

2015 -- S 0721

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LC000109  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - WAGE DISCRIMINATION BASED  
ON SEX PROHIBITED

Introduced By: Senators Goldin, Paiva Weed, Goodwin, Lynch, and Sosnowski

Date Introduced: March 18, 2015

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-6-18 and 28-6-20 of the General Laws in Chapter 28-6 entitled  
2 "Wage Discrimination Based on Sex" are hereby amended to read as follows:

3 ~~28-6-18. Wage differentials based on sex prohibited.~~ **Wage differentials based on**  
4 **sex prohibited. – Legislative findings and intent. – (a) It is the intent of the General Assembly**  
5 **to combat wage discrimination based on sex by strengthening and closing gaps in existing wage**  
6 **discrimination laws.**

7 ~~(a)~~ **(b)** No employer shall discriminate in the payment of wages as between the sexes or  
8 shall pay any female in his or her employ salary or wage rates less than the rates paid to male  
9 employees for equal work or work on the same operations.

10 ~~(b)~~ **(c)** Nothing contained in this section shall prohibit a variation in rates of pay based  
11 upon either difference in:

12 (1) Seniority, experience, training, skill, or ability;

13 (2) Duties and services performed, either regularly or occasionally;

14 (3) The shift or time of day worked; or

15 (4) Availability for other operations or ~~any other reasonable differentiation except~~  
16 ~~difference in sex.~~ **a bona fide factor other than sex. An employer asserting that differential wages**  
17 **are paid pursuant to this subdivision shall demonstrate that the factor: (i) Does not perpetuate a**  
18 **sex-based differential in compensation; and (ii) Is job-related with respect to the position in**

1 question and is consistent with business necessity. Such exception under this subsection shall not  
2 apply when the employee demonstrates: (A) That an employer uses a particular employment  
3 practice that causes a disparate impact on the basis of sex; (B) That an alternative employment  
4 practice exists that would serve the same business purpose and not produce such differential; and  
5 (C) That the employer has refused to adopt such alternative practice.

6 (c) For the purpose of subsection (c) of this section, business necessity shall mean  
7 essential to effective job performance.

8 (d)(i) No employer shall prohibit an employee from inquiring about, discussing, or  
9 disclosing the wages of such employee or another employee.

10 (ii) Nothing in this subsection shall require an employee to disclose his or her wages.

11 (iii) This prohibition shall not apply to instances in which an employee who has access to  
12 the wage information of other employees as a part of such employee's essential job functions  
13 discloses the wages of such other employees to individuals who do not otherwise have access to  
14 such information, unless such disclosure is in response to a complaint or charge or in furtherance  
15 of an investigation, proceeding, hearing, or action under this chapter, including an investigation  
16 conducted by the employer.

17 (iv) Nothing in this section shall be construed to limit the rights of an employee provided  
18 under any other provision of law or collective bargaining agreement.

19 ~~(e)~~ (e) Except as provided in this section, any provision in any contract, agreement, or  
20 understanding entered into after passage of this act establishing a variation in rates of pay as  
21 between the sexes, shall be null and void.

22 (f) Posting of statutory provisions. – Every employer subject to this chapter shall post in a  
23 conspicuous place or places on his or her premises a notice to be prepared or approved by the  
24 director, which shall set forth excerpts of this chapter and any other relevant information which  
25 the director deems necessary to explain the chapter. Any employer refusing to comply with the  
26 provisions of this section shall be punished by a fine of not less than one hundred dollars (\$100)  
27 nor more than five hundred dollars (\$500).

28 **28-6-20. Civil liability of employer for sex differential -- Actions. --** An employer who  
29 violates the provisions of § 28-6-18 shall be liable to the employee or employees affected in the  
30 amount of their unpaid wages, and ~~in~~ an additional ~~equal~~ amount of liquidated damages which  
31 may be up to three hundred percent (300%) of the total amount of the wages found to be due. In  
32 appropriate circumstances attorney's fees, including expert fees and other litigation expenses, may  
33 be granted to the attorney for the plaintiff if he or she prevails. An action to recover the liability  
34 may be maintained in any court of competent jurisdiction by any one or more employees for and

1 in behalf of himself or herself or themselves and other similarly situated employees. At the  
2 request of any employee paid less than the wage to which he or she is entitled under §§ 28-6-17 --  
3 28-6-21, the director of labor and training may take an assignment of the wage claim in trust for  
4 the assigning employee and may bring any legal action necessary to collect the claim, and the  
5 liquidated damages provided for above. The director of labor and training shall not be required to  
6 pay the filing fee or other costs in connection with the action. The director of labor and training  
7 shall have the power to join various claimants against the employer in one cause of action.

8 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO LABOR AND LABOR RELATIONS - WAGE DISCRIMINATION BASED  
ON SEX PROHIBITED

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1           This act would provide protections against wage differentials based on sex and where  
2 such differentials exist requires employers to justify said differentials based on bona fide factors  
3 other than sex.

4           This act would take effect upon passage.

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