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February 21, 2019

By: Floyd and Bice

An Act relating to labor; amending 40 O.S. 2011, Sections 198.1 and 198.2, which relate to discriminatory wages; prohibiting discrimination in payment of wages, benefits or other compensation based on gender; expanding exceptions to prohibition; increasing penalties; updating statutory language; 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~~ No employer within the State of Oklahoma to willfully pay wages to women employees at a ~~rate~~ shall discriminate in any way in the payment of wages, benefits or other compensation, as between the sexes, or pay any person in the employ of the employer salary or wage rates less than the rate at which he pays any employee rates paid to employees 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 of like or comparable character or work of like or comparable operations;

1 provided, however, that variations in wages, benefits or other
2 compensation shall not be prohibited if based upon:

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

7 2. A merit system; a

8 3. A system which measures earnings by quantity or quality of
9 production or sales;

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

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

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

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

17 An employer who is paying a wage differential in violation of
18 this section shall not reduce the pay of any employee in order to
19 comply with this section.

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

22 Section 198.2. It shall be the duty of the Commissioner of
23 Labor to enforce the provisions of ~~this act~~ Section 198.1 of this
24 title. Whenever the Commissioner is informed of any alleged

1 violations ~~thereof~~, it shall be his or her duty to investigate ~~same~~
2 ~~and, in his discretion, said.~~ The Commissioner is hereby authorized
3 to institute proceedings for the enforcement of ~~penalties herein~~
4 ~~provided before any court of competent jurisdiction~~ violations of
5 the provisions of Section 198.1 of this title. ~~Any employer who~~
6 ~~violates the provisions of this act shall be deemed guilty of a~~
7 ~~misdemeanor and shall upon conviction thereof, be punished by~~ The
8 Commissioner is authorized to impose a fine of not less than ~~Twenty-~~
9 ~~five Dollars (\$25.00)~~ One Hundred Dollars (\$100.00) nor more than
10 ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00) for each
11 separate violation per pay period. In addition, upon a finding by
12 the Commissioner of a violation under Section 198.1 of this title,
13 the employer shall pay any back pay found to be owed to the
14 employee.

15 SECTION 3. This act shall become effective November 1, 2019.

16 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
17 February 21, 2019 - DO PASS
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