

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2462

By: Dunnington

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5
6 AS INTRODUCED

7 An Act relating to labor; amending 40 O.S 2011,
8 Sections 198.1 and 198.2, which relate to
9 discriminatory wages; prohibiting discrimination in
10 payment of wages, benefits or other compensation
11 based on gender; providing exceptions to prohibition;
12 changing fine to an administrative fine; modifying
13 amount of fines; and providing an effective date.

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

15 SECTION 1. AMENDATORY 40 O.S. 2011, Section 198.1, is
16 amended to read as follows:

17 Section 198.1 ~~It shall be unlawful for any~~ A. No employer
18 ~~within the State of Oklahoma to willfully pay wages to women~~
19 ~~employees at a rate~~ shall discriminate in any way in the payment of
20 wages, benefits or other compensation, as between the sexes, or pay
21 any person in the employ of the employer salary or wage rates less
22 than the rate at which he pays any employee rates paid to employees
23 of the opposite sex for comparable work on jobs which have
24 comparable requirements relating to skill, effort and
~~responsibility, except where such payment is made pursuant to a~~

1 seniority of like or comparable character or work on like or
2 comparable operations; provided, however, that variations in wages,
3 benefits or other compensation shall not be prohibited if based
4 upon:

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

9 2. A merit system; a

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

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

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

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

18 7. A differential based on any factor other than sex.

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

22 C. Any action based upon or arising under this section must be
23 instituted within two (2) years after the date of the alleged
24 violation. For purposes of this section, a violation occurs when a

1 discriminatory compensation decision is adopted, or when an employee
2 becomes subject to a discrimination decision.

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

- 11 1. In response to a formal complaint or charge;
- 12 2. In furtherance of an investigation, proceeding, hearing or
13 action, including an investigation conducted by the employer; or
- 14 3. Consistent with the employer's legal duty to furnish
15 information.

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

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~~ assess an administrative fine
3 of 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, 2019.

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12 57-1-5463 LRB 12/6/18
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