

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2534

By: Walke

COMMITTEE SUBSTITUTE

An Act relating to labor; amending 40 O.S. 2011, Sections 198.1 and 198.2, which relate to discriminatory wages; prohibiting certain actions by employer; increasing penalties; authorizing recovery of costs; providing exceptions; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 40 O.S. 2011, Section 198.1, is amended to read as follows:

Section 198.1 ~~It shall be unlawful for any~~ A. No employer within the State of Oklahoma ~~to willfully pay wages to women employees at a rate less than the rate at which he pays any employee of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility, except where such payment is made pursuant to a seniority system; a merit system; a system which measures earnings~~

1 ~~by quantity or quality of production; or a differential based on any~~
2 ~~factor other than sex~~ shall discriminate in any way in the payment
3 of wages, benefits or other compensation, as between the sexes, or
4 pay any employee a salary or wage at rates less than the rates paid
5 to employees of the opposite sex for work of like or comparable
6 character or work on like or comparable operations; provided,
7 however, that variations in wages, benefits or other compensations,
8 shall not be prohibited if based upon:

9 1. A system that rewards seniority with the employer; provided
10 however, that time spent on leave due to a pregnancy-related
11 condition and federally protected parental, family and medical leave
12 shall not reduce seniority;

13 2. A merit system;

14 3. A system which measures earnings by quantity or quality of
15 production or sales;

16 4. The geographic location in which a job is performed;

17 5. Education, training or experience to the extent such factors
18 are reasonably related to the particular job in question and
19 consistent with business necessity;

20 6. Travel, if the travel is a regular and necessary condition
21 of the particular job; or

22 7. A differential based on any factor other than sex, so long
23 as the differential is based on a factor reasonably related to the
24 performance of the work.

1 B. An employer who is paying a wage differential in violation
2 of this section shall not reduce the pay of any employee in order to
3 comply with this section.

4 C. Any action based upon or arising pursuant to this section
5 shall be instituted within three (3) years of the employee becoming
6 aware of the alleged violation. For purposes of this section, a
7 violation occurs when a discriminatory compensation decision is
8 adopted or when an employee becomes subject to a discrimination
9 decision.

10 D. The employer shall not discharge or in any other manner
11 discriminate against an employee who inquires about or discusses his
12 or her own pay or the pay of another employee. However, employees
13 who have access to the compensation information of other employees
14 or applicants as part of their essential job functions shall not
15 disclose the pay of other employees to individuals who do not
16 otherwise have access to the compensation information, unless the
17 disclosure is:

- 18 1. In response to a formal complaint or charge;
19 2. In furtherance of an investigation, proceedings, hearing or
20 action, including an investigation conducted by the employer; or
21 3. Consistent with the employer's legal duty to furnish
22 information.

23 SECTION 2. AMENDATORY 40 O.S. 2011, Section 198.2, is
24 amended to read as follows:

1 Section 198.2 It shall be the duty of the Commissioner of Labor
2 to enforce the provisions of this act. Whenever the Commissioner is
3 informed of any violations thereof, it shall be his or her duty to
4 investigate ~~same~~ and, in his or her discretion, ~~said the~~
5 Commissioner is hereby authorized to ~~institute proceedings for the~~
6 ~~enforcement of penalties herein provided before any court of~~
7 ~~competent jurisdiction. Any employer who violates the provisions of~~
8 ~~this act shall be deemed guilty of a misdemeanor and shall upon~~
9 ~~conviction thereof, be punished by a~~ issue an administrative fine of
10 not less than ~~Twenty-five Dollars (\$25.00)~~ Fifty Dollars (\$50.00)
11 nor more than ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars
12 (\$200.00) for employers with twenty-five or fewer full-time
13 employees or Five Hundred Dollars (\$500.00) for employers with more
14 than twenty-five full-time employees. In addition, upon a finding
15 by the Commissioner of Labor of a violation under this act, the
16 employer shall pay any back pay found to be owed to the employee.

17 SECTION 3. This act shall become effective November 1, 2018.

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