

2021 -- H 5721

LC001507

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- MINIMUM WAGES

Introduced By: Representatives Morales, Williams, Vella-Wilkinson, Alzate, Hull,
Potter, Henries, Amore, Kazarian, and Ranglin-Vassell

Date Introduced: February 24, 2021

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 28-12 of the General Laws entitled "Minimum Wages" is hereby
2 amended by adding thereto the following section:

3 **28-12-26. Public health disaster emergency hazard pay.**

4 (a) Except for the state and its political subdivisions, every employer employing fifty (50)
5 or more employees shall pay any employee who performs essential services outside the employee's
6 home or residence, at a rate of one and one-third (1 $\frac{1}{3}$) times the regular rate of pay during any
7 period of public health disaster emergency as declared by the governor pursuant to § 30-15-9.

8 (b) For purposes of this section, essential services include those provided by or related to
9 the operation of the following businesses:

10 (1) Agricultural equipment and supply;

11 (2) Auto repair and supply;

12 (3) Banks and credit unions;

13 (4) Child care;

14 (5) Construction;

15 (6) Electronics and telecommunications;

16 (7) Firearms;

17 (8) Food and beverage stores, supermarkets and distributors to include: liquor stores,
18 specialty food stores, bodegas and convenience stores, farmers' markets, food banks and pantries;

19 (9) Funeral homes;

- 1 (10) Gas stations;
- 2 (11) Harm reduction organizations, recovery and treatment organizations, and
3 organizations conducting in-person outreach with vulnerable populations such as those who use
4 drugs, unhoused individuals and people recently released from incarceration;
- 5 (12) Health care;
- 6 (13) Industrial, construction equipment and supply, hardware stores, general power
7 equipment;
- 8 (14) Laundromats;
- 9 (15) Pet supply;
- 10 (16) Pharmacies, medical supply stores and compassion centers;
- 11 (17) Printing shops, mail and delivery stores and operations and office supply businesses;
- 12 (18) Professional uniform suppliers and stores;
- 13 (19) Restaurants;
- 14 (20) Seafood equipment and supply;
- 15 (21) Security and public safety; and
- 16 (22) Any commercial business, operation or entity designated as providing essential
17 services by the director of the department of labor.

18 SECTION 2. Section 28-5-7 of the General Laws in Chapter 28-5 entitled "Fair
19 Employment Practices" is hereby amended to read as follows:

20 **28-5-7. Unlawful employment practices.**

21 It shall be an unlawful employment practice:

22 (1) For any employer:

23 (i) To refuse to hire any applicant for employment because of his or her race or color,
24 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of
25 ancestral origin;

26 (ii) Because of those reasons, to discharge an employee or discriminate against him or her
27 with respect to hire, tenure, compensation, terms, conditions or privileges of employment, or any
28 other matter directly or indirectly related to employment. However, if an insurer or employer
29 extends insurance related benefits to persons other than or in addition to the named employee,
30 nothing in this subdivision shall require those benefits to be offered to unmarried partners of named
31 employees;

32 (iii) In the recruiting of individuals for employment or in hiring them, to utilize any
33 employment agency, placement service, training school or center, labor organization, or any other
34 employee referring source which the employer knows, or has reasonable cause to know,

1 discriminates against individuals because of their race or color, religion, sex, sexual orientation,
2 gender identity or expression, disability, age, or country of ancestral origin;

3 (iv) To refuse to reasonably accommodate an employee's or prospective employee's
4 disability unless the employer can demonstrate that the accommodation would pose a hardship on
5 the employer's program, enterprise, or business; ~~or~~

6 (v) When an employee has presented to the employer an internal complaint alleging
7 harassment in the workplace on the basis of race or color, religion, sex, disability, age, sexual
8 orientation, gender identity or expression, or country of ancestral origin, to refuse to disclose in a
9 timely manner in writing to that employee the disposition of the complaint, including a description
10 of any action taken in resolution of the complaint; provided, however, no other personnel
11 information shall be disclosed to the complainant; or

12 (vi) To take any adverse employment action against an employee for failure or refusal to
13 work during any period of public health disaster emergency as declared by the governor pursuant
14 to § 30-15-9.

15 (2)(i) For any employment agency to fail or refuse to properly classify or refer for
16 employment or otherwise discriminate against any individual because of his or her race or color,
17 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of
18 ancestral origin; or

19 (ii) For any employment agency, placement service, training school or center, labor
20 organization, or any other employee referring source to comply with an employer's request for the
21 referral of job applicants if the request indicates either directly or indirectly that the employer will
22 not afford full and equal employment opportunities to individuals regardless of their race or color,
23 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of
24 ancestral origin;

25 (3) For any labor organization:

26 (i) To deny full and equal membership rights to any applicant for membership because of
27 his or her race or color, religion, sex, sexual orientation, gender identity or expression, disability,
28 age, or country of ancestral origin;

29 (ii) Because of those reasons, to deny a member full and equal membership rights, expel
30 him or her from membership, or otherwise discriminate in any manner against him or her with
31 respect to his or her hire, tenure, compensation, terms, conditions or privileges of employment, or
32 any other matter directly or indirectly related to membership or employment, whether or not
33 authorized or required by the constitution or bylaws of the labor organization or by a collective
34 labor agreement or other contract;

1 (iii) To fail or refuse to classify properly or refer for employment, or otherwise to
2 discriminate against any member because of his or her race or color, religion, sex, sexual
3 orientation, gender identity or expression, disability, age, or country of ancestral origin; or

4 (iv) To refuse to reasonably accommodate a member's or prospective member's disability
5 unless the labor organization can demonstrate that the accommodation would pose a hardship on
6 the labor organization's program, enterprise, or business;

7 (4) Except where based on a bona fide occupational qualification certified by the
8 commission or where necessary to comply with any federal mandated affirmative action programs,
9 for any employer or employment agency, labor organization, placement service, training school or
10 center, or any other employee referring source, prior to employment or admission to membership
11 of any individual, to:

12 (i) Elicit or attempt to elicit any information directly or indirectly pertaining to his or her
13 race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or
14 country of ancestral origin;

15 (ii) Make or keep a record of his or her race or color, religion, sex, sexual orientation,
16 gender identity or expression, disability, age, or country of ancestral origin;

17 (iii) Use any form of application for employment, or personnel or membership blank
18 containing questions or entries directly or indirectly pertaining to race or color, religion, sex, sexual
19 orientation, gender identity or expression, disability, age, or country of ancestral origin;

20 (iv) Print or publish or cause to be printed or published any notice or advertisement relating
21 to employment or membership indicating any preference, limitation, specification, or
22 discrimination based upon race or color, religion, sex, sexual orientation, gender identity or
23 expression, disability, age, or country of ancestral origin; or

24 (v) Establish, announce, or follow a policy of denying or limiting, through a quota system
25 or otherwise, employment or membership opportunities of any group because of the race or color,
26 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of
27 ancestral origin of that group;

28 (5) For any employer or employment agency, labor organization, placement service,
29 training school or center, or any other employee referring source to discriminate in any manner
30 against any individual because he or she has opposed any practice forbidden by this chapter, or
31 because he or she has made a charge, testified, or assisted in any manner in any investigation,
32 proceeding, or hearing under this chapter;

33 (6) For any person, whether or not an employer, employment agency, labor organization,
34 or employee, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to

1 be an unlawful employment practice, or to obstruct or prevent any person from complying with the
2 provisions of this chapter or any order issued pursuant to this chapter, or to attempt directly or
3 indirectly to commit any act declared by this section to be an unlawful employment practice;

4 (7) For any employer to include on any application for employment, except applications
5 for law enforcement agency positions or positions related to law enforcement agencies, a question
6 inquiring or to otherwise inquire either orally or in writing whether the applicant has ever been
7 arrested, charged with or convicted of any crime; provided, that:

8 (i) If a federal or state law or regulation creates a mandatory or presumptive disqualification
9 from employment based on a person's conviction of one or more specified criminal offenses, an
10 employer may include a question or otherwise inquire whether the applicant has ever been
11 convicted of any of those offenses; or

12 (ii) If a standard fidelity bond or an equivalent bond is required for the position for which
13 the applicant is seeking employment and his or her conviction of one or more specified criminal
14 offenses would disqualify the applicant from obtaining such a bond, an employer may include a
15 question or otherwise inquire whether the applicant has ever been convicted of any of those
16 offenses; and

17 (iii) Notwithstanding, any employer may ask an applicant for information about his or her
18 criminal convictions at the first interview or thereafter, in accordance with all applicable state and
19 federal laws;

20 (8)(i) For any person who, on June 7, 1988, is providing either by direct payment or by
21 making contributions to a fringe benefit fund or insurance program, benefits in violation with §§
22 28-5-6, 28-5-7 and 28-5-38, until the expiration of a period of one year from June 7, 1988 or if
23 there is an applicable collective bargaining agreement in effect on June 7, 1988, until the
24 termination of that agreement, in order to come into compliance with §§ 28-5-6, 28-5-7 and 28-5-
25 38, to reduce the benefits or the compensation provided any employee on June 7, 1988, either
26 directly or by failing to provide sufficient contributions to a fringe benefit fund or insurance
27 program.

28 (ii) Where the costs of these benefits on June 7, 1988 are apportioned between employers
29 and employees, the payments or contributions required to comply with §§ 28-5-6, 28-5-7 and 28-
30 5-38 may be made by employers and employees in the same proportion.

31 (iii) Nothing in this section shall prevent the readjustment of benefits or compensation for
32 reasons unrelated to compliance with §§ 28-5-6, 28-5-7 and 28-5-38.

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SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- MINIMUM WAGES

1 This act would require employers employing fifty (50) or more employees to pay "hazard
2 pay" to employees involved in providing essential services during a declared public health
3 emergency. The hazard pay would be at a rate of one and one-third (1⅓) times the regular rate of
4 pay. Additionally employers would be prohibited from taking adverse employment action against
5 an employee who refuses to work during a public health emergency.

6 This act would take effect upon passage.

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