



General Assembly

February Session, 2018

***Raised Bill No. 5386***

LCO No. 1972



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:  
(LAB)

***AN ACT CONCERNING VARIOUS PAY EQUITY AND FAIRNESS MATTERS.***

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

1 Section 1. Section 31-40z of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2018*):

3 (a) As used in this section:

4 (1) "Employer" means any individual, corporation, limited liability  
5 company, firm, partnership, voluntary association, joint stock  
6 association, the state and any political subdivision thereof and any  
7 public corporation within the state using the services of one or more  
8 employees for pay;

9 (2) "Employee" means any individual employed or permitted to  
10 work by an employer; and

11 (3) "Wages" means compensation for labor or services rendered by  
12 an employee, whether the amount is determined on a time, task, piece,  
13 commission or other basis of calculation.

14 (b) No employer shall:

15 (1) Prohibit an employee from disclosing or discussing the amount  
16 of his or her wages or the wages of another employee of such  
17 employer that have been disclosed voluntarily by such other  
18 employee;

19 (2) Prohibit an employee from inquiring about the wages of another  
20 employee of such employer;

21 (3) Require an employee to sign a waiver or other document that  
22 denies the employee his or her right to disclose or discuss the amount  
23 of his or her wages or the wages of another employee of such  
24 employer that have been disclosed voluntarily by such other  
25 employee;

26 (4) Require an employee to sign a waiver or other document that  
27 denies the employee his or her right to inquire about the wages of  
28 another employee of such employer;

29 (5) Inquire or direct a third party to inquire about a prospective  
30 employee's wage and salary history before an offer of employment that  
31 includes wages has been accepted by the prospective employee unless  
32 a prospective employee has voluntarily disclosed such information,  
33 except that this subdivision shall not apply to any actions taken by an  
34 employer, employment agency or employee or agent thereof pursuant  
35 to any federal or state law that specifically authorizes the disclosure or  
36 verification of salary history for employment purposes. An employee's  
37 prior wage and salary history shall not be considered a factor other  
38 than sex defense to any action alleging a violation of this subdivision.  
39 Nothing in this section shall prohibit an employer from inquiring  
40 about compensation structure, as long as such employer does not  
41 inquire about the value of the elements of such compensation  
42 structure, except that an employer may inquire about the value of  
43 stocks or equity;

44 [(5)] (6) Discharge, discipline, discriminate against, retaliate against

45 or otherwise penalize any employee who discloses or discusses the  
46 amount of his or her wages or the wages of another employee of such  
47 employer that have been disclosed voluntarily by such other  
48 employee; or

49 ~~[(6)]~~ (7) Discharge, discipline, discriminate against, retaliate against  
50 or otherwise penalize any employee who inquires about the wages of  
51 another employee of such employer.

52 (c) Nothing in this section shall be construed to require any  
53 employer or employee to disclose the amount of wages paid to any  
54 employee.

55 (d) An action to redress a violation of subsection (b) of this section  
56 may be maintained in any court of competent jurisdiction by any one  
57 or more employees. An employer who violates subsection (b) of this  
58 section may be found liable for compensatory damages, attorney's fees  
59 and costs, punitive damages and such legal and equitable relief as the  
60 court deems just and proper.

61 (e) No action shall be brought for any violation of subsection (b) of  
62 this section except within two years after such violation.

63 (f) In a civil action alleging a violation of subsection (b) of this  
64 section, an employer may file a motion in any court of competent  
65 jurisdiction to disallow an award of compensatory and punitive  
66 damages. The court shall grant the motion if the employer  
67 demonstrates, by a preponderance of the evidence, that the employer  
68 (1) completed, within three years before the date that the employee  
69 filed such action, an equal pay analysis of the employer's pay practices  
70 in good faith that was reasonable in detail and scope in light of the size  
71 of the employer; and (2) eliminated the wage differentials for the  
72 plaintiff. If the court grants the motion, the court may award back pay  
73 only for the two-year period immediately preceding the filing of the  
74 action and may award costs and reasonable attorney's fees, but may  
75 not award compensatory or punitive damages. Evidence of an equal  
76 pay analysis undertaken in accordance with this subsection shall be

77 inadmissible in any other proceeding.

78 Sec. 2. Subsection (b) of section 31-75 of the general statutes is  
79 repealed and the following is substituted in lieu thereof (*Effective*  
80 *October 1, 2018*):

81 (b) If an employee can demonstrate that his or her employer  
82 discriminates on the basis of sex by paying wages to employees at the  
83 employer's business at a rate less than the rate at which the employer  
84 pays wages to employees of the opposite sex at such business for equal  
85 work on a job, the performance of which requires equal skill, effort and  
86 responsibility, and which are performed under similar working  
87 conditions, such employer must demonstrate that such differential in  
88 pay is made pursuant to (1) a seniority system, provided time spent on  
89 leave due to a pregnancy-related condition or protected family and  
90 medical leave shall not reduce seniority; (2) a merit system; (3) a  
91 system which measures earnings by quantity or quality of production;  
92 or (4) a differential system based upon a bona fide factor other than  
93 sex, such as education, training or experience. Said bona fide factor  
94 defense shall apply only if the employer demonstrates that such factor  
95 (A) is not based upon or derived from a sex-based differential in  
96 compensation, and (B) is job-related and consistent with business  
97 necessity. Such defense shall not exist where the employee  
98 demonstrates that an alternative employment practice exists that  
99 would serve the same business purpose without producing such  
100 differential and that the employer has refused to adopt such  
101 alternative practice.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	31-40z
Sec. 2	<i>October 1, 2018</i>	31-75(b)

**Statement of Purpose:**

To strengthen provisions of the law concerning pay equity and fairness.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*