

HOUSE BILL No. 1031

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-19.

Synopsis: Wage history and wage range inquiries. Prohibits, with certain exceptions, an employer from using an applicant's wage history in the hiring process. Prohibits, in certain situations, an employer from relying on the wage history of an applicant for employment. Prohibits employers from failing or refusing to provide an applicant for employment the wage range for the position for which the applicant is applying. Requires an employer to provide to an employee the wage range for the employee's job under certain circumstances. Allows for the department of labor (department) to receive and investigate complaints. Provides that the department may do the following: (1) Issue a warning for the first violation. (2) Impose a civil penalty of \$50 for the second violation. (3) Impose a civil penalty of \$100 for the third violation and each subsequent violation. Requires the department to maintain a list of employers who have four or more violations and provide the list to the office of the chief equity, inclusion, and opportunity officer (office). Requires the office to post the list on the equity data portal. Provides that if an employer is found to have violated this chapter, the employer shall notify its employees of the violation.

Effective: July 1, 2022.

Errington

January 4, 2022, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1031

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-2-19 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2022]:

4 **Chapter 19. Wage History and Wage Range Inquiries**

5 **Sec. 1. As used in this chapter, "department" refers to the**
6 **department of labor created by IC 22-1-1-1.**

7 **Sec. 2. As used in this chapter, "employer" means any**
8 **individual, partnership, association, limited liability company,**
9 **corporation, business trust, the state, or other governmental entity**
10 **or political subdivision during any work week in which it has six**
11 **(6) or more employees.**

12 **Sec. 3. (a) For purposes of this section, "wage history" means**
13 **the wages paid to an applicant for employment by the applicant's**
14 **current employer or previous employers.**

15 **(b) Except as provided in subsection (c), it is an unlawful**
16 **employment practice for an employer to do any of the following:**

- 17 **(1) Rely on the wage history of an applicant for employment**



1 in considering an applicant for employment, including
 2 requiring that the applicant's prior wages satisfy minimum or
 3 maximum criteria as a condition of being hired for
 4 employment.

5 (2) Rely on the wage history of an applicant for employment
 6 in determining the wages of an applicant for employment to
 7 be paid by the employer upon hire.

8 (3) Seek the wage history of an applicant for employment
 9 from the applicant for employment.

10 (c) After the employer makes an initial offer of employment
 11 with an offer of compensation to an applicant for employment, an
 12 employer may:

13 (1) rely on the wage history to support a wage higher than the
 14 wage offered by the employer, if the wage history is
 15 voluntarily provided by the applicant for employment without
 16 prompting from the employer; and

17 (2) seek to confirm the wage history of the applicant for
 18 employment to support a wage higher than the wage offered
 19 by the employer when relying on the wage history as
 20 permitted in subdivision (1).

21 (d) An employer may rely on the wage history under the
 22 circumstances described in this section only to the extent that the
 23 higher wage does not create an unlawful pay differential based on
 24 a protected characteristic as provided in IC 22-2-2-4.

25 (e) An employer may not conduct a search of publicly available
 26 records or reports for the purpose of obtaining an applicant's wage
 27 history.

28 (f) An employer may not:

29 (1) refuse to:

30 (A) interview;

31 (B) hire;

32 (C) promote; or

33 (D) employ; or

34 (2) retaliate against;

35 an applicant for employment because the applicant did not provide
 36 the employer with a wage history.

37 (g) This section may not be construed to prohibit an applicant
 38 for employment from sharing a wage history with an employer
 39 voluntarily and without prompting from the employer.

40 Sec. 4. (a) For purposes of this section, "wage range":

41 (1) means the wage range on which the employer anticipates
 42 relying in setting wages for a position, and may include



1 reference to:

2 (A) any applicable pay scale;

3 (B) a previously determined range of wages for the
4 position;

5 (C) the actual range of wages for those currently holding
6 comparable positions; or

7 (D) the budgeted amount of the position, as applicable; and

8 (2) may, for purposes of subsection (b), include reference to:

9 (A) any applicable pay scale;

10 (B) a previously determined range of wages for the
11 position; or

12 (C) the range of wages for incumbents in equivalent
13 positions, as applicable.

14 (b) An employer may not fail or refuse to provide to an
15 applicant for employment the wage range for the position for
16 which the applicant is applying upon the earliest of the following:

17 (1) At the applicant's request.

18 (2) Prior to or at the time the employer inquires about the
19 applicant's wage expectations.

20 (3) Prior to or at the time the employer provides the applicant
21 with an offer of compensation.

22 (c) An employer must provide to an employee the wage range
23 for the employee's job:

24 (1) at the time of hiring;

25 (2) annually after the date of hire; and

26 (3) upon the employee's request.

27 Sec. 5. (a) An:

28 (1) applicant for employment; or

29 (2) employee;

30 may file a complaint alleging a violation of this chapter with the
31 department.

32 (b) The department shall receive and investigate any complaint
33 filed under subsection (a).

34 (c) If the department finds that an employer has violated this
35 chapter, the department may do the following:

36 (1) Issue a warning for the first violation.

37 (2) Impose a civil penalty of fifty dollars (\$50) for the second
38 violation.

39 (3) Impose a civil penalty of one hundred dollars (\$100) for
40 the third violation and each subsequent violation.

41 Sec. 6. All civil penalties collected under section 5 of this chapter
42 shall be deposited in the state general fund.



1 **Sec. 7. (a) The department shall maintain a list of employers**
2 **who have four (4) or more violations under section 5 of this**
3 **chapter. The list must specify the number of violations committed**
4 **by an employer.**

5 **(b) Before January 1 of each year, the department shall provide**
6 **a copy of the list described in this section to the office of the chief**
7 **equity, inclusion, and opportunity officer.**

8 **(c) The office of the chief equity, inclusion, and opportunity**
9 **officer shall post the list described in this section on the equity data**
10 **portal.**

11 **Sec. 8. If an employer is found to have violated this chapter, the**
12 **employer shall notify its employees of the violation.**

13 **Sec. 9. The department may adopt rules under IC 4-22-2,**
14 **including emergency rules in the manner provided under**
15 **IC 4-22-2-37.1, to carry out its responsibilities under this chapter.**

