

216.6A Additional unfair or discriminatory practice — wage discrimination in employment.

1. *a.* The general assembly finds that the practice of discriminating against any employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such employee by paying wages to such employee at a rate less than the rate paid to other employees does all of the following:

- (1) Unjustly discriminates against the person receiving the lesser rate.
- (2) Leads to low employee morale, high turnover, and frequent labor unrest.
- (3) Discourages employees paid at lesser wage rates from training for higher level jobs.
- (4) Curtails employment opportunities, decreases employees' mobility, and increases labor costs.
- (5) Impairs purchasing power and threatens the maintenance of an adequate standard of living by such employees and their families.
- (6) Prevents optimum utilization of the state's available labor resources.
- (7) Threatens the well-being of citizens of this state and adversely affects the general welfare.

b. The general assembly declares that it is the policy of this state to correct and, as rapidly as possible, to eliminate, discriminatory wage practices based on age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, and disability.

2. *a.* It shall be an unfair or discriminatory practice for any employer or agent of any employer to discriminate against any employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such employee by paying wages to such employee at a rate less than the rate paid to other employees who are employed within the same establishment for equal work on jobs, the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions. An employer or agent of an employer who is paying wages to an employee at a rate less than the rate paid to other employees in violation of this section shall not remedy the violation by reducing the wage rate of any employee.

b. For purposes of this subsection, an unfair or discriminatory practice occurs when a discriminatory pay decision or other practice is adopted, when an individual becomes subject to a discriminatory pay decision or other practice, or when an individual is affected by application of a discriminatory pay decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

3. It shall be an affirmative defense to a claim arising under this section if any of the following applies:

- a.* Payment of wages is made pursuant to a seniority system.
- b.* Payment of wages is made pursuant to a merit system.
- c.* Payment of wages is made pursuant to a system which measures earnings by quantity or quality of production.
- d.* Pay differential is based on any other factor other than the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such employee.

4. This section shall not apply to any employer who regularly employs less than four individuals. For purposes of this subsection, individuals who are members of the employer's family shall not be counted as employees.

2009 Acts, ch 96, §2; 2010 Acts, ch 1069, §26