
ENGROSSED HOUSE BILL 1506

State of Washington

65th Legislature

2017 Regular Session

By Representatives Senn, Pellicciotti, Slatter, Macri, Peterson, Chapman, Ortiz-Self, Bergquist, Sawyer, Frame, Gregerson, Farrell, Kilduff, Kagi, Dolan, Clibborn, Pollet, McBride, Stanford, Doglio, Appleton, Robinson, Fitzgibbon, Sells, Goodman, Tharinger, Hudgins, Ormsby, Riccelli, Fey, and Pettigrew

Read first time 01/23/17. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to workplace practices to achieve gender pay
2 equity; amending RCW 49.12.175; adding a new chapter to Title 49 RCW;
3 recodifying RCW 49.12.175; prescribing penalties; and providing an
4 effective date.

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

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

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

19 The legislature finds that in order to establish equality among
20 workers, employees in comparable jobs 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 prevent
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.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires
10 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 (1) Any employer in this state(~~(, employing both males and~~
19 ~~females, who shall discriminate in any way in the payment of wages as~~
20 ~~between sexes or who shall pay any female a less wage, be it time or~~
21 ~~piece work, or salary, than is being paid to males)) who~~
22 discriminates in providing compensation based on gender between
23 similarly employed(~~(, or in any employment formerly performed by~~
24 ~~males, shall be)) employees of the employer is guilty of a~~
25 misdemeanor. If any ((female)) employee ((shall)) receives less
26 compensation because of ((being discriminated against))
27 discrimination on account of ((her sex, and)) gender in violation of
28 this section, ((she shall be)) that employee is entitled to ((recover
29 in a civil action the full amount of compensation that she would have
30 received had she not been discriminated against)) the remedies in
31 sections 7 and 8 of this act. In such action, however, the employer
32 shall be credited with any compensation which has been paid to
33 ((her)) the employee upon account.

34 (2) For purposes of this section, employees are similarly
35 employed if the individuals work for the same employer, the
36 performance of the job requires comparable skill, effort, and
37 responsibility, and the jobs are performed under similar working

1 conditions. Job titles alone are not determinative of whether
2 employee are similarly employed.

3 (3)(a) A differential in ((wages between employees)) compensation
4 based in good faith on ((a factor or factors other than sex shall))
5 any of the following does not constitute discrimination within the
6 meaning of ((RCW 49.12.010 through 49.12.180)) this section:

7 (i) A seniority system;

8 (ii) A merit system;

9 (iii) A system that measures earnings by quantity or quality of
10 production;

11 (iv) A bona fide job-related factor or factors, including, but
12 not limited to, education, training, or experience, that is: (A)
13 Consistent with business necessity; (B) not based on or derived from
14 a gender-based differential; and (C) accounts for the entire
15 differential; or

16 (v) A bona fide regional difference in compensation levels that
17 is: (A) Consistent with business necessity; (B) not based on or
18 derived from a gender-based differential; and (C) accounts for the
19 entire differential.

20 (b) An employee's previous wage or salary history is not a
21 defense under this section.

22 NEW SECTION. Sec. 4. (1) The legislature finds that equality of
23 opportunity is key to reducing income disparities based on genders.
24 The legislature further finds that using gender as a factor in career
25 tracking, including making critical assignments that lead to
26 advancement, contributes to pay inequity.

27 (2) An employer may not discriminate in providing employment
28 opportunities based on gender. If any employee receives less
29 favorable employment opportunities because of discrimination on
30 account of gender, that employee is entitled to the remedies in
31 sections 7 and 8 of this act.

32 (3) For purposes of this section, "less favorable employment
33 opportunities" means:

34 (a) Assigning or directing the employee into a less favorable
35 career track, if career tracks are offered, or position;

36 (b) Failing to provide information about promotions or
37 advancement in the full range of career tracks offered by the
38 employer; or

1 (c) Limiting or depriving an employee of employment opportunities
2 that would otherwise be available to the employee but for the
3 employee's gender.

4 (4) A differential in employment opportunities based in good
5 faith on any of the factors in RCW 49.12.175(3)(a) (i) through (iv)
6 (as recodified by this act) does not constitute discrimination within
7 the meaning of this section.

8 NEW SECTION. **Sec. 5.** (1) An employer may not:

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

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

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

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

18 (b) Asking the employer to provide a reason for the employee's
19 wages or lack of employment opportunities; or

20 (c) Aiding or encouraging an employee to exercise his or her
21 rights under this section.

22 (3) An employer may prohibit an employee who has access to
23 compensation information of other employees or applicants as part of
24 such employee's essential job functions from disclosing the wages of
25 the other employees or applicants to individuals who do not otherwise
26 have access to such information, unless the disclosure is in response
27 to a complaint or charge, in furtherance of an investigation, or
28 consistent with the employer's legal duty to provide the information
29 and the disclosure is part of the employee's essential job functions.
30 An employee described in this subsection otherwise has the
31 protections of this section, including to disclose the employee's
32 wages without retaliation.

33 (4) Nothing in this section requires an employee to disclose the
34 employee's compensation.

35 (5) Nothing in this section permits an employee to violate the
36 requirements in chapter 49.17 RCW and rules promulgated under that
37 chapter.

1 NEW SECTION. **Sec. 6.** An employer may not discharge or otherwise
2 discriminate against an employee because the employee has filed any
3 complaint, or instituted or caused to be instituted any proceeding
4 under this chapter, or testified or is about to testify in any such
5 proceeding, or because of the exercise by such employee on behalf of
6 himself or herself or others of any right afforded by this chapter.

7 NEW SECTION. **Sec. 7.** (1) Upon complaint by an employee, the
8 director must investigate to determine if there has been compliance
9 with RCW 49.12.175 (as recodified by this act), sections 4 through 6
10 of this act, and the rules adopted under this chapter. The director
11 may also initiate an investigation on behalf of one or more employees
12 for a violation of RCW 49.12.175 (as recodified by this act),
13 sections 4 through 6 of this act, and the rules adopted under this
14 chapter. The director may require the testimony of witnesses and
15 production of documents as part of an investigation.

16 (2) If the director determines that a violation occurred, the
17 director may order the employer to pay to the complainant actual
18 damages; statutory damages equal to the actual damages or five
19 thousand dollars, whichever is greater; and interest of one percent
20 per month on all compensation owed. The director may also order
21 payment to the department of a civil penalty of not more than two
22 hundred dollars for a first violation and not more than one thousand
23 dollars for a repeat violation, payment to the department of the
24 costs of investigation and enforcement, and any other appropriate
25 relief. For purposes of a civil penalty for violation of RCW
26 49.12.175 (as recodified by this act) and sections 4 and 6 of this
27 act, the violation as to each affected employee constitutes a
28 separate violation.

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

32 (4) The department must deposit civil penalties paid under this
33 section in the supplemental pension fund established under RCW
34 51.44.033.

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

37 NEW SECTION. **Sec. 8.** An employee may bring a civil action
38 against an employer for violation of RCW 49.12.175 (as recodified by

1 this act) and sections 4 through 6 of this act for actual damages;
2 statutory damages equal to the actual damages or five thousand
3 dollars, whichever is greater; interest of one percent per month on
4 all compensation owed; and costs and reasonable attorneys' fees. The
5 court may also order reinstatement and injunctive relief. Any wages
6 and interest owed must be calculated from the first date wages were
7 owed to the employee.

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

11 NEW SECTION. **Sec. 10.** The department may adopt rules to
12 implement sections 1, 2, and 4 through 7 of this act and RCW
13 49.12.175 (as recodified by this act).

14 NEW SECTION. **Sec. 11.** RCW 49.12.175 is recodified as a section
15 in chapter 49.--- RCW (the new chapter created in section 12 of this
16 act).

17 NEW SECTION. **Sec. 12.** Sections 1, 2, and 4 through 10 of this
18 act constitute a new chapter in Title 49 RCW.

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