

1 HB225  
2 197045-1  
3 By Representatives Clarke, Bracy, Hollis, Forte, McCampbell,  
4 Drummond, Alexander, Warren, Gray, Boyd, Coleman, Morris,  
5 Hatcher, Lawrence, Rafferty, Scott, Shiver, Rowe, Hall,  
6 Nordgren, Shaver, Wood (D), Collins, Moore (M), Wilcox, Givan,  
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8 RFD: Commerce and Small Business  
9 First Read: 19-MAR-19

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8 SYNOPSIS: Existing federal law requires employers to  
9 pay men and women equally for doing the same work.

10 This bill would prohibit an employer from  
11 paying any of its employees at wage rates less than  
12 those paid to employees of another sex or race for  
13 substantially similar work when viewed as a  
14 composite of skill, effort, and responsibility, as  
15 specified.

16 This bill would allow the employer to  
17 affirmatively demonstrate that a wage differential  
18 is based upon one or more specified factors,  
19 including a seniority system, a merit system, a  
20 system that measures earnings by quantity or  
21 quality of production, or a bona fide factor other  
22 than sex or race, as specified.

23 This bill would also require the employer to  
24 demonstrate that each factor relied upon is applied  
25 reasonably and that the one or more factors relied  
26 upon account for the entire differential.

1           This bill would prohibit an employer from  
2           discharging, or in any manner discriminating or  
3           retaliating against, any employee by reason of any  
4           action taken by the employee to invoke or assist in  
5           any manner the enforcement of these provisions.

6           This bill would allow an employee who has  
7           been discharged, discriminated against, or  
8           retaliated against because of wage inequality by  
9           his or her employer to bring a civil action against  
10          the employer for reinstatement and reimbursement  
11          for lost wages and work benefits caused by the acts  
12          of the employer, including interest thereon, as  
13          well as appropriate equitable relief.

14          This bill would provide that an employer may  
15          not prohibit an employee from disclosing the  
16          employee's own wages, discussing the wages of  
17          others, inquiring about another employee's wages,  
18          or aiding or encouraging any other employee to  
19          exercise his or her rights under these provisions.

20          This bill would require an employer to  
21          maintain a record of wages paid to his or her  
22          employee for a certain amount of time.

23  
24                           A BILL  
25                           TO BE ENTITLED  
26                           AN ACT  
27

1           Relating to wages; to prohibit an employer from  
2 paying any of its employees at wage rates less than those paid  
3 to employees of another sex or race for substantially similar  
4 work; to require an employer to affirmatively demonstrate that  
5 a wage differential is based upon one or more specified  
6 factors; to prohibit an employer from discharging or in any  
7 manner discriminating against or retaliating against an  
8 employee for the enforcement of these provisions; to provide  
9 for administrative relief and for a private civil cause of  
10 action; to provide that an employer may not prohibit an  
11 employee from disclosing the employee's own wages, discussing  
12 the wages of others, inquiring about another employee's wages,  
13 or aiding or encouraging any other employee to exercise his or  
14 her rights under these provisions; and to require an employer  
15 to maintain a record of wages paid to his or her employee for  
16 a certain amount of time.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18           Section 1. (a) An employer may not pay any of its  
19 employees at wage rates less than the rates paid to employees  
20 of another sex or race for substantially similar work, when  
21 viewed as a composite of skill, effort, and responsibility,  
22 and performed under similar working conditions, except where  
23 the employer demonstrates:

24                   (1) The wage differential is based upon one or more  
25 of the following factors:

26                           a. A seniority system.

27                           b. A merit system.

1           c. A system that measures earnings by quantity or  
2 quality of production.

3           d. A bona fide factor other than sex or race, such  
4 as education, training, or experience. This factor shall apply  
5 only if the employer demonstrates that the factor is not based  
6 on or derived from a sex or race-based differential in  
7 compensation, is job-related with respect to the position in  
8 question, and is consistent with a business necessity. For  
9 purposes of this paragraph, "business necessity" means an  
10 overriding legitimate business purpose such that the factor  
11 relied upon effectively fulfills the business purpose it is  
12 supposed to serve. This defense shall not apply if the  
13 employee demonstrates that an alternative business practice  
14 exists that would serve the same business purpose without  
15 producing the wage differential.

16           (2) Each factor relied upon is applied reasonably.

17           (3) The one or more factors relied upon account for  
18 the entire wage differential.

19           (b) Any employer who violates subsection (a) is  
20 liable to the employee affected in the amount of the wages,  
21 and interest thereon, of which the employee is deprived by  
22 reason of the violation, and an additional equal amount as  
23 liquidated damages.

24           (c) Every employer shall maintain records of the  
25 wages and wage rates, job classifications, and other terms and  
26 conditions of employment of the persons employed by the

1 employer. All of the records shall be kept on file for a  
2 period of three years.

3 (d) If an employee recovers amounts due the employee  
4 under subsection (b), and also files a complaint or brings an  
5 action under subsection (d) of Section 206 of Title 29 of the  
6 United States Code which results in an additional recovery  
7 under federal law for the same violation, the employee shall  
8 return to the employer the amounts recovered under subsection  
9 (b), or the amounts recovered under federal law, whichever is  
10 less.

11 (e) (1) An employer may not discharge, or in any  
12 manner discriminate against or retaliate against, any employee  
13 by reason of any action taken by the employee to invoke or  
14 assist in any manner the enforcement of this section. An  
15 employer may not prohibit an employee from disclosing the  
16 employee's own wages, discussing the wages of others,  
17 inquiring about another employee's wages, or aiding or  
18 encouraging any other employee to exercise his or her rights  
19 under this section. Nothing in this section creates an  
20 obligation to disclose wages.

21 (2) Any employee who has been discharged,  
22 discriminated against, or retaliated against, in the terms and  
23 conditions of his or her employment because the employee  
24 engaged in any conduct delineated in this section may bring a  
25 civil action for reinstatement and reimbursement for lost  
26 wages and work benefits caused by the acts of the employer,

1 including interest thereon, as well as appropriate equitable  
2 relief.

3 (3) A civil action brought under this subsection may  
4 be commenced no later than one year after the cause of action  
5 occurs.

6 Section 2. This act shall become effective on the  
7 first day of the third month following its passage and  
8 approval by the Governor, or its otherwise becoming law.