

STATE OF MARYLAND
DEPARTMENT OF LABOR, LICENSING AND REGULATION
DIVISION OF LABOR AND INDUSTRY
1100 N. EUTAW STREET • ROOM 606 • BALTIMORE, MARYLAND 21202

EQUAL PAY FOR EQUAL WORK
Labor and Employment Article – Title 3, Subtitle 3
Annotated Code of Maryland

Subtitle 3. Equal Pay for Equal Work.

§ 3-301. Definitions.

(a) *In general.* - In this subtitle the following words have the meanings indicated.

(b) *Employer.* -

(1) "Employer" means:

- (i) a person engaged in a business, industry, profession, trade, or other enterprise in the State;
- (ii) the State and its units;
- (iii) a county and its units; and
- (iv) a municipal government in the State.

(2) "Employer" includes a person who acts directly or indirectly in the interest of another employer with an employee.

(c) *Wage.* -

(1) "Wage" means all compensation for employment.

(2) "Wage" includes board, lodging, or other advantage provided to an employee for the convenience of the employer.

§ 3-302. Scope of subtitle.

This subtitle applies to an employer of both men and women in a lawful enterprise.

§ 3-303. Miscellaneous powers of Commissioner.

In addition to any powers set forth elsewhere, the Commissioner may:

(1) use informal methods of conference, conciliation, and persuasion to eliminate pay practices that are unlawful under this subtitle; and

(2) supervise the payment of a wage owing to an employee under this subtitle.

§ 3-304. Equal pay for equal work.

(a) *In general.* - An employer may not discriminate between employees in any occupation by paying a wage to employees of 1 sex at a rate less than the rate paid to employees of the opposite sex if both employees work in the same establishment and perform work of comparable character or work on the same operation, in the same business, or of the same type.

(b) *Effect of requirement.* - Subsection (a) of this section does not prohibit a variation in a wage that is based on:

- (1) a seniority system that does not discriminate on the basis of sex;
- (2) a merit increase system that does not discriminate on the basis of sex;
- (3) jobs that require different abilities or skills;
- (4) jobs that require the regular performance of different duties or services; or
- (5) work that is performed on different shifts or at different times of day.

(c) *Reduction in wages.* - An employer who is paying a wage in violation of this subtitle may not reduce another wage to comply with this subtitle.

§ 3-305. Records and reports.

(a) *Records.* -

(1) Each employer shall keep each record that the Commissioner requires on:

- (i) wages of employees;
- (ii) job classifications of employees; and
- (iii) other conditions of employment.

(2) An employer shall keep the records required under this subsection for the period of time that the Commissioner requires.

(b) *Reports.* - On the basis of the records required under this section, an employer shall make each report that the Commissioner requires.

§ 3-306. Copies and posting of subtitle.

(a) *Copies.* - On request of an employer, the Commissioner shall provide without charge a copy of this subtitle to the employer.

(b) *Posting.* - Each employer shall keep posted conspicuously in each place of employment a copy of this subtitle.

§ 3-307. Action against employer by or for employee.

(a) *Action by employee.* -

(1) If an employer violates this subtitle, an affected employee may bring an action against the employer to recover the difference between the wages paid to male and female employees who do the same type work and an additional equal amount as liquidated damages.

(2) An employee may bring an action on behalf of the employee and other employees similarly affected.

(b) *Assignment of claims.* - On the written request of an employee who is entitled to bring an action under this section, the Commissioner may:

- (1) take an assignment of the claim in trust for the employee;
- (2) ask the Attorney General to bring an action in accordance with this section on behalf of the employee; and
- (3) consolidate 2 or more claims against an employer.

(c) *Limitations period.* - An action under this section shall be filed within 3 years of the act on which the action is based.

(d) *Defense.* - The agreement of an employee to work for less than the wage to which the employee is entitled under this subtitle is not a defense to an action under this section.

(e) *Costs.* - If a court determines that an employee is entitled to judgment in an action under this section, the court shall allow against the employer reasonable counsel fees and other costs of the action.

§ 3-308. Prohibited acts; penalties.

(a) *Prohibited acts of employer.* - An employer may not:

- (1) willfully violate any provision of this subtitle;
- (2) hinder, delay, or otherwise interfere with the Commissioner or an authorized representative of the Commissioner in the enforcement of this subtitle;
- (3) refuse entry to the Commissioner or an authorized representative of the Commissioner into a place of employment that the Commissioner is authorized under this subtitle to inspect; or
- (4) discharge or otherwise discriminate against an employee because the employee:

(i) makes a complaint to the employer, the Commissioner, or another person;

(ii) brings an action under this subtitle or a proceeding that relates to the subject of this subtitle or causes the action or proceeding to be brought; or

(iii) has testified or will testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle.

(b) *Prohibited acts of employee.* - An employee may not:

(1) make a groundless or malicious complaint to the Commissioner or an authorized representative of the Commissioner;

(2) in bad faith, bring an action under this subtitle;

(3) in bad faith, bring a proceeding that relates to the subject of this subtitle; or

(4) in bad faith, testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle.

(c) *Action by Commissioner.* - The Commissioner may bring an action for injunctive relief and damages against a person who violates subsection (a) (1) or (4) or subsection (b) (1), (3) or (4) of this section.

(d) *Penalties.* - An employer who violates any provision of subsection (a) (2) or (3) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$300.

CAUTION: READ FULL TEXT OF SECTION FOR SPECIAL NOTE

**** SPECIAL NOTE: EFFECTIVE - FEBRUARY 10, 2005 - CHAPTER 3 OF THE SPECIAL SESSION - 2004 ****

// SPECIAL NOTE: THE FOLLOWING SECTION WAS ADDED BY CHAPTER 3 OF THE SPECIAL SESSION OF 2004 AND WILL REMAIN IN EFFECT UNTIL SEPTEMBER 30, 2006 //

(a) There is an Equal Pay Commission.

(b) The Commission consists of the following members, appointed by the Governor:

(1) two representatives of business in the State who have been nominated by State business organizations and business trade associations;

(2) two representatives of labor organizations who have been nominated by labor federations;

(3) two representatives of organizations whose objectives include the elimination of pay disparities between men and women and minorities and nonminorities and who have undertaken advocacy, educational, or legislative initiatives in pursuit of that objective; and

(4) three representatives of higher education or research institutions who have experience and expertise in the collection and analysis of data concerning pay disparities and whose research has been used in efforts to promote the elimination of those disparities.

(c) The Governor shall designate the Chairman of the Commission.

(d) The Department of Labor, Licensing, and Regulation shall provide staff for the Commission.

(e) A member of the Commission:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Commission shall study:

(1) the extent of wage disparities, both in the public and private sectors, between men and women and between minorities and nonminorities;

(2) those factors which cause, or which tend to cause, the disparities, including segregation between women and men and between minorities and nonminorities across and within occupations, payment of lower wages for work in female-dominated occupations, child-rearing responsibilities, the number of women who are heads of households, education, hours worked, and years on the job;

(3) the consequences of the disparities on the economy and families affected; and

(4) actions that are likely to lead to the elimination and prevention of the disparities.

(g) The Commission shall:

(1) report its preliminary findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Delegates on or before September 30, 2005; and

(2) report its final findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Delegates on or before September 30, 2006.

(h) The Commission's preliminary and final reports shall include the results of the Commission's study and suggest potential solutions for the elimination and prevention of disparities in wages between men and women and minorities and nonminorities.