
SUBSTITUTE HOUSE BILL 1646

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 provide the
14 employee information about advancement in their career tracks or
15 positions.

16 NEW SECTION. Sec. 4. WORKPLACE PRACTICES. (1) An employer may
17 not:

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

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

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

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

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

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

32 NEW SECTION. Sec. 5. NO RETALIATION. An employer may not
33 discharge or otherwise discriminate against an employee because the
34 employee has filed any complaint, or instituted or caused to be
35 instituted any proceeding under this chapter, or testified or is
36 about to testify in any such proceeding, or because of the exercise
37 by such employee on behalf of himself or herself or others of any
38 right afforded by this chapter.

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

8 NEW SECTION. **Sec. 7.** NOTICE. The department may include notice
9 of the provisions of this chapter in the next reprinting of
10 employment posters.

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

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

15 NEW SECTION. **Sec. 10.** CODIFICATION. (1) Sections 1, 2, and 4
16 through 9 of this act constitute a new chapter in Title 49 RCW.
17 (2) RCW 49.12.175 is recodified as a section in chapter 49.---
18 RCW (the new chapter created in this section).

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