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**HOUSE BILL 1696**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Dolan, Senn, Davis, Macri, Robinson, Jinkins, Kilduff, Wylie, Frame, Appleton, Ortiz-Self, Stanford, Goodman, Chapman, Peterson, Doglio, Pollet, Leavitt, Valdez, and Gregerson

AN ACT Relating to wage and salary information; adding new sections to chapter 49.12 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) Women in this state have experienced pay discrimination based on salary history for decades;

(b) Women are regularly offered lower initial pay than men for the same jobs even where their levels of education and experience are the same or comparable;

(c) Such persistent earnings inequality for working women translates into lower pay, less family income, and more children and families in poverty; and

(d) As an important step towards gender and economic equality, the legislature has recently made explicit that using prior salary history to justify a wage differential between similarly employed workers of different genders is unlawful discrimination under the state equal pay act, and this practice is also unlawful under the federal equal pay act.

(2) The legislature therefore intends to follow multiple other states and take the additional step towards gender equality of prohibiting an employer from seeking the wage or salary history of an applicant for employment. Further, the legislature intends to require an employer to provide information about wage scales and salaries to employees.

NEW SECTION. **Sec.**  A new section is added to chapter 49.12 RCW to read as follows:

The definitions in this section apply throughout this section and sections 3 through 5 of this act unless the context clearly requires otherwise.

(1) "Employee" means a worker who is employed in the business of an employer. "Employee" includes workers performing in an executive, administrative, professional, or outside sales capacity.

(2) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that engages in any business, industry, profession, or activity in this state and employs one or more employees. "Employer" includes the state, any state institution, any state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation.

NEW SECTION. **Sec.**  A new section is added to chapter 49.12 RCW to read as follows:

(1) An employer may not:

(a) Seek the wage or salary history of an applicant for employment from the applicant or a current or former employer; or

(b) Require that an applicant's prior wage or salary history meet certain criteria, except as provided in subsection (2) of this section.

(2) An employer may confirm an applicant's wage or salary history:

(a) If the applicant has voluntarily disclosed the applicant's wage or salary history; or

(b) After the employer has negotiated and made an offer of employment with compensation to the applicant.

NEW SECTION. **Sec.**  A new section is added to chapter 49.12 RCW to read as follows:

(1) Upon the request of an applicant for employment, an employer must provide the wage scale or salary range for the job title for the position for which the applicant is applying.

(2) An employer must provide to each employee the wage scale or salary range for the employee's job title upon hire, and annually and upon request after hire.

(3) An employer satisfies the requirements of this section if the wage scale or salary range for a position is available on the employer's web site.

NEW SECTION. **Sec.**  A new section is added to chapter 49.12 RCW to read as follows:

(1)(a) Upon complaint by an employee, the director must investigate to determine whether an employer has violated sections 3 or 4 of this act or the rules adopted under those sections. The director may also initiate an investigation on behalf of one or more employees for a violation of section 3 or 4 of this act or the rules adopted under those sections. The director may require the testimony of witnesses and production of documents as part of the director's investigation.

(b) If the director determines that an employer has violated this section or section 3 or 4 of this act, the director may order the employer to pay to the complainant: Actual damages; statutory damages equal to the actual damages or five thousand dollars, whichever is greater; and interest of one percent per month on all compensation owed. The director may also order: Payment to the department of a civil penalty of not more than two hundred dollars for an employer's first violation and not more than one thousand dollars for any subsequent violation; payment to the department for investigation and enforcement costs; and any other appropriate relief. For the purposes of a civil penalty under this section, a violation as to each affected employee constitutes a separate violation.

(c) An appeal from the director's determination may be taken in accordance with chapter 34.05 RCW. An employee who prevails in an appeal is entitled to costs and reasonable attorneys' fees.

(d) The department must deposit civil penalties paid under this subsection in the supplemental pension fund under RCW 51.44.033.

(e) Any wages and interest owed must be calculated from the first date wages were owed to the employee.

(2) An employee may bring a civil action against an employer for violation of section 3 or 4 of this act for: Actual damages; statutory damages equal to the actual damages or five thousand dollars, whichever is greater; interest of one percent per month on all compensation owed; and costs and reasonable attorneys' fees. The court may also order reinstatement and injunctive relief. Any wages and interest owed must be calculated from the first date wages were owed to the employee.

(3) The department may adopt rules to implement this section.

(4) The department may collect amounts ordered by the director under this section under the procedures under RCW 49.48.086.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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