

2018 Regular Session

SENATE BILL NO. 149

BY SENATORS MORRELL, BARROW, BISHOP AND CARTER AND REPRESENTATIVE HUNTER

EMPLOYMENT. Prohibits employers from requiring prospective employees to disclose wage information. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 23:332(H)(3) and to enact R.S. 23:332(A)(4), relative to  
3 employment wages; to prohibit discrimination against an employee who discloses  
4 his wages; to prohibit discrimination against an employee who inquires about the  
5 wages of another employee; to prohibit certain nondisclosure agreements; to provide  
6 for exceptions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 23:332(H)(3) is hereby amended and reenacted and R.S.  
9 23:332(A)(4) is hereby enacted to read as follows:

10 §332. Intentional discrimination in employment; **wage disclosure**

11 A. It shall be unlawful discrimination in employment for an employer to  
12 engage in any of the following practices:

13 \* \* \*

14 **(4)(a)(i) Intentionally require, as a condition of employment, that an**  
15 **employee refrain from inquiring about, discussing, or disclosing the amount of**  
16 **his wages or the wages of another employee.**

17 **(ii) Intentionally require, as condition of employment, that an employee**

1 sign a waiver, nondisclosure agreement, or other document that denies the  
2 employee the right to inquire about, discuss, or disclose the amount of his  
3 wages.

4 (iii) Intentionally retaliate, discipline, discharge, or otherwise  
5 discriminate against an employee for inquiring about, discussing, or disclosing  
6 the wages of the employee or another employee.

7 (b) Nothing in this Paragraph shall be construed to create an obligation  
8 for an employee to disclose the employee's wage information.

9 (c) The protections provided in this Paragraph do not apply to instances  
10 in which an employee who has access to wage information of other employees  
11 as a part of the employee's essential job functions discloses the wages of another  
12 employee to individuals who do not otherwise have access to the information,  
13 unless the disclosure is in response to a complaint or charge or in furtherance  
14 of an investigation, proceeding, hearing or action pursuant to this Chapter  
15 including an investigation conducted by the employer.

16 \* \* \*

17 H. Notwithstanding any other provision of this Section, it shall not be  
18 unlawful discrimination in employment for:

19 \* \* \*

20 (3) An employer to apply different standards of compensation or different  
21 terms, conditions, or privileges of employment pursuant to a bona fide seniority or  
22 merit system, or a system which measures earnings by quantity or quality of  
23 production, or any other differential based on any **bona fide business** factor other  
24 than sex **and other than prior salary history**, or to employees who work in  
25 different locations, provided that such differences are not the result of an intention  
26 to discriminate because of race, color, religion, sex, or national origin.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

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DIGEST

SB 149 Engrossed                      2018 Regular Session                      Morrell

Present law prohibits intentional discrimination on the basis of race, color, religion, sex, or national origin.

Proposed law retains present law but adds wage disclosure to the list of items which cannot be the subject of intentional discrimination.

Proposed law prohibits an employer from intentionally requiring, as a condition of employment, that an employee refrain from inquiring about, discussing, or disclosing the amount of his wages or the wages of another employee.

Proposed law prohibits an employer from intentionally requiring, as a condition of employment, that an employee sign a waiver, nondisclosure, or other document that denies the employee the right to inquire about, discuss, or disclose the amount of his wages.

Proposed law prohibits an employer from intentionally retaliating, disciplining, or discharging, or otherwise discriminating against an employee who has inquired about, discussed, or disclosed his own wages or another employee.

Proposed law provides that nothing in proposed law will be construed to create an obligation for an employee to disclose his wage information.

Proposed law provides that the protections provided in proposed law do not apply to instances in which an employee who has access to wage information of other employees as a part of the employee's essential job functions discloses the wages of another employee to individuals who do not otherwise have access to the information, unless the disclosure is in response to a complaint or charge or in furtherance of an investigation, proceeding, hearing or action pursuant to this proposed law including an investigation conducted by the employer.

Present law provides that it shall not be unlawful discrimination in employment for an employer to apply different standards of compensation or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or any other differential based on any bona fide business factor other than sex and other than prior salary history, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin.

Proposed law retains present law but requires that factors other than sex and disclosure of wages must be a bona fide business factor.

Effective August 1, 2018.

(Amends R.S. 23:332(H)(3); adds R.S. 23:332(A)(4))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Labor and Industrial Relations to the original bill

1. Prohibits an employer from restricting an employee's inquiry or disclosure

of his or the wages of another employee.

2. As it relates to the disclosure by employees whose essential job is to have access to the wage information of other employees, changes reasons for disclosure from "charge, complaint, investigation, court order, proceeding, hearing, or as required by law" to "complaint or charge or in furtherance of an investigation, proceeding, hearing or action".
3. Makes technical changes.