

Equal Pay Act of Nebraska

Law Relating to Equal Pay Act

(Legislative Bill 474, approved June 23, 1967, and repealed May 5, 1969.)

Legislative Bill 501, approved May 5, 1969.

Amended by LB 40, 1977; LB 424, 1983; LB 626, 1983; LB 121, 1993;

LB 10, 2005; LB 83, 2016

Nondiscrimination on Basis of Sex

Section - Explanation

48-1210 to 48-1218 - Repealed.

48-1219 - Discriminatory wage practices based on sex; policy.

48-1220 - Terms, defined.

48-1221 - Prohibited acts.

48-1222 - Equal Opportunity Commission; powers.

48-1223 - Violation of act; damages; attorney fees agreement, effect; action; order of court.

48-1224 - Limitation of action.

48-1225 - Records; employer keep and maintain; contents.

48-1226 - Copy or abstract of act; post; furnish employers.

48-1227 - Violations; penalty.

48-1227.01 - Suits against governmental bodies; authorized.

AN ACT relating to labor; to eliminate the practice of discrimination on the basis of sex by paying wages to one sex at a lesser rate than the rate paid to employees of the opposite sex for comparable work on jobs; to define terms; to provide powers and duties for the Equal Opportunity Commission; to provide for damages; to provide a limitation of action; to provide for records, reporting, and posting a law; to provide penalties; to repeal Sections 48-1210 to 48-1218, Revised Statutes Supplement, 1967; and to declare an emergency.

Be it enacted by the people of the State of Nebraska.

Sections 48-1210 to 48-1218. Repealed.

Section 48-1219. Discriminatory wage practices based on sex; policy.

(1) The practice of discriminating on the basis of sex by paying wages to employees of one sex at a lesser rate than the rate paid to employees of the opposite sex for comparable work on jobs which have comparable requirements:

- (a) Unjustly discriminates against the person receiving the lesser rate;
- (b) Leads to low worker moral, high turnover, and frequent labor unrest;
- (c) Discourages workers paid at the lesser wage rates from training for higher level jobs;
- (d) Curtails employment opportunities, decreases workers' mobility, and increases labor costs;
- (e) Impairs purchasing power and threatens the maintenance of an adequate standard of living by such workers and their families;
- (f) Prevents optimum utilization of the state's available labor resources; and
- (g) Threatens the well-being of citizens of this state, and adversely affects the general welfare.

(2) It is therefore declared to be the policy of this state through exercise of its police power to correct and, as rapidly as possible, to eliminate discriminatory wage practices based on sex.

Section 48-1220. Terms, defined.

As used in Section 48-1210 to 48-1227.01, unless the context otherwise requires:

- (1) Employee shall mean any individual employed by an employer, including individuals employed by the state or any of its political subdivisions including public bodies:
- (2) Employer shall mean a person engaged in an industry who has two or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, any agent of such person, and any party whose business is financed in whole or in part under the Nebraska Investment Finance Authority Act, and includes the State of Nebraska, its governmental agencies, and political subdivisions, regardless of the number of employees, but such term does not including the United States, a corporation wholly owned by the government of the United States, or an Indian tribe:

(3) Wage rate shall mean all compensation for employment, including payment in kind and amounts paid by employers for employee benefits as defined by the commission in regulations issued under the provisions of Sections 48-1219 to 48-1227;

(4) Employ shall include to suffer or permit to work:

(5) Commission shall mean the Equal Opportunity Commission; and

(6) Person shall include one or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

Section 48-1221. Prohibited acts.

(1) No employer shall discriminate between employees in the same establishment on the basis of sex, by paying wages to any employee in such establishment at a wage rate less than the rate at which the employer pays any employee of the opposite sex in such establishment for equal work on jobs which require equal skill, effort, and responsibility under similar working conditions. Wage differentials are not within this prohibition where such payments are made pursuant to: (a) an established seniority system; (b) a merit increase system; or (c) a system which measures earning by quantity or quality of production or any factor other than sex.

(2) An employer who is paying a wage differential in violation of the provisions of Sections 48-1219 to 48-1227 shall not, in order to comply with it, reduce the wage rates of any employee.

(3) No person shall cause or attempt to cause an employer to discriminate against any employee in violation of the provisions of Sections 48-1219 to 48-1227.

(4) No employer may discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of the provisions of Sections 48-1219 to 48-1227.

Section 48-1222. Equal Opportunity Commission; powers.

(1) the commission shall have the power and the duty to carry out the provisions of Sections 48-1219 to 48-1227.

(2) For this purpose, the commission shall have the power to enter the place of employment of any employer to inspect and copy payrolls and other employment records, to compare character of work and operations on which persons employed by him are engaged to question such person, and to obtain such other information as is reasonably necessary to the administration and enforcement of the provisions of Sections 48-1219 to 48-1227.

Section 48-1223. Violation of act; damages; attorney's fees; agreements, effect; action; order of court.

(1) Any employer who violates the provisions of Section 48-1221 shall be liable to the employee or employees affected in the amount of their unpaid wages, and, in instances of willful violation, in employee suits under Subsection (2) of this section up to an additional equal amount as liquidated damages.

(2) Action to recover such liability may be maintained in any court of competent jurisdiction by any one of more employees for and in behalf of himself or themselves and other employees similarly situated. The court in such action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

(3) No agreement by any such employee to work for less than the wage to such employee is entitled under provisions of Section 48-1219 to 48-1227 shall be a bar to any such action or to a voluntary wage restitution of the full amount due under the provisions of Sections 48-1219 to 48-1227.

(4) At the written request of any employee claiming to have been paid less than the wage to which he may be entitled under the provisions of Sections 48-1219 to 48-1227, the commission may bring any legal action necessary on behalf of the employee to collect such claim for unpaid wages. The commission shall not be required to pay the filing fee, or other costs, in connection with such action. The commission shall have power to join various claims against the employer in one cause of action.

(5) In proceedings under the provisions of this section, the court may order other affirmative action as appropriate, including reinstatement of employees discharged in violation of the provisions of Sections 48-1219 to 48-1227.

(6) The commission shall have power to petition any court of competent jurisdiction to restrain violations of Section 48-1221 and for such affirmative relief as the court may deem appropriate, including restoration of unpaid wages and reinstatement of employees, consistent with the purpose of Sections 48-1219 to 48-1227.

Section 48-1225. Records; employer keep and maintain; contents.

Every employer subject to the provisions of Sections 48-1219 to 48-1227 shall make, keep, and maintain such records of the wages and wage rates, job classifications, and other terms and conditions of employment of the persons employed by him, and shall preserve such records for such periods of time, and shall make such reports therefrom as the commission shall prescribe.

Section 48-1226. Copy of abstract of act; post; furnish employers.

Every person subject to the provisions of Sections 48-1219 to 48-1227 shall keep an abstract or copy of Sections 48-1219 to 48-1227 posted in a conspicuous place in or about the premises wherein any employee is employed. Employers shall be furnished copies of abstracts of Sections 48-1219 to 48-1227 by the state on request without charge.

Section 48-1227. Violations; penalty.

(1) Any person who violates any provision of Sections 48-1219 to 48-1227, or who discharges or in any other manner discriminates against any employee because such employee has made any complaint to his employer, the commission, or any other person, or has instituted, or caused to be instituted any proceeding under or related to Sections 48-1219 to 48-1227, or has testified or is about to testify in any such proceeding, shall be guilty of a Class III misdemeanor.

(2) Any employer who violates the provisions of Sections 48-1219 to 48-1227 by failing to keep the records required hereunder, or to furnish such records to the commission upon request, or who falsifies such records, or who hinders, delays, or otherwise interferes with the commission in the performance of its duties in the enforcement of the provisions of Sections 48-1219 to 48-1227, or refuses official entry into any place of employment which it is authorized by the provisions of Sections 48-1219 to 48-1227 to inspect, shall be guilty of a Class V misdemeanor.

Section 48-1227.01. Suits against governmental bodies, authorized.

The state, governmental agencies, and political subdivisions may be sued upon claims arising under Sections 48-1219 to 48-1227 in the same manner as provided by such sections for suits against other employers.