

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. 2534

By: Walke

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9 COMMITTEE SUBSTITUTE

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

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

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

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

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

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

14 2. A merit system;

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

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

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

21 6. Travel, if the travel is a regular and necessary condition
22 of the particular job; or
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1 7. A differential based on any factor other than sex, so long
2 as the differential is based on a factor reasonably related to the
3 performance of the work.

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 pursuant to this section
8 shall be instituted within three (3) years of the employee becoming
9 aware of the alleged violation. For purposes of this section, a
10 violation occurs when a discriminatory compensation decision is
11 adopted or when an employee becomes subject to a discrimination
12 decision.

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

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

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

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

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

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23 COMMITTEE REPORT BY: COMMITTEE ON BANKING AND BUSINESS, dated
24 02/26/2018 - DO PASS, As Amended.