



General Assembly

**Amendment**

January Session, 2009

LCO No. 7327

\*SB0008007327SR0\*

Offered by:

SEN. MCKINNEY, 28<sup>th</sup> Dist.

SEN. CALIGIURI, 16<sup>th</sup> Dist.

To: Subst. Senate Bill No. 80

File No. 47

Cal. No. 115

**"AN ACT CONCERNING ELECTRONIC UNEMPLOYMENT  
COMPENSATION PAYMENTS."**

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 Section 31-75 of the general statutes is repealed and the  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."