

FILED MAR 11 1999

SENATE FILE

415

BY DEARDEN, DVORSKY, SZYMONIAK,  
HAMMOND, GRONSTAL, FINK, SOUKUP,  
and BOLKCOM

(COMPANION TO LSB 2618HH  
BY TAYLOR)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to wage discrimination by providing for the  
2 determination of wage discrimination, applicable remedies, and  
3 providing an effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20

SF 415  
BUSINESS & LABOR

1 Section 1. ~~NEW SECTION.~~ 91F.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise  
3 provides:

4 1. "Employ" means to engage or permit to work.

5 2. "Employee" means a person employed by an employer and  
6 includes all of an employer's year-round employees, whether  
7 working full-time or part-time, and any temporary employee  
8 employed by an employer for a period of at least three months.  
9 "Employee" shall not include an individual employed by the  
10 individual's parent, spouse, or child.

11 3. "Employer" means a person who employs three or more  
12 persons and includes the state and all political subdivisions  
13 of the state.

14 4. "Equivalent jobs" means jobs or occupations that are  
15 equal within the meaning of the federal Equal Pay Act of 1963,  
16 29 U.S.C. § 206(d), or jobs or occupations that are dissimilar  
17 but whose requirements are equivalent, when viewed as a  
18 composite of skills, effort, responsibility, and working  
19 conditions.

20 5. "Labor organization" means an organization that exists  
21 for the purpose, in whole or in part, of collective bargaining  
22 or of dealing with employers concerning grievances, terms of  
23 conditions of employment, or of other mutual aid or protection  
24 in connection with employment.

25 6. "Market rates" means the rates that employers within a  
26 prescribed geographic area actually pay, or are reported to  
27 pay, for specific jobs, as determined by formal or informal  
28 surveys, wage studies, or other means.

29 7. "Wages" and "wage rates" include all compensation in  
30 any form that an employer provides to employees in payment for  
31 work done or services rendered, including but not limited to  
32 base pay, bonuses, commissions, awards, tips, or various forms  
33 of nonmonetary compensation if provided in lieu of or in  
34 addition to monetary compensation and that have economic value  
35 to an employee.

1     Sec. 2. NEW SECTION. 91F.2 WAGE DISCRIMINATION  
2 PROHIBITION.

3     1. It shall be an unlawful employment practice in  
4 violation of this chapter for an employer to discriminate  
5 between employees on the basis of sex, race, or national  
6 origin by doing any of the following:

7     a. Paying wages to employees at a rate less than the rate  
8 paid to employees of the opposite sex or of a different race  
9 or national origin for work in equivalent jobs.

10    b. Paying wages to employees in a job that is dominated by  
11 employees of a particular sex, race, or national origin at a  
12 rate less than the rate at which such employer pays to  
13 employees in another job that is dominated by employees of the  
14 opposite sex or of a different race or national origin, for  
15 work on equivalent jobs.

16    2. However, it shall not be an unlawful employment  
17 practice under this section for an employer to pay different  
18 wage rates to employees, where such payments are made pursuant  
19 to any of the following:

20    a. A bona fide seniority or merit system.

21    b. A system that measures earnings by quantity or quality  
22 of production.

23    c. A bona fide factor other than sex, race, or national  
24 origin. However, wage differentials based on varying market  
25 rates for equivalent jobs or based on the differing economic  
26 benefits to the employer of equivalent jobs shall not be  
27 considered to be based on a bona fide factor other than sex,  
28 race, or national origin.

29    3. An employer who is paying wages in violation of this  
30 section shall not, in order to comply with the provisions of  
31 this section, reduce the wage of any employee.

32    4. A labor organization or its agents representing  
33 employees of an employer having employees subject to any  
34 provision of this chapter shall not cause or attempt to cause  
35 such an employer to discriminate against an employee in

1 violation of subsection 1.  
 2 5. The labor commissioner shall adopt rules specifying the  
 3 criteria for determining whether a job is dominated by  
 4 employees of a particular sex, race, or national origin.  
 5 Criteria shall include, but not be limited to, factors such as  
 6 whether the job has ever been formally classified as or  
 7 traditionally considered to be a male or female or white or  
 8 minority job; whether a history of discrimination exists  
 9 against women or people of color with regard to wages,  
 10 assignment, or access to jobs, or other terms and conditions  
 11 of employment; and the demographic composition of the  
 12 workforce in equivalent jobs. The rules shall not include a  
 13 list of jobs.

14 Sec. 3. NEW SECTION. 91F.3 OTHER PROHIBITED ACTS.

15 It shall be an unlawful employment practice in violation of  
 16 this chapter for an employer to do any of the following:

17 1. Take adverse actions or otherwise discriminate against  
 18 an individual because such individual has opposed any act or  
 19 practice made unlawful by this chapter; has sought to enforce  
 20 rights protected under this chapter; or has testified,  
 21 assisted, or participated in any manner in an investigation,  
 22 hearing, or other proceeding to enforce this chapter.

23 2. Discharge or in any other manner discriminate against,  
 24 coerce, intimidate, threaten, or interfere with an employee or  
 25 another person because the employee inquired about, disclosed,  
 26 compared, or otherwise discussed the employee's wages or the  
 27 wages of any other employee, or because the employee  
 28 exercised, enjoyed, aided, or encouraged another person to  
 29 exercise or enjoy any right granted or protected by this  
 30 chapter.

31 Sec. 4. NEW SECTION. 91F.4 WAGE DISCLOSURE,  
 32 RECORDKEEPING, AND REPORTING REQUIREMENTS.

33 1. Upon commencement of an individual's employment and at  
 34 least annually thereafter, the individual's employer subject  
 35 to this chapter shall provide to the employee a written

1 statement sufficient to inform the employee of the employee's  
2 job title, wage rate, and how the wage is calculated. This  
3 notice shall be supplemented whenever an employee is promoted  
4 or reassigned to a different position with the employer.  
5 However, the employer is not required to issue supplemental  
6 notifications for temporary reassignments that are no greater  
7 than three months in duration.

8 2. An employer subject to this chapter shall make and  
9 preserve records that document the wages paid to employees and  
10 that document and support the method, system, calculations,  
11 and other bases used to establish, adjust, and determine the  
12 wage rates paid to employees. An employer subject to this  
13 chapter shall preserve such records for such periods of time  
14 and shall make such reports from the records as shall be  
15 prescribed by rules or orders of the labor commissioner.

16 3. The rules adopted under this chapter, relating to the  
17 form of reports required by subsection 2, shall provide for  
18 protection of the confidentiality of employees, and shall  
19 expressly require that reports shall not include the names or  
20 other identifying information from which readers could discern  
21 the identities of employees. The rules may also identify  
22 circumstances that warrant a prohibition on disclosure of  
23 reports or information identifying the employer.

24 4. The labor commissioner may use the information and data  
25 collected pursuant to subsection 2 for statistical and  
26 research purposes, and may compile and publish such studies,  
27 analyses, report, and surveys based on the information and  
28 data, as appropriate.

29 Sec. 5. NEW SECTION. 91F.5 REMEDIES AND ENFORCEMENT.

30 1. a. In an action in which a court finds that an  
31 employer has engaged in acts that violate this chapter, the  
32 court shall award to an affected employee or employees  
33 monetary relief, including back pay in an amount equal to the  
34 difference between the employee's actual earnings and what the  
35 employee would have earned but for the employer's unlawful

1 practices, and an additional amount in compensatory and  
2 punitive damages, as appropriate.

3 b. In an action in which a court finds that an employer  
4 has engaged in acts that violate this chapter, the court shall  
5 enjoin the employer from continuing to discriminate against an  
6 affected employee or employees and shall direct the employer  
7 to comply with this chapter, and may order the employer to  
8 take such additional affirmative steps as are necessary,  
9 including reinstatement or reclassification of an affected  
10 employee or employees, to ensure an end to unlawful  
11 discrimination.

12 c. In an action in which an affected employee or employees  
13 prevail in their claims against an employer, the court shall,  
14 in addition to any judgment awarded to the plaintiffs, order  
15 the employer to pay a reasonable attorney fee, reasonable  
16 expert witness fees, and costs of the action.

17 2. a. An action to recover the damages or equitable  
18 relief prescribed in subsection 1 may be maintained against an  
19 employer in any court of competent jurisdiction by one or more  
20 employees or their representative on their own behalf or on  
21 their own behalf and the behalf of other employees similarly  
22 situated.

23 b. (1) The labor commissioner shall receive, investigate,  
24 and attempt to resolve complaints of violations of this  
25 chapter.

26 (2) If the labor commissioner is unable to reach a  
27 voluntary resolution of a complaint, the labor commissioner  
28 may bring an action in any court of competent jurisdiction to  
29 recover the equitable and monetary relief described in  
30 subsection 1.

31 (3) Any sums recovered by the labor commissioner pursuant  
32 to this paragraph "b" shall be paid directly to each employee  
33 affected by the employer's unlawful acts.

34 c. An action may be brought under this section not later  
35 than two years after the date of the last event constituting

1 the alleged violation for which the action is brought.

2 Sec. 6. EFFECTIVE DATE. This Act, being deemed of  
3 immediate importance, takes effect upon enactment.

4 EXPLANATION

5 This bill creates a new Code chapter governing wage  
6 discrimination.

7 The bill makes it unlawful for an employer to pay wages  
8 that discriminate between employees based on sex, race, or  
9 national origin unless the differences are due to a valid  
10 factor unrelated to sex, race, or national origin. The bill  
11 also makes it unlawful for an employer to take action against  
12 a person exercising their rights pursuant to this new chapter.

13 The bill requires employers, on an annual basis, to provide  
14 employees with information on how their wage is calculated.  
15 The bill also requires employers to maintain records  
16 concerning wages paid to employees.

17 The bill permits an affected employee to maintain an action  
18 against an employer who violates this chapter and to obtain  
19 damages, seek an injunction, and be awarded witness and  
20 attorney fees. The bill also permits employees to maintain an  
21 action on behalf of other employees. In addition, the labor  
22 commissioner is granted the authority to resolve complaints  
23 arising out of this chapter and to maintain a civil action for  
24 monetary and equitable relief.

25 This bill takes effect upon enactment.

26  
27  
28  
29  
30  
31  
32  
33  
34  
35