

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2534

By: Walke

COMMITTEE SUBSTITUTE

An Act relating to labor; amending 40 O.S. 2011, Sections 198.1 and 198.2, which relate to discriminatory wages; prohibiting certain actions by employer; increasing penalties; authorizing recovery of costs; providing exceptions; and providing an effective date.

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2 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

3 SECTION 1. AMENDATORY 40 O.S. 2011, Section 198.1, is
4 amended to read as follows:
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6 Section 198.1 ~~It shall be unlawful for any A. No~~ employer
7 within the State of Oklahoma ~~to willfully pay wages to women~~
8 ~~employees at a rate less than the rate at which he pays any employee~~
9 ~~of the opposite sex for comparable work on jobs which have~~
10 ~~comparable requirements relating to skill, effort and~~
11 ~~responsibility, except where such payment is made pursuant to a~~
12 ~~seniority system; a merit system; a system which measures earnings~~
13 ~~by quantity or quality of production; or a differential based on any~~
14 ~~factor other than sex~~ shall discriminate in any way in the payment
15 of wages, benefits or other compensation, as between the sexes, or
16 pay any employee a salary or wage at rates less than the rates paid
17 to employees of the opposite sex for work of like or comparable
18 character or work on like or comparable operations; provided,
19 however, that variations in wages, benefits or other compensations,
20 shall not be prohibited if based upon:

21 1. A system that rewards seniority with the employer; provided
22 however, that time spent on leave due to a pregnancy-related
23 condition and federally protected parental, family and medical leave
24 shall not reduce seniority;

1 2. A merit system;

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3 3. A system which measures earnings by quantity or quality of
4 production or sales;

5 4. The geographic location in which a job is performed;

6 5. Education, training or experience to the extent such factors
7 are reasonably related to the particular job in question and
8 consistent with business necessity;

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10 6. Travel, if the travel is a regular and necessary condition
11 of the particular job; or

12 7. A differential based on any factor other than sex, so long
13 as the differential is based on a factor reasonably related to the
14 performance of the work.

15 B. An employer who is paying a wage differential in violation
16 of this section shall not reduce the pay of any employee in order to
17 comply with this section.

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19 C. Any action based upon or arising pursuant to this section
20 shall be instituted within three (3) years of the employee becoming
21 aware of the alleged violation. For purposes of this section, a
22 violation occurs when a discriminatory compensation decision is
23 adopted or when an employee becomes subject to a discrimination
24 decision.

1 D. The employer shall not discharge or in any other manner
2 discriminate against an employee who inquires about or discusses his
3 or her own pay or the pay of another employee. However, employees
4 who have access to the compensation information of other employees
5 or applicants as part of their essential job functions shall not
6 disclose the pay of other employees to individuals who do not
7 otherwise have access to the compensation information, unless the
8 disclosure is:

9 1. In response to a formal complaint or charge;

10 2. In furtherance of an investigation, proceedings, hearing or
11 action, including an investigation conducted by the employer; or

12 3. Consistent with the employer's legal duty to furnish
13 information.

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15 SECTION 2. AMENDATORY 40 O.S. 2011, Section 198.2, is
16 amended to read as follows:

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18 Section 198.2 It shall be the duty of the Commissioner of Labor
19 to enforce the provisions of this act. Whenever the Commissioner is
20 informed of any violations thereof, it shall be his or her duty to
21 investigate ~~same~~ and, in his or her discretion, ~~said the~~
22 Commissioner is hereby authorized to ~~institute proceedings for the~~
23 ~~enforcement of penalties herein provided before any court of~~
24 ~~competent jurisdiction. Any employer who violates the provisions of~~

1 ~~this act shall be deemed guilty of a misdemeanor and shall upon~~
2 ~~conviction thereof, be punished by a~~ issue an administrative fine of
3 not less than ~~Twenty-five Dollars (\$25.00)~~ Fifty Dollars (\$50.00)
4 nor more than ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars
5 (\$200.00) for employers with twenty-five or fewer full-time
6 employees or Five Hundred Dollars (\$500.00) for employers with more
7 than twenty-five full-time employees. In addition, upon a finding
8 by the Commissioner of Labor of a violation under this act, the
9 employer shall pay any back pay found to be owed to the employee.

10 SECTION 3. This act shall become effective November 1, 2018.

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