

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1530

By: Dunnington, Inman, Proctor,
Osborn (Leslie), Nollan,
Bush, West (Tammy), Baker,
McDaniel, Munson, Virgin,
Goodwin, Griffith, Henke,
Blancett, Young, Hoskin,
Kerbs, Teague, Walke and
Montgomery of the House

9 and

10 Bice of the Senate

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14 COMMITTEE SUBSTITUTE

15 An Act relating to labor; amending 40 O.S 2011,
16 Sections 198.1 and 198.2, which relate to
17 discriminatory wages; prohibiting discrimination in
18 payment of wages, benefits or other compensation
19 based on gender; providing exceptions to prohibition;
20 changing fine to an administrative fine; modifying
21 amount of fines; and providing an effective date.

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

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

1 Section 198.1 ~~It shall be unlawful for any~~ A. No employer
2 ~~within the State of Oklahoma to willfully pay wages to women~~
3 ~~employees at a rate~~ shall discriminate in any way in the payment of
4 wages, benefits or other compensation, as between the sexes, or pay
5 any person in the employ of the employer salary or wage rates less
6 than the rate at which he pays any employee rates paid to employees
7 of the opposite sex for comparable work on jobs which have
8 comparable requirements relating to skill, effort and
9 responsibility, except where such payment is made pursuant to a
10 seniority of like or comparable character or work on like or
11 comparable operations; provided, however, that variations in wages,
12 benefits or other compensation shall not be prohibited if based
13 upon:

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

18 2. A merit system; a

19 3. A system which measures earnings by quantity or quality of
20 production or sales;

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

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

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

3 7. A differential based on any factor other than sex.

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

7 C. Any action based upon or arising under this section must be
8 instituted within two (2) years after the date of the alleged
9 violation. For purposes of this section, a violation occurs when a
10 discriminatory compensation decision is adopted, or when an employee
11 becomes subject to a discrimination decision.

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

20 1. In response to a formal complaint or charge;

21 2. In furtherance of an investigation, proceeding, hearing or
22 action, including an investigation conducted by the employer; or

23 3. Consistent with the employer's legal duty to furnish
24 information.

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated 02/20/2018 - DO PASS, As Amended and Coauthored.