



General Assembly

January Session, 2009

Amendment

LCO No. 7322

SB0087607322SR0

Offered by:

SEN. MCKINNEY, 28th Dist.

SEN. CALIGIURI, 16th Dist.

To: Subst. Senate Bill No. 876

File No. 809

Cal. No. 524

**"AN ACT CONCERNING LIABILITY OF NURSING HOME OWNERS
FOR NEGLIGENCE AND ABUSE OF NURSING HOME RESIDENTS."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 31-75 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2009*):

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

11 (b) If an employee can demonstrate that his or her employer
12 discriminates on the basis of sex by paying wages to employees at the
13 employer's business at a rate less than the rate at which the employer

14 pays wages to employees of the opposite sex at such business for equal
15 work on a job, the performance of which requires equal skill, effort and
16 responsibility, and which are performed under similar working
17 conditions, such employer must demonstrate that such differential in
18 pay is made pursuant to (1) a seniority system; (2) a merit system; (3) a
19 system which measures earnings by quantity or quality of production;
20 or (4) a differential system based upon a bona fide factor other than
21 sex, such as education, training or experience. Said bona fide factor
22 defense shall apply only if the employer demonstrates that such factor
23 (A) is not based upon or derived from a sex-based differential in
24 compensation, and (B) is job-related and consistent with business
25 necessity. Such defense shall not exist where the employee
26 demonstrates that an alternative employment practice exists that
27 would serve the same business purpose without producing such
28 differential and that the employer has refused to adopt such
29 alternative practice.

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

35 Sec. 502. Section 31-76 of the general statutes is repealed and the
36 following is substituted in lieu thereof (*Effective October 1, 2009*):

37 (a) The Labor Commissioner shall carry out the provisions of section
38 31-75, as amended by this act, either upon complaint or upon [his] the
39 commissioner's own motion. For this purpose, the commissioner, or
40 [his] the commissioner's authorized representative, may enter places of
41 employment, inspect payrolls, investigate work and operations on
42 which employees are engaged, question employees and take such
43 action as is reasonably necessary to determine compliance with section
44 31-75, as amended by this act. [Any] At the request of any employee
45 who has received less than the wage to which the employee is entitled
46 under section 31-75, as amended by this act, the commissioner may

47 take an assignment of such wage claim in trust and may bring any
48 legal action necessary to collect such claim. In any action brought by
49 the commissioner, the employer who violates the provisions of section
50 31-75, as amended by this act, [shall be] ~~may be found~~ liable to the
51 employee or the employees affected for the difference between the
52 amount of wages paid and the maximum wage paid any other
53 employee for equal work, ~~compensatory damages and, if the violation~~
54 is found to be intentional or committed with reckless indifference to
55 the employee's or employees' rights under section 31-75, as amended
56 by this act, punitive damages. [Action to recover such difference may
57 be maintained in any court of competent jurisdiction by any one or
58 more employees.] Any agreement to work for less than the wage to
59 which such employee is entitled under section 31-75, as amended by
60 this act, shall not be a defense to such action. [At the request of any
61 employee who has received less than the wage to which he is entitled
62 under section 31-75, the commissioner may take an assignment of such
63 wage claim in trust and may bring any legal action necessary to collect
64 such claim. If judgment is rendered against an employer in any civil
65 action brought to collect wages under the provisions of this section, the
66 employer shall be required to pay the taxable costs and such
67 reasonable attorney's fees as may be allowed by the court.]

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

81 this act, and such legal and equitable relief as the court deems just and
82 proper.

83 (c) For purposes of this section, discrimination in compensation
84 under section 31-75, as amended by this act, occurs when a
85 discriminatory compensation decision or practice is adopted, when an
86 individual is subject to a discriminatory compensation decision or
87 practice, or when an individual is affected by application of a
88 discriminatory compensation decision or practice, and shall be deemed
89 to be a continuing violation each time wages, benefits or other
90 compensation is paid, resulting in whole or in part from such a
91 decision or practice.

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