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ENGROSSED SUBSTITUTE HOUSE BILL 1646

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State of Washington

64th Legislature

2015 Regular Session

By House Labor (originally sponsored by Representatives Senn, Walsh, Lytton, Santos, Orwall, Wylie, Robinson, Reykdal, Gregerson, Appleton, Jinkins, Farrell, Van De Wege, Carlyle, McBride, Kagi, Goodman, Kilduff, Tarleton, Ortiz-Self, Cody, Riccelli, Clibborn, Ryu, Gregory, Walkinshaw, Springer, Sawyer, Fitzgibbon, Hudgins, Fey, Dunshee, Peterson, Moeller, Bergquist, S. Hunt, Moscoso, Pollet, Takko, Sells, Sullivan, Stanford, Morris, Tharinger, and Ormsby)

READ FIRST TIME 02/12/15.

1 AN ACT Relating to enacting the equal pay opportunity act by  
2 amending and enhancing enforcement of the equal pay act and  
3 protecting worker communications about wages and employment  
4 opportunities; amending RCW 49.12.175; recodifying RCW 49.12.175; and  
5 adding a new chapter to Title 49 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that despite  
8 existing equal pay laws, there continues to be an unfair gap and  
9 inequality in wages among workers in Washington, especially women.  
10 Women working full-time in Washington earn eighty cents for every  
11 dollar earned by a man working the same job. The gap in earnings is  
12 even more disparate for women of color.

13 According to census bureau data, forty percent of households in  
14 the United States rely on a woman as the leading or sole  
15 breadwinner. In addition, women hold a significant percentage of  
16 minimum wage jobs. Income disparities limit the ability of women to  
17 provide for their families, leading to higher rates of poverty among  
18 women and children.

19 The legislature finds that in order to establish equality among  
20 workers, men and women in the same job must be compensated as equals.  
21 The legislature finds that gaps in employee wages is a form of gender

1 discrimination. Policies that encourage retaliation or discipline  
2 towards workers who discuss or inquire about compensation prevents  
3 workers from moving forward.

4 The legislature intends to update the existing Washington state  
5 equal pay act, not modified since 1943, to address income  
6 disparities, employer discrimination, and retaliation practices, and  
7 to reflect the equal status of all workers in Washington state.

8 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
9 section apply throughout this chapter unless the context clearly  
10 requires otherwise.

11 (1) "Compensation" means discretionary and nondiscretionary wages  
12 and benefits provided by an employer to an employee as a result of  
13 the employment relationship.

14 (2) "Department," "director," "employee," and "employer" have the  
15 same meaning as defined in RCW 49.12.005.

16 **Sec. 3.** RCW 49.12.175 and 1943 c 254 s 1 are each amended to  
17 read as follows:

18 EQUAL PAY OPPORTUNITY. (1) Any employer in this state(~~(~~  
19 ~~employing both males and females, who shall discriminate in any way~~  
20 ~~in the payment of wages as between sexes or who shall pay any female~~  
21 ~~a less wage, be it time or piece work, or salary, than is being paid~~  
22 ~~to males))~~ who discriminates in providing compensation based on  
23 gender between similarly employed(~~(, or in any employment formerly~~  
24 ~~performed by males, shall be))~~ individuals is guilty of a  
25 misdemeanor.

26 (2)(a) If any ((female)) employee ((shall)) receives less  
27 compensation because of being discriminated against on account of  
28 ((her sex, and)) gender in violation of this section, ((she shall  
29 be)) or if any employee receives less favorable employment  
30 opportunities because of being discriminated against on account of  
31 gender, that employee is entitled to recover in a civil action the  
32 full amount of compensation that ((she)) the employee would have  
33 received had ((she)) the employee not been discriminated against. An  
34 employee is entitled to recover any actual damages; statutory damages  
35 of twice the actual damages or five thousand dollars, whichever is  
36 greater; interest of one percent per month on all compensation owed;  
37 and costs and reasonable attorneys' fees. In addition, the court may  
38 order injunctive relief. In such action, however, the employer shall

1 be credited with any compensation which has been paid to (~~her~~) the  
2 employee upon account.

3 (b) A differential in (~~wages between employees~~) compensation or  
4 employment opportunities based in good faith on a bona fide job-  
5 related factor or factors (~~other than sex shall~~), including  
6 education, training, or experience, that is not based on gender,  
7 unless the differential is otherwise permitted by law, does not  
8 constitute discrimination within the meaning of (~~RCW 49.12.010~~  
9 through 49.12.180)) this section.

10 (3) For purposes of this section, "less favorable employment  
11 opportunities" means assigning or directing the employee into a less  
12 favorable career track or position based on gender. Factors to be  
13 considered include, but are not limited to, failing to use reasonable  
14 means to provide the employee information about advancement in their  
15 career tracks or positions, including but not limited to posting  
16 information on internal and external web sites, in employee common  
17 areas, or at the employer's human resource office.

18 NEW SECTION. Sec. 4. WORKPLACE PRACTICES. (1) An employer may  
19 not:

20 (a) Require nondisclosure by an employee of his or her wages as a  
21 condition of employment; or

22 (b) Require an employee to sign a waiver or other document that  
23 prevents the employee from disclosing the amount of the employee's  
24 wages.

25 (2) An employer may not discharge or in any other manner  
26 retaliate against an employee for:

27 (a) Inquiring about, disclosing, comparing, or otherwise  
28 discussing the employee's wages or the wages of any other employee;

29 (b) Asking the employer to provide a reason for the employee's  
30 wages or reasons for a lack of employment advancement available to  
31 the employee; or

32 (c) Aiding or encouraging an employee to exercise their rights  
33 under this section.

34 (3) An employer may prohibit a human resources manager from  
35 disclosing the wages of other employees unless the disclosure is  
36 otherwise required by law.

37 NEW SECTION. Sec. 5. NO RETALIATION. An employer may not  
38 discharge or otherwise discriminate against an employee because the

1 employee has filed any complaint, or instituted or caused to be  
2 instituted any proceeding under this chapter, or testified or is  
3 about to testify in any such proceeding, or because of the exercise  
4 by such employee on behalf of himself or herself or others of any  
5 right afforded by this chapter.

6 NEW SECTION. **Sec. 6.** CAUSE OF ACTION. An employee may bring a  
7 civil action against an employer for violation of section 4 or 5 of  
8 this act for actual damages; statutory damages of twice the actual  
9 damages or five thousand dollars, whichever is greater; interest of  
10 one percent per month on all compensation owed, and costs and  
11 reasonable attorneys' fees. The court may also order reinstatement  
12 and injunctive relief.

13 NEW SECTION. **Sec. 7.** NOTICE. The department may include notice  
14 of the provisions of this chapter in the next reprinting of  
15 employment posters.

16 NEW SECTION. **Sec. 8.** RULE MAKING. The department may adopt  
17 rules to implement sections 1 through 5 of this act.

18 NEW SECTION. **Sec. 9.** SHORT TITLE. This chapter shall be known  
19 and cited as the "equal pay opportunity act."

20 NEW SECTION. **Sec. 10.** CODIFICATION. (1) Sections 1, 2, and 4  
21 through 9 of this act constitute a new chapter in Title 49 RCW.

22 (2) RCW 49.12.175 is recodified as a section in chapter 49.---  
23 RCW (the new chapter created in this section).

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