



House Bill No. 6185

Public Act No. 09-101

AN ACT CONCERNING PENALTIES FOR VIOLATIONS OF CERTAIN PERSONNEL FILES STATUTES AND EQUAL PAY FOR EQUAL WORK.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 31-69a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) In addition to the penalties provided in this chapter and chapter 568, any employer, officer, agent or other person who violates any provision of this chapter, [or] chapter 563a, chapter 557 or subsection (g) of section 31-288, shall be liable to the Labor Department for a civil penalty of three hundred dollars for each violation of said chapters and for each violation of subsection (g) of section 31-288, except that any person who violates (1) a stop work order issued pursuant to subsection (c) of section 31-76a, shall be liable to the Labor Department for a civil penalty of one thousand dollars and each day of such violation shall constitute a separate offense, and (2) any provision of section 31-12, 31-13 or 31-14, subsection (a) of section 31-15 or section 31-18, 31-23 or 31-24 shall be liable to the Labor Department for a civil penalty of six hundred dollars for each violation of said sections.

(b) The Attorney General, upon complaint of the Labor

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Commissioner, shall institute civil actions to recover the penalties provided for under subsection (a) of this section. Any amount recovered shall be deposited in the General Fund and credited to a separate nonlapsing appropriation to the Labor Department, for other current expenses, and may be used by the Labor Department to enforce the provisions of chapter 557, chapter 563a, this chapter and subsection (g) of section 31-288 and to implement the provisions of section 31-4.

Sec. 2. Section 31-75 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) No employer shall discriminate in the amount of compensation paid to any employee [solely] on the basis of sex. Any difference in pay based on sex shall be deemed a discrimination within the meaning of this section. [, provided nothing herein shall be deemed to prevent the operation of employment practices which recognize length of service or merit rating as a factor in determining wage or salary rates.]

(b) If an employee can demonstrate that his or her employer discriminates on the basis of sex by paying wages to employees at the employer's business at a rate less than the rate at which the employer pays wages to employees of the opposite sex at such business for equal work on a job, the performance of which requires equal skill, effort and responsibility, and which are performed under similar working conditions, such employer must demonstrate that such differential in pay is made pursuant to (1) a seniority system; (2) a merit system; (3) a system which measures earnings by quantity or quality of production; or (4) a differential system based upon a bona fide factor other than sex, such as education, training or experience. Said bona fide factor defense shall apply only if the employer demonstrates that such factor (A) is not based upon or derived from a sex-based differential in compensation, and (B) is job-related and consistent with business necessity. Such defense shall not exist where the employee

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demonstrates that an alternative employment practice exists that would serve the same business purpose without producing such differential and that the employer has refused to adopt such alternative practice.

(c) No employer shall discharge, expel or otherwise discriminate against any person because such person has opposed any discriminatory compensation practice or because such person has filed a complaint or testified or assisted in any proceeding pursuant to section 31-76, as amended by this act.

Sec. 3. Section 31-76 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) The Labor Commissioner shall carry out the provisions of section 31-75, as amended by this act, either upon complaint or upon [his] the commissioner's own motion. For this purpose, the commissioner, or [his] the commissioner's authorized representative, may enter places of employment, inspect payrolls, investigate work and operations on which employees are engaged, question employees and take such action as is reasonably necessary to determine compliance with section 31-75, as amended by this act. [Any] At the request of any employee who has received less than the wage to which the employee is entitled under section 31-75, as amended by this act, the commissioner may take an assignment of such wage claim in trust and may bring any legal action necessary to collect such claim. In any action brought by the commissioner, the employer who violates the provisions of section 31-75, as amended by this act, [shall be] may be found liable to the employee or the employees affected for the difference between the amount of wages paid and the maximum wage paid any other employee for equal work, compensatory damages and, if the violation is found to be intentional or committed with reckless indifference to the employee's or employees' rights under section 31-75, as amended by this act, punitive damages. [Action to recover such difference may

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be maintained in any court of competent jurisdiction by any one or more employees.] Any agreement to work for less than the wage to which such employee is entitled under section 31-75, as amended by this act, shall not be a defense to such action. [At the request of any employee who has received less than the wage to which he is entitled under section 31-75, the commissioner may take an assignment of such wage claim in trust and may bring any legal action necessary to collect such claim. If judgment is rendered against an employer in any civil action brought to collect wages under the provisions of this section, the employer shall be required to pay the taxable costs and such reasonable attorney's fees as may be allowed by the court.]

(b) Unless and except to the extent that a wage claim has been assigned to the commissioner pursuant to subsection (a) of this section, an action to redress a violation of section 31-75, as amended by this act, may be maintained in any court of competent jurisdiction by any one or more employees. Any agreement to work for less than the wage to which such employee is entitled under section 31-75, as amended by this act, shall not be a defense to such action. An employer who violates section 31-75, as amended by this act, may be found liable for the difference between the amount of wages paid and the maximum wage paid any other employee for equal work, compensatory damages, attorney's fees and costs, punitive damages if the violation is found to be intentional or committed with reckless indifference to the employee's or employees' rights under section 31-75, as amended by this act, and such legal and equitable relief as the court deems just and proper.

(c) For purposes of this section, discrimination in compensation under section 31-75, as amended by this act, occurs when a discriminatory compensation decision or practice is adopted, when an individual is subject to a discriminatory compensation decision or practice, or when an individual is affected by application of a

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discriminatory compensation decision or practice, and shall be deemed to be a continuing violation each time wages, benefits or other compensation is paid, resulting in whole or in part from such a decision or practice.

(d) No action shall be brought or any prosecution instituted for any violation of section 31-75, as amended by this act, [unless within one year after the commission of the act complained of. Any person who violates section 31-75 or any employer who discriminates in any manner against any employee because such employee has filed a complaint or taken any other action as herein provided shall, upon conviction, be fined for each violation not more than two hundred dollars] except within two years after such violation or any act described in subsection (c) of this section, or within three years if such violation is intentional or committed with reckless indifference.

Approved June 3, 2009