
HOUSE COMMITTEE AMENDMENTS

Substitute for Original House Bill No. 453 by Representative Norton as proposed by the House Committee on Labor and Industrial Relations

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To amend and reenact R.S. 23:332(A)(2) and to enact R.S. 23:332(A)(3), (H)(5), (I), (J), (K), (L), and (M), relative to discrimination; to provide with respect to wage discrimination; to provide exceptions; to provide for protection from reprisal; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:332(A)(2) is hereby amended and reenacted and R.S. 23:332(A)(3), (H)(5), (I), (J), (K), (L) and (M) are hereby enacted to read as follows:

§332. Intentional discrimination in employment

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

* * *

(2) Discriminate against an employee on the basis of sex by paying wages to the employee at a rate that is less than that paid in the same establishment to another employee of a different sex for the same or substantially similar work on jobs in which the employee's performance requires equal skill, effort, education, and responsibility and which are performed under similar working conditions including time worked in the position.

(3) Intentionally limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his status as an employee, because of the individual's race, color, religion, sex, or national origin.

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

* * *

(5) An employer to apply different standards of compensation or different terms, conditions, or privileges of employment provided that the employer demonstrates that no alternative employment practice would serve the same legitimate business purposes without producing a different work result.

I. An employer shall not apply different standards of compensation or different terms, conditions, or privileges of employment pursuant to SubParagraph (H)(3) of this Section if the employee demonstrates the existence of an alternative employment practice that would serve the same business purpose.

J. An employer who is paying wages in violation of this Section may not, in order to comply with this Section, reduce the wages of another employee.

K. It shall be unlawful for an employer to discriminate, retaliate, terminate, or take any adverse employment action against any employee for inquiring about, disclosing, comparing, or otherwise discussing the employee's wages or the wages of any other employee, or aiding or encouraging any other employee to exercise his rights pursuant to this Chapter.

L. Any employee who has filed a complaint or instituted any proceeding or investigation relative to discrimination pursuant to this Section, or any employee who has provided any information in connection with an inquiry or proceeding relative to any discrimination pursuant to this Section shall be protected by, and may institute an action pursuant to, R.S. 23:967.

M. An employer shall create and preserve records that provide the name, address, and occupation of each employee, and all wages paid to each employee. These records shall be preserved for a period of not less than three years from the employee's last day of employment with the employer.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Abstract: Provides with respect to wage discrimination.

Present law prohibits discrimination based on race, color, religion, sex, or national origin.

Present law provides that an employer shall not intentionally fail or refuse to hire or to discharge any individual, or otherwise to intentionally discriminate against any individual with respect to his compensation, or his terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, or national origin.

Proposed law extends present law by specifying that an employer shall not pay an employee less for the same work under the same conditions, which requires the same skill, education, and responsibility, than they pay another employee of a different sex.

Present law prohibits an employer from intentionally limiting, segregating, or classifying his employees or applicants for employment in a way that would deprive the employee or applicant of opportunities or otherwise affect his status as an employee, based on his race, color, religion, sex, or national origin.

Present law prohibits any labor organization from discriminating or encouraging an employer to discriminate on the basis of race, color, religion, sex, or national origin.

Proposed law retains present law.

Present law provides that it shall not be discrimination in employment for an employer to hire an employee based on religion, sex, or national origin when the person's religion, sex, or national origin is a bona fide occupational qualification reasonably necessary for the normal operation of that particular business or enterprise.

Proposed law retains present law.

Present law further provides that it is not discrimination for a school, college, university, or other educational institution to hire and employ employees of a particular religion if such institution is owned, supported, controlled, or managed by the particular religion

Proposed law retains present law.

Present law provides that an employer may 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 which measures earnings by quantity or quality of production, 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 and further provides that an employer may apply different standards of compensation if no alternative employment practice will produce the same result.

Proposed law provides that an employer shall not apply different standards of compensation if the employee demonstrates the existence of an alternative employment practice that would serve the same business purpose.

Proposed law provides that an employer may not lower the wages of another employee in order to be in compliance with proposed law.

Proposed law prohibits retaliation against any employee who discusses his wages with another employee.

Proposed law provides protection from reprisal for employees who report discrimination.

Proposed law requires employers to retain records that include the name, address, occupation, and wages paid to each employee, for three years after the last day of employment.

(Amends R.S. 23:332(A)(2); Adds R.S. 23:332(A)(3), (H)(5), (I), (J), (K), (L) and (M))