



General Assembly

February Session, 2020

***Raised Bill No. 5385***

LCO No. 1850



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:  
(LAB)

***AN ACT ENSURING FAIR AND EQUAL PAY FOR EQUAL WORK.***

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

1 Section 1. Section 31-76 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2020*):

3 (a) The Labor Commissioner shall carry out the provisions of section  
4 31-75, as amended by this act, either upon complaint or upon the  
5 commissioner's own motion. For this purpose, the commissioner, or the  
6 commissioner's authorized representative, may enter places of  
7 employment, inspect payrolls, investigate work and operations on  
8 which employees are engaged, question employees and take such action  
9 as is reasonably necessary to determine compliance with section 31-75,  
10 as amended by this act. At the request of any employee who has  
11 received less than the wage to which the employee is entitled under  
12 section 31-75, as amended by this act, the commissioner may take an  
13 assignment of such wage claim in trust and may bring any legal action  
14 necessary to collect such claim. In any action brought by the  
15 commissioner, the employer who violates the provisions of section 31-  
16 75, as amended by this act, may be found liable to the employee or the

17 employees affected for the difference between the amount of wages paid  
18 and the maximum wage paid any other employee for equal work,  
19 compensatory damages and, if the violation is found to be intentional or  
20 committed with reckless indifference to the employee's or employees'  
21 rights under section 31-75, as amended by this act, punitive damages.  
22 Any agreement to work for less than the wage to which such employee  
23 is entitled under section 31-75, as amended by this act, shall not be a  
24 defense to such action.

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

39 (c) An employer may file a motion in any court of competent  
40 jurisdiction to disallow an award of compensatory and punitive  
41 damages. The court shall grant the motion if the employer  
42 demonstrates, by a preponderance of the evidence, that the employer (1)  
43 completed, within three years before the date that the employee filed  
44 such action, an equal pay analysis of the employer's pay practices in  
45 good faith that was reasonable in detail and scope in light of the size of  
46 the employer; and (2) eliminated the wage differentials for the plaintiff.  
47 If the court grants the motion, the court may award back pay only for  
48 the two-year period immediately preceding the filing of the action and  
49 may award costs and reasonable attorney's fees, but may not award

50 compensatory or punitive damages. Evidence of an equal pay analysis  
51 undertaken in accordance with this subsection shall be inadmissible in  
52 any other proceeding.

53 ~~[(c)]~~ (d) For purposes of this section, discrimination in compensation  
54 under section 31-75, as amended by this act, occurs when a  
55 discriminatory compensation decision or practice is adopted, when an  
56 individual is subject to a discriminatory compensation decision or  
57 practice, or when an individual is affected by application of a  
58 discriminatory compensation decision or practice, and shall be deemed  
59 to be a continuing violation each time wages, benefits or other  
60 compensation is paid, resulting in whole or in part from such a decision  
61 or practice.

62 ~~[(d)]~~ (e) No action shall be brought or any prosecution instituted for  
63 any violation of section 31-75, as amended by this act, except within two  
64 years after such violation or any act described in subsection ~~[(c)]~~ (d) of  
65 this section, or within three years if such violation is intentional or  
66 committed with reckless indifference.

67 Sec. 2. Subsection (b) of section 31-75 of the general statutes is  
68 repealed and the following is substituted in lieu thereof (*Effective October*  
69 *1, 2020*):

70 (b) If an employee can demonstrate that his or her employer  
71 discriminates on the basis of sex by paying wages to employees at the  
72 employer's business at a rate less than the rate at which the employer  
73 pays wages to employees of the opposite sex at such business for equal  
74 work on a job, the performance of which requires equal skill, effort and  
75 responsibility, and which are performed under similar working  
76 conditions, such employer must demonstrate that such differential in  
77 pay is made pursuant to (1) a seniority system, provided time spent on  
78 leave due to a pregnancy-related condition or protected family and  
79 medical leave shall not reduce seniority; (2) a merit system; (3) a system  
80 which measures earnings by quantity or quality of production; or (4) a

81 differential system based upon a bona fide factor other than sex, such as  
82 education, training or experience. Said bona fide factor defense shall  
83 apply only if the employer demonstrates that such factor (A) is not  
84 based upon or derived from a sex-based differential in compensation,  
85 and (B) is job-related and consistent with business necessity. Such  
86 defense shall not exist where the employee demonstrates that an  
87 alternative employment practice exists that would serve the same  
88 business purpose without producing such differential and that the  
89 employer has refused to adopt such alternative practice.

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|---|------------------------|----------|
| This act shall take effect as follows and shall amend the following sections: |                        |          |
| Section 1   | <i>October 1, 2020</i> | 31-76    |
| Sec. 2  | <i>October 1, 2020</i> | 31-75(b) |

**Statement of Purpose:**

To ensure fair and equal pay for equal work.

*[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.]*