

REFERENCE TITLE: **wages rates; variations**

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1659

Introduced by
Senators Gonzales: Quezada, Steele, Terán

AN ACT

AMENDING SECTION 23-341, ARIZONA REVISED STATUTES; RELATING TO EQUAL WAGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 23-341, Arizona Revised Statutes, is amended to read:

23-341. Equal wage rates; variations; penalties; enforcement

A. Notwithstanding the other provisions of this chapter, ~~no~~ AN employer ~~shall~~ MAY NOT pay any person in ~~his~~ THE EMPLOYER'S employ at wage rates less than the rates paid to employees of the opposite sex in the same establishment for ~~the same quantity and quality of the same classification of work, provided, that nothing herein shall prohibit a variation of rates of pay for male and female employees engaged in the same classification of work based upon a difference in seniority, length of service, ability, skill, difference in duties or services performed, whether regularly or occasionally, difference in the shift or time of day worked, hours of work, or restrictions or prohibitions on lifting or moving objects in excess of specified weight, or other reasonable differentiation, factor or factors other than sex, when exercised in good faith.~~ SUBSTANTIALLY SIMILAR WORK, WHEN VIEWED AS A COMPOSITE OF SKILL, EFFORT AND RESPONSIBILITY AND PERFORMED UNDER SIMILAR WORKING CONDITIONS, UNLESS THE EMPLOYER CAN DEMONSTRATE:

1. A WAGE RATE DIFFERENTIAL BASED ON ONE OR MORE OF THE FOLLOWING FACTORS:

(a) A SENIORITY SYSTEM.

(b) A MERIT SYSTEM.

(c) A SYSTEM THAT MEASURES EARNINGS BY QUANTITY OR QUALITY OF PRODUCTION.

(d) A BONA FIDE FACTOR OTHER THAN SEX, SUCH AS EDUCATION, TRAINING OR EXPERIENCE. THIS FACTOR APPLIES ONLY IF THE EMPLOYER DEMONSTRATES THAT THE FACTOR IS NOT BASED ON OR DERIVED FROM A SEX-BASED DIFFERENTIAL IN WAGE RATES, IS RELATED TO THE EMPLOYMENT POSITION IN QUESTION AND IS CONSISTENT WITH A BUSINESS NECESSITY. THIS FACTOR DOES NOT APPLY IF THE EMPLOYEE DEMONSTRATES THAT AN ALTERNATIVE BUSINESS PRACTICE EXISTS THAT WOULD SERVE THE SAME BUSINESS NECESSITY WITHOUT PRODUCING THE WAGE RATE DIFFERENTIAL.

B. AN EMPLOYER WHO IS IN VIOLATION OF SUBSECTION A OF THIS SECTION MAY NOT REDUCE THE WAGE RATE OF ANY EMPLOYEE IN ORDER TO COMPLY WITH SUBSECTION A OF THIS SECTION.

~~B.~~ C. Any employer ~~who~~ THAT violates subsection A of this section is liable to the employee affected in the amount of the wages of which ~~such~~ THE employee is deprived by reason of ~~such~~ THE violation.

~~C.~~ D. Any affected employee may register with the commission a complaint that the wages paid to ~~such~~ THAT employee are less than the wages to which ~~such~~ THAT employee is entitled under this section.

E. NOTWITHSTANDING ANY OTHER LAW, A LABOR ORGANIZATION OR ITS AGENTS MAY NOT CAUSE OR ATTEMPT TO CAUSE AN EMPLOYER TO ACT IN VIOLATION OF THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION, "LABOR

1 ORGANIZATION" MEANS ANY ORGANIZATION OF ANY KIND, OR AN AGENCY OR EMPLOYEE
2 REPRESENTATION COMMITTEE OR PLAN, IN WHICH EMPLOYEES PARTICIPATE AND THAT
3 EXISTS FOR THE PURPOSE, IN WHOLE OR IN PART, OF DEALING WITH EMPLOYERS
4 CONCERNING GRIEVANCES, LABOR DISPUTES, WAGES, RATES OF PAY, HOURS OF
5 EMPLOYMENT OR CONDITIONS OF WORK.

6 ~~D.~~ F. The commission shall take all proceedings necessary to
7 enforce the payment of any sums found to be due and unpaid to such
8 employees.

9 ~~E.~~ G. Any employee receiving less than the wage to which ~~such~~ THE
10 employee is entitled under this section may recover in a civil action the
11 balance of such wages, together with the costs of suit, notwithstanding
12 any agreement to work for a lesser wage.

13 ~~F.~~ H. Any action based ~~upon~~ ON or arising under this section shall
14 be instituted within six months after the date of the alleged violation,
15 but ~~in no event shall any~~ AN employer ~~be~~ IS NOT liable for any pay due
16 under this section for more than thirty days ~~prior to~~ BEFORE receipt by
17 the employer of written notice of claim ~~thereof~~ OF THE VIOLATION from the
18 employee.

19 ~~G.~~ I. The burden of proof ~~shall be upon~~ IS ON the person bringing
20 the claim to establish that the differentiation in rate of pay is based
21 ~~upon~~ ON the factor of sex and not ~~upon~~ ON other differences, factor or
22 factors.