



General Assembly

Amendment

January Session, 2009

LCO No. 7343

SB0008007343SR0

Offered by:

SEN. MCKINNEY, 28th Dist.

SEN. CALIGIURI, 16th 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 Section 31-75 of the general statutes is repealed and the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) As used in this subsection, "equal work" means work performed
12 by two or more employees that requires equal skill, effort and
13 responsibility and is performed under similar working conditions. An

14 employee establishes a prima facie claim of discrimination under this
15 section, if the employee demonstrates that his or her employer
16 discriminates on the basis of sex by paying wages to employees at the
17 employer's business at a rate less than the rate at which the employer
18 pays wages to employees of the opposite sex at such business for equal
19 work. It shall be a defense to a claim of discrimination under this
20 section that a differential in pay for equal work is made pursuant to (1)
21 a seniority system; (2) a merit system; (3) a system which measures
22 earnings by quantity or quality of production; or (4) a differential
23 system based upon a bona fide factor other than sex, such as education
24 training or experience. Said bona fide factor defense shall apply only if
25 the employer demonstrates that such factor (A) is not based upon or
26 derived from a sex-based differential in compensation, and (B) is job-
27 related and consistent with business necessity. Such defense shall not
28 exist where the employee demonstrates that an alternative
29 employment practice exists that would serve the same business
30 purpose without producing such differential and that the employer
31 has refused to adopt such alternative practice.

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

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 Section 31-76 of the general statutes is repealed and the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

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

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

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

81 damages, attorney's fees and costs, punitive damages if the violation is
82 found to be intentional or committed with reckless indifference to the
83 employee's or employees' rights under section 31-75, as amended by
84 this act, and such legal and equitable relief as the court deems just and
85 proper.

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

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