HR folks are hostile and bigoted. In other words, HR reps exemplify the very thing they claim to oppose.

7. If so-called discrimination enhances productivity (think: standardized testing), society forfeits major benefits.

Why do the same patterns emerge in both cases? Because “he discriminated against me” is about as subjective as “he was a jerk to me.” In both cases, they *feel* very real to the accuser. In both cases, they *feel* very unfair to the accused. If you knew neither party, you’d probably decline to even express an opinion.

And with good reason.