



Sen. Michael Connelly

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10000SB1039sam001

LRB100 07621 JLS 25871 a

1 AMENDMENT TO SENATE BILL 1039

2 AMENDMENT NO. _____. Amend Senate Bill 1039 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Equal Pay Act of 2003 is amended by
5 changing Section 10 and by adding Section 28 as follows:

6 (820 ILCS 112/10)

7 Sec. 10. Prohibited acts.

8 (a) No employer may discriminate between employees on the
9 basis of sex by paying wages to an employee at a rate less than
10 the rate at which the employer pays wages to another employee
11 of the opposite sex for the same or substantially similar work
12 on jobs the performance of which requires equal skill, effort,
13 and responsibility, and which are performed under similar
14 working conditions, except where the payment is made under:

15 (1) a seniority system;

16 (2) a merit system;

1 (3) a system that measures earnings by quantity or
2 quality of production; or

3 (4) a differential based on any other factor other
4 than: (i) sex or (ii) a factor that would constitute
5 unlawful discrimination under the Illinois Human Rights
6 Act.

7 An employer who is paying wages in violation of this Act
8 may not, to comply with this Act, reduce the wages of any other
9 employee.

10 Nothing in this Act may be construed to require an employer
11 to pay, to any employee at a workplace in a particular county,
12 wages that are equal to the wages paid by that employer at a
13 workplace in another county to employees in jobs the
14 performance of which requires equal skill, effort, and
15 responsibility, and which are performed under similar working
16 conditions.

17 (b) It is unlawful for any employer to interfere with,
18 restrain, or deny the exercise of or the attempt to exercise
19 any right provided under this Act. It is unlawful for any
20 employer to discharge or in any other manner discriminate
21 against any individual for inquiring about, disclosing,
22 comparing, or otherwise discussing the employee's wages or the
23 wages of any other employee, or aiding or encouraging any
24 person to exercise his or her rights under this Act. It is
25 unlawful for an employer to require an employee to sign a
26 contract or waiver that prohibits the employee from disclosing

1 or discussing the employee's wage, salary, or other
2 compensation. However, an employer may prohibit a human
3 resources employee, a supervisor, or any other employee whose
4 job responsibilities require or allow access to other
5 employees' wage, salary, or other compensation information
6 from disclosing such information without prior written consent
7 from the employee whose information is sought or requested.

8 (b-5) It is unlawful for an employer to seek the wage,
9 salary, or other compensation history of a prospective employee
10 from the prospective employee or a current or former employer
11 or to require that a prospective employee's wage, salary, or
12 other compensation history meet certain criteria. This
13 subsection does not apply if:

14 (1) the prospective employee's wage, salary, or other
15 compensation history is a matter of public record;

16 (2) the prospective employee is a current employee of
17 the employer and is applying for a position with the same
18 employer; or

19 (3) a prospective employee has voluntarily disclosed
20 such information.

21 An employer may seek or confirm a prospective employee's
22 wage, salary, or other compensation history after an offer of
23 employment, with wage, salary, or other compensation, has been
24 negotiated and made to the prospective employee.

25 (c) It is unlawful for any person to discharge or in any
26 other manner discriminate against any individual because the

1 individual:

2 (1) has filed any charge or has instituted or caused to
3 be instituted any proceeding under or related to this Act;

4 (2) has given, or is about to give, any information in
5 connection with any inquiry or proceeding relating to any
6 right provided under this Act; ~~or~~

7 (3) has testified, or is about to testify, in any
8 inquiry or proceeding relating to any right provided under
9 this Act; or

10 (4) fails to comply with any wage history inquiry.

11 (Source: P.A. 93-6, eff. 1-1-04.)

12 (820 ILCS 112/28 new)

13 Sec. 28. Self-evaluation.

14 (a) An employer against whom an action is brought alleging
15 a violation of subsection (a) of Section 10 and who, within the
16 previous 3 years and prior to the commencement of the action,
17 has completed a self-evaluation of the employer's pay practices
18 and can demonstrate that progress has been made towards
19 eliminating wage differentials based upon gender for the same
20 or substantially similar work on jobs the performance of which
21 requires equal skill, effort, and responsibility, and which are
22 performed under similar working conditions, in accordance with
23 that evaluation, shall have an affirmative defense to liability
24 under subsection (a) of Section 10. For purposes of this
25 subsection, an employer's self-evaluation may be of the

1 employer's own design so long as it is, in light of the size of
2 the employer, reasonable in detail and scope.

3 A self-evaluation plan may include, but is not limited to,
4 the following components:

5 (1) an evaluation of the employer's compensation
6 system for internal equity;

7 (2) an evaluation of the employer's compensation
8 system for industry competitiveness;

9 (3) examination of the employers' compensation system
10 and comparison of job grades or scores;

11 (4) a review of data for personnel entering the
12 employer;

13 (5) an assessment of how raises are awarded; and

14 (6) an evaluation of employee training, development,
15 and promotion opportunities.

16 (b) An employer that has completed a self-evaluation within
17 the previous 3 years and prior to the commencement of the
18 action and can demonstrate that reasonable progress has been
19 made towards eliminating wage differentials based on gender for
20 the same or substantially similar work on jobs the performance
21 of which requires equal skill, effort, and responsibility and
22 which are performed under similar working conditions, but
23 cannot demonstrate that any steps were taken to address any
24 identified deficiencies, is not entitled to an affirmative
25 defense under this Section and shall be liable for any civil
26 fine for a violation of this Act as follows:

1 (1) up to \$500 per employee affected, if the employer
2 has fewer than 4 employees; or

3 (2) up to \$2,500 per employee affected, if the employer
4 has 4 or more employees.

5 (c) Evidence of a self-evaluation or remedial steps
6 undertaken in accordance with this Section is not admissible in
7 any proceeding as evidence of a violation of this Act.

8 (d) An employer who has not completed a self-evaluation
9 shall not be subject to any negative or adverse inference as a
10 result of not having completed a self-evaluation.

11 (e) An employer who uses the affirmative defense under this
12 Section is not precluded from using any other affirmative
13 defense under this Act."