

SENATE BILL No. 314

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-19.

Synopsis: Wage history. 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. Provides for a private right of action. Allows the department of labor to investigate violations and enforce compliance.

Effective: July 1, 2021.

Yoder

January 12, 2021, read first time and referred to Committee on Pensions and Labor.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 314

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, 2021]:

4 **Chapter 19. Wage History**
5 **Sec. 1. As used in this chapter, "employer" means any**
6 **individual, partnership, association, limited liability company,**
7 **corporation, business trust, the state, or other governmental entity**
8 **or political subdivision during any work week in which it has two**
9 **(2) or more employees.**

10 **Sec. 2. As used in this chapter, "wage history" means the wages**
11 **paid to an applicant for employment by the applicant's current**
12 **employer or previous employers.**

13 **Sec. 3. (a) Except as provided in subsection (b), it is an unlawful**
14 **employment practice for an employer to do any of the following:**
15 **(1) Rely on the wage history of an applicant for employment**
16 **in considering an applicant for employment, including**
17 **requiring that the applicant's prior wages satisfy minimum or**



- 1 maximum criteria as a condition of being hired for
2 employment.
- 3 **(2) Rely on the wage history of an applicant for employment**
4 **in determining the wages of an applicant for employment to**
5 **be paid by the employer upon hire.**
- 6 **(3) Seek the wage history of an applicant for employment.**
- 7 **(b) After an employer makes an initial offer of employment with**
8 **an offer of compensation to an applicant for employment, the**
9 **employer may:**
- 10 **(1) rely on the wage history to support a wage higher than the**
11 **wage offered by the employer, if the wage history is**
12 **voluntarily provided by the applicant for employment without**
13 **prompting from the employer; and**
- 14 **(2) seek to confirm the wage history of the applicant for**
15 **employment to support a wage higher than the wage offered**
16 **by the employer when relying on the wage history as**
17 **permitted in subdivision (1).**
- 18 **(c) If an applicant authorizes the disclosure of the wage history**
19 **as permitted in subsection (b), the authorization must be in writing.**
- 20 **(d) An employer may rely on the wage history under the**
21 **circumstances described in this section only to the extent that the**
22 **higher wage does not create an unlawful pay differential based on**
23 **a protected characteristic as provided in IC 22-2-2-4.**
- 24 **(e) An employer may not conduct a search of publicly available**
25 **records or reports for the purpose of obtaining an applicant's wage**
26 **history.**
- 27 **(f) An employer may not:**
- 28 **(1) refuse to:**
- 29 **(A) interview;**
30 **(B) hire;**
31 **(C) promote; or**
32 **(D) employ; or**
- 33 **(2) retaliate against;**
- 34 **an applicant for employment because the applicant did not provide**
35 **the employer with a wage history.**
- 36 **(g) This section may not be construed to prohibit an applicant**
37 **for employment from sharing a wage history with an employer**
38 **voluntarily and without prompting from the employer.**
- 39 **Sec. 4. (a) An applicant may file a complaint alleging a violation**
40 **of this chapter with the department of labor. Upon receiving a**
41 **complaint under this section, the department of labor may:**
42 **(1) investigate the complaint; and**



1 **(2) enforce compliance if a violation of this chapter is found.**
 2 **(b) In addition to any other remedy available under this section,**
 3 **if the department of labor determines that a violation of this**
 4 **chapter occurred, the department of labor may issue an**
 5 **administrative order providing for any of the civil remedies**
 6 **described in section 5 of this chapter. The department of labor may**
 7 **adopt rules under IC 4-22-2, including emergency rules in the**
 8 **manner provided under IC 4-22-2-37.1, to carry out its**
 9 **responsibilities under this section.**

10 **Sec. 5. (a) An:**

11 **(1) applicant for employment; or**

12 **(2) employee;**

13 **who is subject to a violation of this chapter may bring a civil**
 14 **action.**

15 **(b) A court may order an award of any or all of the following to**
 16 **an individual who prevails in an action under subsection (a):**

17 **(1) The greater of:**

18 **(A) actual damages resulting from the violation; or**

19 **(B) statutory damages in an amount not to exceed ten**
 20 **thousand dollars (\$10,000).**

21 **(2) Reasonable attorney's fees, litigation expenses, and costs.**

22 **(3) Declaratory or equitable relief, including injunctive relief.**

23 **(c) The remedies and penalties set forth in subsection (b) are:**

24 **(1) cumulative; and**

25 **(2) in addition to other remedies and penalties imposed for a**
 26 **violation of this chapter.**

