

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

FILED SENATE
May 30, 2018
S.B. 783
PRINCIPAL CLERK

S

D

SENATE BILL DRS45553-LRa-138

Short Title: North Carolina Equal Pay Act/Funds. (Public)

Sponsors: Senators McKissick and Van Duyn (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT PROHIBITING DISCRIMINATION IN THE PAYMENT OF WAGES ON THE
3 BASIS OF THE GENDER OF THE EMPLOYEE AND APPROPRIATING FUNDS TO
4 THE DEPARTMENT OF LABOR TO EDUCATE THE PUBLIC CONCERNING THE
5 PROVISIONS OF THIS ACT.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** This act shall be known and may be cited as the "North Carolina Equal
8 Pay Act."

9 **SECTION 2.** Article 2A of Chapter 95 of the General Statutes is amended by adding
10 a new section to read:

11 **"§ 95-25.6A. Discrimination in payment of wages on basis of gender of employee**
12 **prohibited.**

13 (a) Definitions. – The following definitions apply in this section:

14 (1) Comparable work. – Work that is substantially similar in that it requires
15 substantially similar skill, effort, and responsibility and is performed under
16 similar working conditions; however, a job title or job description alone does
17 not determine comparability.

18 (2) Working conditions. – The circumstances customarily taken into
19 consideration in setting salary or wages, including reasonable shift
20 differentials, physical surroundings, and hazards encountered in performing a
21 job.

22 (b) Comparable Pay Required. – No employer shall discriminate in any way on the basis
23 of gender in the payment of salary or wages, including benefits and other compensation, or pay
24 any person salary or wage rates less than the rates paid to employees of a different gender for
25 comparable work, except that the following variations in salary and wages, including benefits or
26 other compensation, are not prohibited by this section if the variations are based upon:

27 (1) A bona fide system that rewards seniority with the employer, if time spent on
28 leave due to a pregnancy-related condition and protected parental, family, and
29 medical leave shall not reduce seniority.

30 (2) A bona fide merit system.

31 (3) A bona fide system that measures earnings by quantity or quality of
32 production or sales.

33 (4) The geographic location in which a job is performed.

34 (5) Education, training, or experience to the extent such factors are reasonably
35 related to the particular job in question and consistent with business necessity.

36 (6) Travel, if the travel is a regular and necessary condition of the particular job.



* D R S 4 5 5 3 - L R A - 1 3 8 *

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

3 (c) Unlawful Practices. – It is an unlawful practice for an employer to do any of the
4 following:

5 (1) Require, as a condition of employment, that an employee refrain from
6 inquiring about, discussing, or disclosing information about either the
7 employee's own wages, including benefits or other compensation, or about
8 any other employee's wages.

9 (2) Screen job applicants based upon their wage, including benefits or other
10 compensation, or salary histories, including by requiring that an applicant's
11 prior wages, including benefits or other compensation or salary history, satisfy
12 minimum or maximum criteria.

13 (3) Seek the salary history of any prospective employee from any current or
14 former employer. A prospective employee may provide written authorization
15 to a prospective employer to confirm prior wages only after any offer of
16 employment with compensation has been made to the prospective employee.

17 (4) Discharge or in any manner retaliate against any employee because the
18 employee (i) opposed any act or practice made unlawful by this section, (ii)
19 made or is about to make a complaint or has caused or is about to cause to be
20 instituted any proceeding under this section, (iii) testified or is about to testify,
21 assist, or participate in any manner in an investigation or proceeding under
22 this section, or (iv) disclosed the employee's wages, benefits, or other
23 compensation or has inquired about or discussed the wages of any other
24 employee.

25 (d) Violations. – Any employer who violates this section shall be liable to the employee
26 affected in the amount of the employee's unpaid salary or wages, including benefits or other
27 compensation. Any agreement between the employer and any employee to work for less than the
28 wage to which such employee is entitled under this section shall be no defense to an action. An
29 employee's previous wage or salary history shall not be a defense to an action. The court may, in
30 addition to any judgment awarded to the plaintiff, allow a reasonable attorneys' fee to be paid by
31 the defendant and the costs of the action.

32 Any action arising under this section shall be commenced within three years after the date of
33 the alleged violation. For the purposes of this section, a violation occurs when (i) a discriminatory
34 compensation decision is made or other practice is adopted, (ii) an employee becomes subject to
35 a discriminatory compensation decision or other practice, or (iii) an employee is affected by
36 application of a discriminatory compensation decision or practice, including each time wages,
37 benefits, or other compensation are paid, resulting in whole or in part from such a decision or
38 practice.

39 (e) Notices. – Employers shall post a notice in their workplaces notifying employees of
40 their rights under this section. The notice shall be posted in a conspicuous place in at least one
41 location where employees congregate."

42 **SECTION 3.** There is appropriated from the General Fund to the Department of
43 Labor the sum of ten thousand dollars (\$10,000) for the 2018-2019 fiscal year to educate the
44 public about this act.

45 **SECTION 4.** Sections 1 and 2 of this act become effective January 1, 2019. Section
46 3 of this act becomes effective July 1, 2018. The remainder of this act is effective when it
47 becomes law.