

# Senate File 137 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON STATE GOVERNMENT  
(SUCCESSOR TO SSB 1089)

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

## A BILL FOR

1 An Act providing that wage discrimination is an unfair employment  
2 practice under the Iowa civil rights Act and providing an  
3 enhanced remedy.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1394SV 83  
6 ec/nh/24

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1 1 Section 1. Section 216.2, subsection 15, Code 2009, is  
1 2 amended to read as follows:  
1 3 15. "Unfair practice" or "discriminatory practice" means  
1 4 those practices specified as unfair or discriminatory in  
1 5 sections 216.6, 216.6A, 216.7, 216.8, 216.8A, 216.9, 216.10,  
1 6 216.11, and 216.11A.  
1 7 Sec. 2. NEW SECTION. 216.6A ADDITIONAL UNFAIR OR  
1 8 DISCRIMINATORY PRACTICE == WAGE DISCRIMINATION IN EMPLOYMENT.  
1 9 1. a. The general assembly finds that the practice of  
1 10 discriminating against any employee because of the age, race,  
1 11 creed, color, sex, sexual orientation, gender identity,  
1 12 national origin, religion, or disability of such employee by  
1 13 paying wages to such employee at a rate less than the rate  
1 14 paid to other employees does all of the following:  
1 15 (1) Unjustly discriminates against the person receiving  
1 16 the lesser rate.  
1 17 (2) Leads to low employee morale, high turnover, and  
1 18 frequent labor unrest.  
1 19 (3) Discourages employees paid at lesser wage rates from  
1 20 training for higher level jobs.  
1 21 (4) Curtails employment opportunities, decreases  
1 22 employees' mobility, and increases labor costs.  
1 23 (5) Impairs purchasing power and threatens the maintenance  
1 24 of an adequate standard of living by such employees and their  
1 25 families.  
1 26 (6) Prevents optimum utilization of the state's available  
1 27 labor resources.  
1 28 (7) Threatens the well-being of citizens of this state and  
1 29 adversely affects the general welfare.  
1 30 b. The general assembly declares that it is the policy of  
1 31 this state to correct and, as rapidly as possible, to  
1 32 eliminate, discriminatory wage practices based on age, race,  
1 33 creed, color, sex, sexual orientation, gender identity,  
1 34 national origin, religion, and disability.  
2 1 2. a. It shall be an unfair or discriminatory practice  
2 2 for any employer or agent of any employer to discriminate  
2 3 against any employee because of the age, race, creed, color,  
2 4 sex, sexual orientation, gender identity, national origin,  
2 5 religion, or disability of such employee by paying wages to  
2 6 such employee at a rate less than the rate paid to other  
2 7 employees who are employed within the same establishment for  
2 8 equal work on jobs, the performance of which requires equal  
2 9 skill, effort, and responsibility, and which are performed  
2 10 under similar working conditions. An employer or agent of an  
2 11 employer who is paying wages to an employee at a rate less  
2 12 than the rate paid to other employees in violation of this  
2 13 section shall not remedy the violation by reducing the wage  
2 14 rate of any employee.  
2 15 b. For purposes of this subsection, an unfair or  
2 16 discriminatory practice occurs when a discriminatory pay

2 16 decision or other practice is adopted, when an individual  
2 17 becomes subject to a discriminatory pay decision or other  
2 18 practice, or when an individual is affected by application of  
2 19 a discriminatory pay decision or other practice, including  
2 20 each time wages, benefits, or other compensation is paid,  
2 21 resulting in whole or in part from such a decision or other  
2 22 practice.

2 23 3. It shall be an affirmative defense for a claim arising  
2 24 under this section if any of the following applies:

2 25 a. Payment of wages is made pursuant to a seniority  
2 26 system.

2 27 b. Payment of wages is made pursuant to a merit system.

2 28 c. Payment of wages is made pursuant to a system which  
2 29 measures earnings by quantity or quality of production.

2 30 d. Pay differential is based on any other factor other  
2 31 than the age, race, creed, color, sex, sexual orientation,  
2 32 gender identity, national origin, religion, or disability of  
2 33 such employee.

2 34 4. This section shall not apply to any employer who  
2 35 regularly employs less than four individuals. For purposes of  
3 1 this subsection, individuals who are members of the employer's  
3 2 family shall not be counted as employees.

3 3 Sec. 3. Section 216.15, subsection 8, paragraph a,  
3 4 subparagraph (8), Code 2009, is amended to read as follows:

3 5 (8) (a) Payment to the complainant of damages for an  
3 6 injury caused by the discriminatory or unfair practice which  
3 7 damages shall include but are not limited to actual damages,  
3 8 court costs and reasonable attorney fees.

3 9 (b) For an unfair or discriminatory practice relating to  
3 10 wage discrimination pursuant to section 216.6A, damages under  
3 11 this subparagraph (8) include but are not limited to court  
3 12 costs, reasonable attorney fees, and an amount equal to twice  
3 13 the wage differential paid to another employee compared to the  
3 14 complainant for the period of time for which the complainant  
3 15 has been discriminated against, or, in instances of willful  
3 16 violation, an amount equal to three times the wage  
3 17 differential paid to another employee as compared to the  
3 18 complainant for the applicable period of time.

3 19 EXPLANATION

3 20 This bill provides that discrimination against any employee  
3 21 on the basis of pay because of the age, race, creed, color,  
3 22 sex, sexual orientation, gender identity, national origin,  
3 23 religion, or disability of such employee is an unfair  
3 24 employment practice under the Iowa civil rights Act. The bill  
3 25 provides that an unfair or discriminatory practice occurs  
3 26 relative to wage discrimination when a discriminatory pay  
3 27 decision is made, when an individual becomes subject to a  
3 28 discriminatory pay decision, or when an individual is affected  
3 29 by application of a discriminatory pay decision or other  
3 30 practice, including each time wages, benefits, or other  
3 31 compensation is paid, resulting in whole or in part from such  
3 32 a decision or practice. The bill provides that it shall be an  
3 33 affirmative defense to a claim if payment of wages is made  
3 34 pursuant to a seniority system, a merit system, a system which  
3 35 measures earnings by quantity or quality of production, or is  
4 1 based on any other factor other than the age, race, creed,  
4 2 color, sex, sexual orientation, gender identity, national  
4 3 origin, religion, or disability of such employee. The bill  
4 4 also provides that the bill does not apply to employers who  
4 5 regularly employ fewer than four individuals. The bill does  
4 6 provide that reducing the wage rate of an employee does not  
4 7 remedy any potential violation for wage discrimination.

4 8 The bill also authorizes the civil rights commission to  
4 9 award damages to a person subject to wage discrimination in an  
4 10 amount double the wage differential paid to any other employee  
4 11 compared to the complainant for the period of time for which  
4 12 the complainant has been discriminated, and, in instances of  
4 13 willful violation, up to three times that wage differential  
4 14 amount.

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