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# Addressing the Gender Pay Gap in Utah with State Equal Pay Laws

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June 29, 2021

WHITE PAPER | No. 2

**UTAH** WOMEN &  
**LEADERSHIP**  
Project

**UtahStateUniversity.**

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L. Jenna Gould | June 29, 2021

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## Introduction

During the signing ceremony for the Equal Pay Act of 1963, one of the first federal laws to address the gender pay gap, President John F. Kennedy cautioned that “much remains to be done to achieve full equality of economic opportunity. . . for the average woman worker.”<sup>1</sup> In the nearly 60 years that have followed the Equal Pay Act, women have made remarkable strides toward economic equality, yet the gender pay gap—the central focus of the Equal Pay Act—continues to affect countless women across the U.S. In 1973, full-time, working women earned a median of 56.6 cents for every dollar that full-time, working men earned. Over the past several decades, women’s median earnings have gained slightly more than 25 cents, reaching an average of 82 cents in 2019. However, for many women of color, the gender pay gap continues to fall below the national average and has declined at a relatively lower rate over the past few decades.<sup>2</sup> Despite these long-term gains, the gender pay gap has held relatively steady over the past 15 years, prompting calls for greater statutory protections for women workers.

In 2009, Congress enacted the Lilly Ledbetter Fair Pay Act, which expanded the time period for filing complaints of employment discrimination concerning compensation.<sup>3</sup> Moreover, many state governments have responded to the gender pay gap with equal pay laws that go much further than the federal framework. In 2019, for example, Alabama enacted the Clarke-Figures Equal Pay Act, which prohibits employers from refusing to consider an applicant for employment because the applicant does not provide their salary history and additionally creates a private right of action for aggrieved employees.

Even as many conservative states have embraced bolder legislation to address the gender pay gap, Utah continues to lack a standalone equal pay law. Instead, women workers must rely on the comparatively narrow recourse provided by the Utah Antidiscrimination Act, which, among other things, does not provide a private right of action. Meanwhile, the state continues to receive the designation as one of the “worst states for women” and the state with the second-highest gender pay gap in the country, with full-time female workers earning an estimated 70.2 cents for every dollar earned by full-time male workers.<sup>4</sup> In a survey of 400 Utah women aged 18 and older, 76.5 percent of respondents reported that state and local government leaders should “definitely” or “probably” take further action to address Utah’s wage gap, whereas about half of those surveyed reported that they believed they had been paid less than a man

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<sup>1</sup> Kennedy, J. F. (1963, June 10). Remarks upon signing the Equal Pay Act. *UC Santa Barbara*.

<https://www.presidency.ucsb.edu/documents/remarks-upon-signing-the-equal-pay-act>

<sup>2</sup> Miller, K., & Vagins, D. J. (2018). The simple truth about the gender pay gap. American Association of University Women. <https://www.aauw.org/app/uploads/2020/02/AAUW-2018-SimpleTruth-nsa.pdf>

<sup>3</sup> U.S. Equal Employment Opportunity Commission. (2014, April 29). Equal Pay Act of 1963 and Lilly Ledbetter Fair Pay Act of 2009. <https://www.eeoc.gov/laws/guidance/equal-pay-act-1963-and-lilly-ledbetter-fair-pay-act-2009>

<sup>4</sup> McCann, A. (2020, August 24). Best & worst states for women’s equality. WalletHub.

<https://wallethub.com/edu/best-and-worst-states-for-women-equality/5835>; Shaw, E., & Mariano, H. (2021, June).

Before the “She-Session”: A pre-pandemic snapshot shows more women in the workforce than ever. Institute for Women’s Policy Research. <https://iwpr.org/iwpr-publications/briefing-paper/before-the-she-session-a-pre-pandemic-snapshot-shows-more-women-in-the-workforce-than-ever/>

for the same work.<sup>5</sup> As noted by Dr. Susan Madsen with the Utah Women & Leadership Project, “[t]here’s too much evidence that there is a problem.”<sup>6</sup>

As Utah lawmakers face mounting calls for legislative actions to address the gender pay gap, the following White Paper will provide lawmakers and policy advocates with an overview of state equal pay laws across the country as well as targeted recommendations for Utah.

## The Gender Pay Gap Explained

The gender pay gap is generally described as “the difference between what women and men earn for paid work.”<sup>7</sup> The U.S. Census Bureau calculates the gender pay gap by dividing the reported wages earned by full-time, working women by the wages earned by full-time, working men, providing a percentage that often gets cited as the number of cents on the dollar earned by women. Yet, as with any metric that purports to make broad societal assessments, “[t]he gap is a complicated and disputed topic, and some argue it is a myth or simply the result of women’s choices.”<sup>8</sup> Indeed, the Pew Research Center notes that “much of this gap has been explained by measurable factors such as educational attainment, occupational segregation and work experience,” suggesting that overt pay discrimination may play a somewhat smaller role than entrenched, sociocultural factors, such as workforce participation, time spent on family care, salary expectations, recruitment practices, and other determinative factors that leave women economically disadvantaged.<sup>9</sup> As of 2020, for example, women held two-thirds of positions earning the federal minimum wage and accounted for 70 percent of the tipped workforce.<sup>10</sup> Nevertheless, researchers have consistently concluded that the gap cannot be wholly quantified or explained by such sociocultural, or self-selecting, control variables, with studies finding a 5-8 percent wage gap between similarly situated men and women even after controls.<sup>11</sup>

While researchers and lawmakers continue to debate the significance and scope of the gender pay gap, Utah women across the political spectrum are reporting significant concerns with pay discrimination and are demanding state action consistent with the overwhelming number of U.S. states.<sup>12</sup> Indeed, members of the Utah Women & Leadership Project note that, “[r]ather than arguing ‘if’ there is a gender wage gap in Utah, efforts could be better spent on ‘why’ there is a wage gap and addressing specific factors contributing to it.”<sup>13</sup> One such contributing factor may very well be the state’s inaccessible and ineffective regulatory framework for addressing equal pay disputes when compared to the rest of the country.<sup>14</sup>

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<sup>5</sup> Jacobs, B. (2019, December 1). Utah women agree: Business and government leaders should work on the gender wage gap. *The Salt Lake Tribune*. <https://www.sltrib.com/news/2019/12/01/utah-women-agree-business/>

<sup>6</sup> Isrealsen-Hartley, S. (2017, August 27). The truth about Utah’s and the nation’s gender pay gap. *Deseret News*. <https://www.deseret.com/2017/8/27/20618297/the-truth-about-utah-s-and-the-nation-s-gender-pay-gap#nikki-hendriksen-works-in-the-pharmacy-at-smiths-marketplace-in-west-jordan-on-thursday-aug-10-2017>

<sup>7</sup> Madsen, S. R., Dillon, J., & Scribner, R. T. (2017, August 2). The gender wage gap in Utah. *Utah Women and Leadership Project*. <https://www.usu.edu/uwlp/files/snapshot/22.pdf>

<sup>8</sup> Ibid.

<sup>9</sup> Barroso, A., & Brown, A. (2021, May 25). Gender pay gap in U.S. held steady in 2020. *The Pew Research Center*. <https://www.pewresearch.org/fact-tank/2021/05/25/gender-pay-gap-facts/>

<sup>10</sup> Utah Advisory Committee to the U.S. Commission on Civil Rights. (2020, Dec 21). It is past time to address Utah’s gender wage game. *DeseretNews*. <https://www.deseret.com/opinion/2020/12/21/22174714/utah-gender-wage-gap-women-us-commission-on-civil-rights-recommendations-essential-workers>

<sup>11</sup> Corbett, C, & Hill, C. (2012). Graduating to a pay gap: The earnings of women and men one year after college graduation. American Association of University Women (AAUW). <https://files.eric.ed.gov/fulltext/ED536572.pdf>; <https://www.glassdoor.com/about-us/gender-pay-gap-2019/>

<sup>12</sup> Jacobs, B. (2019).

<sup>13</sup> Madsen, S. R. (2017).

<sup>14</sup> Madsen, S. R. (2017).

## The State of Equal Pay Laws

**Equal Pay Laws in Other States:** In 2019, Alabama became the 43<sup>rd</sup> state to enact a standalone equal pay law. These standalone equal pay laws often go further than the federal framework and provide aggrieved employees with a state-level course of action against pay discrimination. Notably, federal laws do not provide a direct private course of action and require employees to go through a protracted claims process with the U.S. Equal Employment Opportunity Commission. By creating a separate remedy, states hope to maintain more state control over worker's rights and remedies, as well as provide a more tailored approach to the gender pay gap.

**A Closer Look at Utah:** Utah is one of the last U.S. states and the only Rocky Mountain West state without such a law, alongside such states as Mississippi, North Carolina, and South Carolina. However, even within the category of states without such laws, many have passed either a Human Rights Act or a Fair Employment Practice Act which close many of the lack of remedies mentioned above.

Gender based protection is provided to employees in Utah through the Utah Antidiscrimination Act, Utah Code Ann. § 34A-5-106, which prohibits employment discrimination based on race, color, national origin, sex, religion, and other protected characteristics. The employee, or their attorney or agent, must file a claim under the Act with the Utah Labor Commission within 180 days of the alleged discriminatory employment action, and then rely on the state agency to pursue the complaint and seek recourse. The Utah Antidiscrimination Act does not provide an aggrieved employee with a private right of action through state civil court, even after the employee has exhausted their administrative remedies. Given the lack of a private right of action, short statute of limitations, and relatively narrow set of remedies, Utah thus has one of the weakest regulatory frameworks for addressing the gender pay disparities.

**Antiretaliation:** In addition to providing a private right of action for aggrieved employees or extending the statute of limitations for claims beyond 180 days, most U.S. states have enacted antiretaliation protections for employees alleging pay discrimination. Additionally, some states, such as Delaware and Illinois, have enacted express provisions prohibiting employers from lowering the wage of any worker to comply with the terms of the states' equal pay laws, whereas nearly half of states note that agreements to accept less than equal pay are unenforceable.<sup>15</sup>

**Salary History Bans and Pay Transparency:** In a more recent push to close the gender pay gap, some state and local governments have targeted employers' use of salary history and pay transparency bans to perpetuate unequal pay for women. More than a dozen states have passed laws that ban employers from requiring applicants to provide their salary history, or alternatively, from relying on applicants' salary history when making salary offers—such as Alabama, Colorado, and Maine. By removing salary history from hiring and compensation decisions, these bans seek to provide women with a clean slate during negotiations, rather than forcing them to carry their lower pay status from former positions. However, current research on salary history bans suggests that the actual results may be mixed. One recent study from PayScale found that among over 15,000 applicants, women who did not provide, or declined to disclose, their salary histories were offered 1.8 percent less than women who did disclose. At least one economist speculates that women lose out on wage gains because, without actual knowledge of applicants' compensation history, employers will simply “assume that women made lower salaries.”<sup>16</sup> However, a study that analyzed the effects on salaries in states that have enacted the ban found that employers posted wages more often in job advertisements and increased pay for 6.4% of female job changers. Furthermore, the study suggests that after factoring in differences of education and experience, of the remaining unexplained gender wage gap, about half would disappear under a salary history ban.<sup>17</sup>

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<sup>15</sup> Ark. Code Ann. § 11-4-611(b)(2).

<sup>16</sup>Meli, J., & Spindler, J. C. (2019, March 28). Salary history bans and gender discrimination. University of Texas Law, Law and Econ Research Paper No. E587. <https://ssrn.com/abstract=336143>

<sup>17</sup> Bessen, J. E., Meng, C., & Denk, E. (2020, June). Perpetuating inequality: What salary history bans reveal about wages. <https://ssrn.com/abstract=3628729>

Ultimately, these salary history bans represent a relatively novel, yet promising public policy development and may warrant further research in the Rocky Mountain West region. In addition, some advocates and policymakers focus on efforts to promote workplace pay transparency. To that end, nearly a dozen states have enacted laws that prohibit employers from preventing employees from disclosing their wages, or from retaliating against employees who choose to do so.

**Additional Requirements:** Finally, some states—namely, California, Colorado, and Delaware—have placed more onerous requirements on employers, such as posting and recording retention requirements targeted at reducing the gender pay gap. In Colorado, for example, the Colorado Wage Equality Regardless of Sex Act requires employers to post all opportunities for promotion to all current employees, complete with the hourly or salary compensation of the position, before making a promotion decision. In New Hampshire, state law provides that employers are required to post a workplace notice stating, “that it is illegal in New Hampshire to pay employees different wages for the same work based solely on sex.” N.H. Rev. Stat. Ann. § 275:49(VII).

Ultimately, these additional requirements are only set forth by a small minority of states’ equal pay laws, with the most common features consisting of: (1) a private right of action (40); (2) express antiretaliation provisions (28); (3) statewide salary history bans for most employers (14); and (4) workplace pay transparency provisions (10).

### Recommendations for Utah

Given the dismal state of Utah’s gender pay gap and the continued frustration among Utah women, state lawmakers should strive to modernize the state’s antiquated regulatory framework for resolving equal pay disputes by adopting a standalone equal pay act that adheres to the best practices set forth by the overwhelming majority of U.S. states.

In particular, the state should provide Utah women with liberty-reinforcing avenues for recourse—such as a private right of action—so they can challenge pay discrimination on their own without resorting to a state agency or protracted federal process with the U.S. Equal Employment Opportunity Commission. As with most states, the statute of limitations for such a claim should be somewhere between 1-3 years to provide employees with adequate opportunity to exercise their rights under state law. Consistent with the Utah Antidiscrimination Act, any proposed equal pay law should have an express antiretaliation provision to protect workers pursuing their rights to equal pay for equal work. Moreover, Utah lawmakers should consider leading the way on free speech and equal pay protections by preserving employees’ right to reasonably discuss their wages through an express pay transparency provision. Additionally, restricting the use of salary history as part of the hiring process has been shown to help reduce an unexplained portion of the gender pay gap, and may be particularly applicable to Utah given the high number of women who return to work after extended absences from the workforce. It is also important to note that supplementing pay gap changes with other public policies—addressing paid family leave, the state’s childcare crisis, and economic security, for example—shows tremendous promise in creating economic self-sufficiency for Utah women and families.<sup>18</sup>

Finally, Utah needs a more comprehensive study on the causes and effects of the state’s gender pay gap so state and local leaders can respond with targeted, efficient policy solutions, and thereby address one of the largest gaps in the nation and constituents’ voiced concerns.

As such, this paper recommends the following policy solutions to address Utah’s gender pay gap and expand state and private remedies available to female employees:

1. ENACT A STANDALONE EQUAL PAY ACT, PROVIDING:
  - a. A PRIVATE RIGHT OF ACTION FOR AGGRIEVED EMPLOYEES

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<sup>18</sup> Mason, C. N. (2021). Build(ing) the future: Bold policies for a gender-equitable recovery. <https://iwpr.org/building-the-future/>

- b. AT LEAST A 1-YEAR STATUTE OF LIMITATIONS
  - c. ANTIRETALIATION PROTECTIONS
  - d. PAY TRANSPARENCY PROTECTIONS
  - e. SALARY HISTORY BAN
2. CONDUCT A COMPREHENSIVE, STATEWIDE STUDY ON THE CAUSES AND EFFECTS OF UTAH’S GENDER PAY GAP

## Conclusion

Despite the state’s alarming reputation for the status of women, there are compelling reasons to believe that Utah women will significantly shape the state’s economic and political landscape over the near future. Indeed, more than 61 percent of Utah women are workforce participants—placing us within the top third of U.S. states. Utah women also account for the fastest-growing segment of newly-elected representatives, rising to account for nearly 25 percent of state legislative seats—up from 15 percent only six years ago.<sup>19</sup> Utah women are also becoming more politically and economically active, educated, and entrepreneurial—accounting for a large percentage of the state’s new business activity. The ability of Utah lawmakers to gain and retain the political support of these new generations of Utah women thus rests on their ability to address longstanding concerns and fill decades-old gaps that disadvantage Utah women. By creating a standalone equal pay act, Utah lawmakers have the opportunity to finally modernize the state’s regulatory framework, earn the trust of young Utah women who overwhelmingly want lawmakers to act, and extend liberty-reinforcing remedies to those affected by cruel and unfair compensation practices—making us the 44<sup>th</sup> state to do so.

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<sup>19</sup> Madsen, S. R. (2017).

## Appendix: 50–State Analysis on State Equal Pay Laws

### – Alabama –

<p><b>Equal Pay Law:</b> Alabama’s Clarke-Figures Equal Pay Act, enacted 2019, prohibits employers from paying less for the same work on the basis of gender or race. 2019 AL H.B. 225, § 2(a).</p>
<p><b>Covered Employers:</b> All employers are covered by the Clarke-Figures Equal Pay Act. 2019 AL H.B. 225, § 2(a).</p>
<p><b>Covered Employees:</b> All employees are covered by the Clarke-Figures Equal Pay Act. 2019 AL H.B. 225, § 2(a).</p>
<p><b>General Exceptions &amp; Defenses:</b> Under the Clarke-Figures Equal Pay Act, wage differentials are allowed where the employer can demonstrate that the difference in wages is based upon one or more factors, including:</p> <ul style="list-style-type: none"> <li>• A seniority system</li> <li>• A merit system</li> <li>• A system that measures earnings by quantity or quality of production; or</li> <li>• A differential based on any factor other than sex or race.</li> </ul> <p>2019 AL H.B. 225, § 2(a)(1)-(4).</p>
<p><b>Antiretaliation:</b> N/A</p>
<p><b>Pay Transparency Protection:</b> N/A</p>
<p><b>Salary History Ban:</b> The Act prohibits employers from refusing to interview, hire, promote, or employ an applicant for employment, or retaliate against an applicant for employment because the applicant does not provide wage history. 2019 AL H.B. 225, § 2(b).</p>
<p><b>Enforcement Agency:</b> N/A</p>
<p><b>Private Right of Action:</b> The Act creates a private right of action for an aggrieved employee to file an action in civil court. 2019 AL H.B. 225, § 2(g).</p>
<p><b>Statute of Limitations:</b> An aggrieved employee under the Clarke-Figures Equal Pay Act must file a civil action within two years of the alleged violation. 2019 AL H.B. 225, § 2(g).</p>
<p><b>Potential Damages &amp; Remedies:</b> An employer who violates the Clarke-Figures Equal Pay Act may be liable for the amount of wages of which the employee was deprived, plus interest. 2019 AL H.B. 225, § 2(c).</p>

### – Alaska –

<p><b>Equal Pay Law:</b> Alaska does not have a standalone equal pay statute for private employers, but the Alaska Human Rights Act (AHRA), Alaska Stat. § 18.80.200 et seq., prohibits employers from:</p> <ul style="list-style-type: none"> <li>• Discriminating in the payment of wages as between the sexes; or</li> </ul>
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- Employing a female in an occupation in Alaska at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business, or type of work in the same locality.

Alaska Stat. § 18.80.220(a)(5).

**Covered Employers:** Under AHRA, an employer is any person having one or more employees in Alaska, including the state and its political subdivisions. Alaska Stat. § 18.80.300(5). Employers do not include:

- Exclusively social clubs; or
- Nonprofit religious, fraternal, charitable, or educational corporations or associations.

**Covered Employees:** AHRA applies to any individual employed by an employer but does not include an individual employed in the domestic service of any person. Alaska Stat. § 18.80.300(4).

**General Exceptions & Defenses:** AHRA has a provision specifically stating that an employer may not:

- Discriminate in the payment of wages between the sexes; or
- Employ a woman in an occupation at a salary or wage rate less than that paid to a male employee for work of a comparable character or work in the same operation, business, or type of work in the same locality.

Alaska Stat. § 18.80.220(a)(5). The proper interpretation of “work of comparable character” is equal pay for substantially equal work.

**Antiretaliation:** N/A

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Alaska Human Rights Commission (Commission) administers and enforces the AHRA. Any person aggrieved by a discriminatory practice may file a written, verified complaint with the Commission. Alaska Stat. § 18.80.100(a). The Commission will investigate the complaint and if substantial supporting evidence is found, it will attempt to eliminate or remedy the practice through a conciliation process. Alaska Stat. § 18.80.110. If the investigation does not find substantial evidence of discriminatory practice, it may dismiss the complaint without prejudice. Alaska Stat. § 18.80.112(a). Dismissal does not prevent a complainant from initiating action in another forum or filing a new complaint. Alaska Stat. § 18.80.112(d). However, if the Commission acquits an individual by final judgment in an administrative proceeding, any other civil or criminal action based on the same act or omission is barred.

**Private Right of Action:** An aggrieved employee can file a claim in superior court and with the Commission. 6 Alaska Admin. Code 30.920. However, if the same issues are before the Commission, the Commission may intervene in the civil action, seek to defer the civil action in favor of the Commission’s proceeding, or close or hold the complaint before the Commission. If the court finds no violation by the employer, the individual is barred from pursuing any other civil or criminal action based on the same act or omission. Alaska Stat. § 18.80.280.

**Statute of Limitations:** Claims for alleged violations of the AHRA must be brought within two years of the accrual of the cause of action. Alaska Stat. § 09.10.070(a).



**Potential Damages & Remedies:** In addition to temporary injunctive relief, the Commission may award appropriate relief for a violation of AHRA including:

- Training of an employer and its employees concerning discriminatory practices
- Removal of information from or changes to a personnel record
- Posting of signs
- Back pay
- Hiring, reinstatement, or promoting an employee with or without back pay
- Front pay for a period of not more than one year, if hiring, reinstatement, or promotion is not possible
- Restoration of seniority
- Reasonable expenses, including attorney’s fees and costs. Alaska Stat. §§ 18.80.130(a) and (e).

The Commission may not award noneconomic or punitive damages. Alaska Stat. § 18.80.130(a). However, there are additional penalties if the employer is found guilty of a misdemeanor violation of AHRA, including potential punitive damages, fines, and imprisonment.

– Arizona –

**Equal Pay Law:** The Arizona Equal Pay Act (AEPA) prohibits employers from paying any employee a wage rate less than the rate paid to employees of the opposite sex in the same establishment for the same quantity and quality of the same classification of work. Ariz. Rev. Stat. § 23-341(A).

Note also that the Arizona law makes it an unlawful employment practice for an employer to discriminate against any individual regarding compensation because of the individual’s membership in a protected class, including sex. Ariz. Rev. Stat. §§ 41-1463(B)–(E).

**Covered Employers:** A.R.S. § 23-340(3) defines employer broadly to cover corporations, firms, persons, political subdivisions of the state, etc.

**Covered Employees:** An “employee” is defined as a man or woman entitled to compensation for labor performed for an employer. A.R.S. § 23-340(2).

**General Exceptions & Defenses:** A pay rate differential is not prohibited if it is based upon the following:

- Seniority
- Length of service
- Ability
- Skill
- Difference in duties or services performed
- Difference in shift or time of day worked
- Hours of work
- Restrictions upon lifting or moving objects in excess of a specified rate; or
- Any other reasonable differentiation not based on sex when it is exercised in good faith.

A.R.S. § 23-341(A).

<b>Antiretaliation:</b> N/A
<b>Pay Transparency Protection:</b> N/A
<b>Salary History Ban:</b> N/A
<b>Enforcement Agency:</b> The Industrial Commission of Arizona may enforce the AEPA. An aggrieved employee may register a complaint with the Commission and the Commission may take all the necessary steps to enforce the payment of any sums found to be due and owing to the employee. A.R.S. § 23-341(C), (D).
<b>Private Right of Action:</b> An aggrieved employee may file a civil action under the AEPA to recover unpaid wages. A.R.S. § 23-341(E); there is no exhaustion requirement.
<b>Statute of Limitations:</b> An action based upon a violation of the AEPA must be filed within six months of the alleged violation. A.R.S. § 23-341(F).
<b>Potential Damages &amp; Remedies:</b> If a court finds that an employer has violated the AEPA, it may award an aggrieved employee the balance of unpaid wages and the costs of suit. A.R.S. § 23-341(E).

- Arkansas -

<p><b>Equal Pay Law:</b> Arkansas’ standalone equal pay statute, Ark. Code Ann. §§ 11-4-601 to 11-4-612, prohibits employers from:</p> <ul style="list-style-type: none"> <li>• Discriminating against any employee in the matter of wages or compensation solely based on the employee’s sex. Ark. Code Ann. § 11-4-601(a).</li> <li>• Paying any female employee less than male employees for comparable work. Ark. Code Ann. § 11-4-610(a).</li> </ul> <p>Note also that the Arkansas Civil Rights Act of 1993 (ACRA) prohibits employers from discriminating against a member of a protected class in the terms of compensation and other aspects of their employment. Ark. Code Ann. § 16-123-107(a).</p>
<p><b>Covered Employers:</b> Arkansas’ wage discrimination provisions apply to employers, defined as any person, natural or artificial, acting directly or indirectly in the interest of an employer. Ark. Code Ann. § 11-4-607(2).</p>
<p><b>Covered Employees:</b> Arkansas wage discrimination provisions cover employees, which are defined as any person employed for hire in any lawful business, industry, trade, profession, or enterprise. Ark. Code Ann. § 11-4-607(1)(a). However, employees do not include individuals employed in the following:</p> <ul style="list-style-type: none"> <li>• Domestic service in the home of the employer</li> <li>• Agricultural service</li> <li>• Temporary or seasonal employment</li> <li>• Any social club, fraternal, charitable, educational, religious, scientific, or literary association, where no part of the net earnings benefits any private individual.</li> </ul> <p>Ark. Code Ann. § 11-4-607(1)(b).</p>

**General Exceptions & Defenses:** Employers may provide a differential pay rate when based on any of the following:

- Seniority
- Experience
- Training
- Skill
- Ability
- Duties and services performed
- The shift or time of day worked
- Any other reasonable differentiation except difference in sex. Ark. Code Ann. § 11-4-610(b).

**Antiretaliation:** Employers may not retaliate against an employee because the employee has made a complaint, instituted or caused to be instituted any related proceedings, or has testified or is about to testify in any such proceeding. Ark. Code Ann. § 11-4-608.

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Director of the Arkansas Department of Labor enforces Arkansas' wage discrimination statutes and brings any action necessary to recover such wages. Ark. Code Ann. § 11-4-609; Ark. Code Ann. § 11-4-611(b)(4).

**Private Right of Action:** An aggrieved employee or employees may bring an action to recover wages in a court of competent jurisdiction. Ark. Code Ann. § 11-4-611(b)(1).

**Statute of Limitations:** An action to recover wages and liquidated damages under Ark. Code Ann. § 11-4-610 must be brought within two years of the accrual of the violation. Ark. Code Ann. § 11-4-611(c). A misdemeanor action must commence within one year of the violation. Ark. Code Ann. § 5-1-109(b)(3)(a).

**Potential Damages & Remedies:** An employer who violates Arkansas' wage discrimination statute is guilty of a class C misdemeanor, with each day of violation or noncompliance regarded as a separate offense. Ark. Code Ann. § 11-4-601(b). An employer found to have violated Ark. Code Ann. § 11-4-607 to 612 will be ordered to pay:

- Unpaid wages owed to the employee,
- An additional 100% of wages owed as liquidated damages,
- Reasonable attorney's fees, and
- Court costs.

Ark. Code Ann. § 11-4-611. An employer who violates Ark. Code Ann. § 11-4-607 to 612 or retaliates shall be fined up to \$500 and/or imprisoned up to one year. Ark. Code Ann. § 11-4-608.

- California -

**Equal Pay Law:** California's Equal Pay Act (CEPA), Cal. Lab. Code § 1197.5, prohibits employers from:

- Paying employees at rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions; and
- Discharging, or in any manner discriminating or retaliating against, any employee for taking any action to invoke or assist in any manner the enforcement of the CEPA.

Note also that the California Fair Employment and Housing Act (FEHA) also prohibits several forms of discrimination, including compensation discrimination, based on an employee's membership in a protected class, including sex. Cal. Gov. Code § 12940(a).

**Covered Employers:** CEPA applies to public and private employers and does not contain a requirement that an employer have a minimum number of employees to be covered by its provisions. Thus, it applies to all California employers. However, the Act's criminal liability provision does not apply to public employers. Cal. Lab. Code § 1197.5(l).

**Covered Employees:** CEPA applies to individuals in any occupation, trade, or industry with the exception of individuals employed as outside salespersons or participating in a national service program under 47 U.S.C § 12571. Cal. Lab. Code § 1171.

**General Exceptions & Defenses:** Under the CEPA, employees must be paid at the same rate as employees of the opposite sex or another race or ethnicity for substantially similar work except where the employer demonstrates that the wage differential is based on one or more of the following factors:

- A seniority system
- A merit system
- A system that measures earnings by quantity or quality of production
- A bona fide factor other than sex, race, or ethnicity, such as education, training, or experience.

**Antiretaliation:** Employers may not discharge or discriminate or retaliate against any employee for invoking rights under or assisting enforcement of CEPA. Cal. Lab. Code § 1197.5(k)(1). An employee may file a civil action for violation of this prohibition and obtain reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer, including interest thereon, as well as appropriate equitable relief. Cal. Lab. Code § 1197.5(j)(2); Cal. Lab. Code § 1197.5(k)(2).

**Pay Transparency Protection:** CEPA specifically prohibits employers from preventing employees from disclosing their wages, discussing wages, inquiring about another employee's wages, or aiding or encouraging any other employee to exercise his or her rights under the act. Cal. Lab. Code § 1197.5(k)(1).

**Salary History Ban:** All California employers are prohibited from inquiring into a job applicant's salary history information, either orally or in writing, unless the information is disclosable to the public under federal or state law. Cal. Lab. Code § 432.3(b), (e)(f). Employers cannot rely on an applicant's salary history information in deciding whether to offer the applicant employment or what salary to offer the applicant. Cal. Lab. Code § 432.3(a). However, applicants are not prohibited from voluntarily disclosing salary history information to prospective employers. Cal. Lab. Code § 432.3(g). If an applicant voluntarily discloses such information, the employer may consider it in determining a salary for the applicant. Cal. Lab. Code § 432.3(h). The statute clarifies that employers may ask applicants

about their salary expectations for the position to which they are applying without violating the law. Cal. Lab. Code § 432.3(i).

**Enforcement Agency:** CEPA is administered and enforced by the California Division of Labor Standards

**Private Right of Action:** An aggrieved employee may file a civil action to recover wages under the CEPA. Cal. Lab. Code § 1197.5(h). An employee may file a civil claim for retaliation. Cal. Lab. Code § 1197.5(k)(2). Aggrieved employees may also bring actions under the Private Attorneys General Act (PAGA) to recover civil penalties for California Labor Code violations. See Cal. Lab. Code § 2699(a), (f).

**Statute of Limitations:** A civil action to recover wages under CEPA must be commenced no later than two years after the cause of action occurs unless the cause of action arises out of a willful violation, then it may be commenced no later than three years after the cause of action occurs. Cal. Lab. Code § 1197.5(i).

An employee may file a CEPA discrimination or retaliation claim no later than one year after the cause of action occurs. Cal. Lab. Code § 1197.5(k)(3).

**Potential Damages & Remedies:**

An employer that violates the California Equal Pay Act by failing to pay equal wages is liable to an aggrieved employee for the amount of wages, plus interest, of which the employee was deprived as well as an equal amount of liquidated damages, plus costs and attorney's fees. Cal. Lab. Code § 1197.5(c), (h).

In an action by the Division of Labor Standards Enforcement, an employer is subject to liability for unpaid wages, liquidated damages, and costs of suit. Cal. Lab. Code § 1197.5(g).

An employer that discharges, discriminates, or retaliates against an employee for invoking the Act or assisting in its enforcement is liable to the employee for reinstatement and reimbursement for lost wages and work benefits caused, including interest thereon, as well as appropriate equitable relief. Cal. Lab. Code § 1197.5(k)(2).

An employer (or an individual officer, agent, or employee of an employer) that violates the California Equal Wage Act may also be criminally liable and may be subject to a fine of up to \$10,000, imprisonment for up to six months, or both, if that person willfully violates the wage discrimination prohibitions of Cal. Lab. Code § 1197.5 or reduces the wages of any employee to comply with Cal. Lab. Code § 1197.5. A person will only face imprisonment if he or she has been convicted of a prior offense. Cal. Lab. Code § 1199.5. The criminal liability provision does not apply to public employers. Cal. Lab. Code § 1197.5(l).

**– Colorado –**

**Equal Pay Law:**

The Colorado Wage Equality Regardless of Sex Act (CWERSA), as amended by the Equal Pay for Equal Work Act, prohibits employers from engaging in wage discrimination on the basis of sex. Colo. Rev. Stat. § 8-5-101 et seq.

Note also that the Colorado Antidiscrimination Act (CADA) prohibits discrimination concerning pay and conditions of employment based on sex, disability, race, creed, color, sexual orientation, religion, age, national origin, ancestry, and marital status. Colo. Rev. Stat. § 24-34-402.

<p><b>Covered Employers:</b> CWERSA defines “employer” as the state, its political subdivisions, and every other person employing a person in the state. Colo. Rev. Stat. § 8-5-101(5).</p>
<p><b>Covered Employees:</b> CWERSA defines an employee as “a person employed by an employer.” Colo. Rev. Stat. § 8-5-101(4).</p>
<p><b>General Exceptions &amp; Defenses:</b> Wage differentials between employees of different sexes who perform substantially similar work are allowed where the employer can demonstrate that the difference in wages is based upon one or more factors, including:</p> <ul style="list-style-type: none"> <li>• A seniority system</li> <li>• A merit system</li> <li>• A system that measures earnings by quantity or quality of production</li> <li>• The geographic location where the work is performed</li> <li>• Education, training, or experience to the extent that they are reasonably related to the work in question; or</li> <li>• Travel, if the travel is a regular and necessary condition of the work performed.</li> </ul> <p>Colo. Rev. Stat. § 8-5-102(1)(a).</p>
<p><b>Antiretaliation:</b> The Act prohibits employers from discharging or retaliating against an employee for asserting the rights established by the Act.</p>
<p><b>Pay Transparency Protection:</b> The Act prohibits employers from, among other things, prohibiting employees from disclosing their wage rates, requiring an employee to sign a waiver that prohibits an employee from disclosing his or her wage rate information, etc.</p>
<p><b>Salary History Ban:</b> The Act prohibits employers from seeking the wage rate history of a prospective employee or relying on a prior wage rate of a prospective employee to determine a wage rate.</p>
<p><b>Enforcement Agency:</b> The Director of the Colorado Department of Labor and Employment (Director) may create and administer a process to accept and mediate complaints and to provide legal resources concerning alleged wage discrimination. Colo. Rev. Stat. § 8-5-103(1). The Director is also authorized to enforce actions against an employer involving transparency in pay and employment opportunities. Colo. Rev. Stat. § 8-5-203(1).</p>
<p><b>Private Right of Action:</b> CWERSA allows an aggrieved employee to file an action in civil court. Colo. Rev. Stat. § 8-5-103(2).</p>
<p><b>Statute of Limitations:</b> An aggrieved employee must file a civil action in district court within two years of the alleged violation. A violation occurs on each occasion that a person is affected by wage discrimination, including each occasion that a discriminatory wage rate is paid. Colo. Rev. Stat. § 8-5-103(2).</p>
<p><b>Potential Damages &amp; Remedies:</b> An employer who violates the wage discrimination prohibitions of CWERSA may be liable for economic damages, measured as the difference between the amount the employer paid and what the employee would have received had there been no violation, as well as liquidated damages equal to the amount of the economic damages. Colo. Rev. Stat. § 8-5-104(1)(a). Employees may also recover attorney’s fees and costs, and obtain legal and equitable relief, including reinstatement, promotion, and a pay increase. Colo. Rev. Stat. § 8-5-104(2).</p>

An employer may avoid liquidated damages if it can establish that it acted in good faith and that it had reasonable grounds for believing it was not in violation of the Act. Colo. Rev. Stat. § 8-5-104(1)(b)(I). In determining whether an employer acted in good faith, the fact finder may consider as evidence any pay audit the employer conducted in the two years prior to commencement of the action. Colo. Rev. Stat. § 8-5-104(1)(b)(II).

If the Director finds that an employer has violated the transparency in pay or employment opportunities requirements of the act, the Director may impose fines between \$500 and \$10,000 per violation. Colo. Rev. Stat. § 8-5-203(4).

- Connecticut -

**Equal Pay Law:** Connecticut’s equal pay law prohibits employers from engaging in wage discrimination on the basis of sex. Conn. Gen. Stat. § 31-75.

Note also that the Connecticut Fair Employment Practices Act (CFEPA) prohibits discrimination concerning pay and conditions of employment based on race, color, religion, age, sex, gender identity, marital status, national origin, ancestry, disability, pregnancy, genetic information, and sexual orientation. Conn. Gen. Stat. § 46a-60.

**Covered Employers:** Conn. Gen. Stat. § 31-75 applies to any employer.

**Covered Employees:** An employee may bring a claim under Conn. Gen. Stat. § 31-75.

**General Exceptions & Defenses:** A pay rate differential is permitted if it is based upon a:

- Seniority system
- Merit system
- System that measures earnings by quantity or quality; or
- Differential based on a factor other than sex. Conn. Gen. Stat. § 31-75(b).

**Antiretaliation:** An employer is prohibited from discharging or discriminating against any employee because such person has opposed a discriminatory practice under the Conn. Gen. Stat. § 31-75 or assisted or testified in a proceeding under Conn. Gen. Stat. § 31-76. Conn. Gen. Stat. § 31-75(c).

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Connecticut Labor Commission has the authority to investigate and ensure an employer is in compliance with Conn. Gen. Stat. § 31-75. Conn. Gen. Stat. § 31-76(a)

**Private Right of Action:** An aggrieved employee may bring an action in a court of competent jurisdiction to redress a violation of Conn. Gen. Stat. § 31-75.

Note that there is no exhaustion requirement under Conn. Gen. Stat. § 31-76, as a civil action is the only way to address an aggrieved employee’s right to compensation.

**Statute of Limitations:** An aggrieved employee must bring a civil action for a violation of Conn. Gen. Stat. § 31-75 within two years of the violation, or within three years if such violation was intentional or committed with reckless indifference. Conn. Gen. Stat. § 31-76(d).

**Potential Damages & Remedies:** A court who finds an employer has violated Conn. Gen. Stat. § 31-75 may award:

- The difference between the amount of wages paid and the maximum wage paid to any other employee for equal work
- Compensatory damages
- Attorney's fees and costs
- Punitive damages if the violation is intentional or committed with reckless indifference to the aggrieved employee's rights; and
- Any other legal or equitable relief that the court deems proper. Conn. Gen. Stat. § 31-76(b).

**– Delaware –**

**Equal Pay Law:** The Delaware Wage Payment and Collection Act (DWPCA) prohibits the payment of different wages based on sex. Del. Code Ann. tit. 19, § 1107A(a).

Note also that the Discrimination in Employment Act (DEA) protects employees from discrimination with respect to compensation based on the individual employee's membership in a protected class. Del. Code Ann. tit. 19, § 711.

**Covered Employers:** The DWPCA applies to employers and labor organizations. 19 Del. C. § 1107A. It defines "employer" as any individual, partnership, association, trust, corporation, trustee, or receiver, employing any person. 19 Del. C. § 1101(a)(4). This does not include the United States government, the state of Delaware, or any of its political subdivisions. A "labor organization" includes any organization that exists, in whole or in part, to deal with employers concerning grievances, terms, or other conditions of employment. 19 Del. C. § 1107A(d).

**Covered Employees:** An "employee" is defined as any person suffered or permitted to work by an employer under a contract of employment made, or wholly or partially performed, in Delaware. 19 Del. C. § 1101(a)(3).

**General Exceptions & Defenses:** Employers may pay different wage rates to different sexes based on the following, provided that the employer does not reduce the wages of any employee in order to comply with this statute:

- A seniority system
- A merit system
- A system measuring earnings by quantity or quality of production, or
- Any other reasonable factor other than sex. 19 Del. C. § 1107A(a).

**Antiretaliation:** N/A

**Pay Transparency Protection:** N/A

**Salary History Ban:** The DWPCA requires employers with more than 3 employees to:

- Notify each employee in writing, at the time of hiring, of their rate of pay and the time and place of payment,
- Notify each employee in writing or through a posted notice maintained in a conspicuous place of any reduction in the regular rate of pay or time and place of payment prior to such change,



- Make available to each employee in writing or through a posted notice maintained in a conspicuous place its employment practices and policies regarding vacation pay, sick leave, and similar matters,
- Provide each employee at the time of payment the wages due, the pay period, and the total amount of deductions which have been made from the wages due, and the total number of hours for the pay period, and
- Post and maintain in a conspicuous place a summary of the DWPCA to be supplied by the Department upon request without charge. 19 Del. C. § 1108.

**Enforcement Agency:** The Delaware Department of Labor (Department) administers and enforces the DWPCA. 19 Del. C. § 1111(a). The Department may file a civil action in superior court for penalties for any violations of the DWPCA.

**Private Right of Action:** An aggrieved employee may bring a civil action for unpaid wages and liquidated damages in any court of competent jurisdiction. 19 Del. C. § 1113(a).

**Statute of Limitations:** Claims under the DWPCA for unpaid wages must be brought within one year after the cause of action began to accrue.

**Potential Damages & Remedies:** Any amount owed to an employee under 19 Del. C. § 1107A is considered unpaid wages. 19 Del. C. § 1107A(c). An employer will be assessed a civil penalty of no less than \$1,000 or more than \$5,000 for each violation of the following:

- Violation of 19 Del. C. § 1107A
- Retaliation against an employee for making a complaint or participating in any way in a proceeding under the DWPCA
- A false receipt or statement that wages due have been credited to a bank account of any employee.

19 Del. C. § 1112. An employer found liable for unpaid wages will also be liable for reasonable attorney's fees and costs. 19 Del. C. § 1113(c).

– Florida –

**Equal Pay Law:** The Florida Equal Pay Act, Fla. Stat. Ann. § 448.07, protects employees from discrimination on the basis of sex. Fla. Stat. Ann. § 448.07(2)(a).

Note also that the Florida Civil Rights Act of 1992 (Florida CRA), Fla. Stat. Ann. § 760.01 et seq., protects employees, trainees, and job applicants from discrimination with respect to, among other things, compensation based on the individual employee's membership in a protected class. Fla. Stat. Ann. § 760.10(1), (4), (6)–(7).

**Covered Employers:** The Florida Equal Pay Act applies to any employer, public or private, with two or more employees, provided that employer is not subject to the federal Fair Labor Standards Act. Fla. Stat. § 448.07(1) and § 448.07 (4).

**Covered Employees:** Any employee may bring an action under the Florida Equal Pay Act. Fla. Stat. § 448.07(1).

**General Exceptions & Defenses:** An employer does not violate the Florida Equal Pay Act if the difference in wages between an aggrieved employee and a similarly situated employee of the opposite sex is made pursuant to:

- A seniority system

<ul style="list-style-type: none"> <li>• A merit system</li> <li>• A system which measures earnings by quantity or quality of production; or</li> <li>• Any other factor other than sex when exercised in good faith. Fla. Stat. § 448.07(2)(a).</li> </ul>
<b>Antiretaliation:</b> N/A
<b>Pay Transparency Protection:</b> N/A
<b>Salary History Ban:</b> N/A
<b>Enforcement Agency:</b> There is no agency enforcement under the Florida Equal Pay Act.
<b>Private Right of Action:</b> An employee has a private right of action pursuant to Fla. Stat. § 448.07(3) to enforce his or her rights under Fla. Stat. § 448.07.
<b>Statute of Limitations:</b> An aggrieved employee must bring an action pursuant to the Florida Equal Pay Act within six months after his or her employment has been terminated. Fla. Stat. § 448.07(3).
<b>Potential Damages &amp; Remedies:</b> An employer or person who violates the Florida Equal Pay Act is liable to an aggrieved employee for the amount that is the difference between what he or she was paid and what he or she should have been paid. However, the employee's recovery is limited to the unpaid wages for the year prior to the filing of his or her claim. The prevailing party may be awarded costs and reasonable attorney's fees. Fla. Stat. § 448.07(3).

– Georgia –

<b>Equal Pay Law:</b> The Georgia Equal Pay for Equal Work Act, Ga. Code Ann. §§ 34-5-1 to 34-5-7, prohibits an employer from paying an employee at a rate less than the rate paid to another employee of the opposite sex for equal work requiring equal skill, effort, and responsibility, performed under similar conditions, with only enumerated exceptions. Ga. Code Ann. § 34-5-3(a).
<b>Covered Employers:</b> The Georgia Equal Pay for Equal Work Act defines "employer" as any person with 10 or more employees or an agent of the employer. "Employer" includes any employer engaged in intrastate commerce. Ga. Code Ann. § 34-5-2(4).
<b>Covered Employees:</b> "Employee" means any individual employed by an employer, other than domestic or agricultural employees, and includes individuals employed by the state. Ga. Code Ann. § 34-5-2(3).
<b>General Exceptions &amp; Defenses:</b> A pay rate differential is permitted if it is based upon: <ul style="list-style-type: none"> <li>• A seniority system</li> <li>• A merit system</li> <li>• A system that measures earnings by quantity or quality; or</li> <li>• A differential based on a factor other than sex. Ga. Code Ann. § 34-5-3(a).</li> </ul>
<b>Antiretaliation:</b> The Georgia Equal Pay for Equal Work Act prohibits a person from discharging or otherwise discriminating against an employee because the employee complained of a violation to the

employer or instituted an action or testified in a proceeding under the Act. Ga. Code Ann. § 34-5-3(c). A person found guilty of violating Ga. Code Ann. § 34-5-3(c) may be fined up to \$100.00.

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Georgia Commissioner of Labor has the authority to administer the Georgia Equal Pay for Equal Work Act. Ga. Code Ann. § 34-5-4.

**Private Right of Action:** An aggrieved employee has a private right of action to recover unpaid wages under the Georgia Equal Pay for Equal Work Act. Ga. Code Ann. § 34-5-5(a).

However, the parties may also agree to arbitrate the dispute pursuant to Ga. Code Ann. § 34-5-6.

**Statute of Limitations:** An aggrieved employee must commence an action to recover unpaid wages under the Georgia Equal Pay for Equal Work Act within one year after the cause of action has accrued. Ga. Code Ann. § 34-5-5(b).

**Potential Damages & Remedies:** In a successful action under the Georgia Equal Pay for Equal Work Act, a court may award:

- Unpaid wages; and
- Costs and reasonable attorney's fees not to exceed 25% of the judgment against the employer. Ga. Code Ann. § 34-5-5(a).

**- Hawaii-**

**Equal Pay Law:** Hawaii does not have a standalone equal pay act, but the Hawaii Fair Employment Practices Act (HFPEA), Haw. Rev. Stat. § 378-1, et seq., prohibits an employer from paying wages to employees at a rate less than the rate paid to an employee of the opposite sex in an establishment for equal work on jobs requiring equal skill, effort, and responsibility, performed under similar conditions. Haw. Rev. Stat. Ann. § 378-2.3. The HFPEA also prohibits discrimination against any individual in compensation or in the terms, conditions, or privileges of employment. Haw. Rev. Stat. § 378-2.

Note also that the Hawaii Wage and Hour Law (HWWL), Haw. Rev. Stat. Ann. § 387-1 et seq., prohibits employers from discriminating in any way in the payment of wages as between the sexes. Haw. Rev. Stat. Ann. § 387-4.

**Covered Employers:** For purposes of the HFPEA, an employer is any person, including the state or its political subdivisions, having one or more employees. However, the United States is not an employer. Haw. Rev. Stat. § 378-1.

**Covered Employees:** HFPEA applies to all employees and applicants for employment. Haw. Rev. Stat. § 378-2.

**General Exceptions & Defenses:** It is not a violation of HFPEA, if a pay differential results from:

- A seniority system
- A merit system
- A system measuring earnings by quantity or quality of production
- A BFOQ; or

<ul style="list-style-type: none"> <li>• A differential based on any permissible factor other than sex. Haw. Rev. Stat. § 378-2.3.</li> </ul>
<p><b>Antiretaliation:</b> Hawaii laws bar an employer from retaliating against an employee for recourse under HFEPA and further bars employers from retaliating against employees who encourage other employees to exercise their rights under HFEPA’s equal pay provision. 2017 Hi. S.B. 2351, § 3 (Haw. Rev. Stat. § 378-2.3(b)).</p>
<p><b>Pay Transparency Protection:</b> An employer may not prohibit an employee from, or retaliate or discriminate against an employee for:</p> <ul style="list-style-type: none"> <li>• Disclosing the employee’s wages; or</li> <li>• Discussing and inquiring about the wages of other employees. 2017 Hi. S.B. 2351, § 3 (Haw. Rev. Stat. § 378-2.3(b)).</li> </ul>
<p><b>Salary History Ban:</b> N/A</p>
<p><b>Enforcement Agency:</b> The Hawaii Civil Rights Commission (Commission) enforces the HFEPA; the Commission will take the lead in investigating any discriminatory practices under the act. WCHR § 12-46-10 (the EEOC may also have jurisdiction); Haw. Rev. Stat. § 378-4.</p>
<p><b>Private Right of Action:</b> Upon requesting and receiving a right to sue notice from the Commission, an individual has a private right of action under the HFEPA. Haw. Rev. Stat. § 368-12. However, the Commission may intervene in a civil action of a case of general importance.</p> <p>An aggrieved employee must file a timely complaint with the Commission prior to requesting a right to sue notice to file a civil action in court.</p>
<p><b>Statute of Limitations:</b> Any person subjected to unlawful discrimination can file a complaint with the Commission within 180 days of the alleged discrimination or the last occurrence in an ongoing discriminatory practice. Haw. Rev. Stat. § 368-11(c).</p> <p>A complainant has 90 days upon receipt of a right to sue notice to bring a civil action under the HFEPA. Haw. Rev. Stat. § 368-12.</p>
<p><b>Potential Damages &amp; Remedies:</b> The Commission and the court may order appropriate affirmative relief including but not limited to hiring, reinstatement, or promotion of employees with or without back pay or any other remedy provided under Haw. Rev. Stat. § 368-17. Haw. Rev. Stat. § 378-5.</p> <p>In addition, the court may grant:</p> <ul style="list-style-type: none"> <li>• Injunctive relief</li> <li>• Affirmative relief, such as reinstatement, promotion, or other employment benefits</li> <li>• Back pay accrued for up to two years prior to filing the complaint with the Commission</li> <li>• Compensatory and punitive damages</li> <li>• Emotional distress damages</li> <li>• Costs and reasonable attorney’s fees; and</li> <li>• Any other relief the court deems appropriate.</li> </ul> <p>Haw. Rev. Stat. § 378-5.</p>

– Idaho –

**Equal Pay Law:** Idaho has a standalone equal pay act, Idaho Code Ann. § 44-1701 et seq., which prohibits an employer from discriminating between or among employees in the same establishment based on sex by paying wages to employees in any occupation in Idaho at a rate less than the rate paid to an employee of the opposite sex for comparable work on jobs with comparable requirements relating to skill, effort, and responsibility. Idaho Code Ann. § 44-1702.

Note also that the Idaho Human Rights Act (IHRA), Idaho Code Ann. § 67-5901 et seq., and Idaho Civil Rights Law, Idaho Code Ann. § 18-7301 et seq., bar employment compensation discrimination, among other types of discrimination, based on membership in a protected class, including sex. Idaho Code Ann. § 67-5909; Idaho Code Ann. § 18-7303.

**Covered Employers:** Idaho’s wage discrimination law applies to employers, which includes any person acting directly or indirectly in the interest of an employer in relation to an employee. Idaho Code Ann. § 44-1701(2); Idaho Code Ann. § 44-1702(1).

**Covered Employees:** An “employee” is defined as any individual employed by an employer, including individuals employed by the state and its political subdivisions. Idaho Code Ann. § 44-1701(1).

**General Exceptions & Defenses:** An employer may pay different wage rates pursuant to a seniority or merit increase system that does not discriminate on the basis of sex. Idaho Code Ann. § 44-1702(1).

**Antiretaliation:** Idaho laws bar an employer from retaliating against an employee for any action taken by the employee to seek enforcement of the Act.

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Director of Idaho’s Human Rights Commission (Director) enforces Idaho’s wage discrimination law. Idaho Code Ann. § 44-1703.

The Director may file an action with a court of competent jurisdiction on behalf of employees pursuant to an employee’s written request claiming a violation. Idaho Code Ann. § 44-1704(4).

The Director may also petition the court to restrain violations and for affirmative relief. Idaho Code Ann. § 44-1704(6).

**Private Right of Action:** Employees aggrieved under this statute may file a claim in any court of competent jurisdiction. Idaho Code Ann. § 44-1704(2).

**Statute of Limitations:** Generally, an action for asserting statutory liability (other than a penalty or forfeiture) must be filed within three years after the action accrued. Idaho Code Ann. § 5-218.

**Potential Damages & Remedies:** The court may award any affirmative action deemed appropriate, including the following:

- Injunctive relief
- Unpaid wages
- Reinstatement

- Liquidated damages; and
- Reasonable costs and attorney’s fees.

Idaho Code Ann. § 44-1704.

**- Illinois-**

**Equal Pay Law:** The Illinois Equal Pay Act of 2003, 820 Ill. Comp. Stat. 112/1 et seq., prohibits employers from discriminating against an employee by paying him or her at a lesser rate than an employee of the opposite sex for the same or substantially similar work on jobs requiring equal skill, effort, and responsibility, performed under similar working conditions. 820 Ill. Comp. Stat. 112/10(a).

Note also that the Illinois Human Rights Act (IHRA), 775 Ill. Comp. Stat. 5/1-101 et seq., makes it unlawful for an employer to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges, or conditions of employment based on unlawful discrimination, including membership in a protected class such as sex. 775 Ill. Comp. Stat. 5/2-102.

**Covered Employers:** The term “employer” under the Illinois Equal Pay Act includes any employer in the state of Illinois. It includes any state or local agency, officer, department, or school district. 820 Ill. Comp. Stat. 112/5.

**Covered Employees:** All employees are covered by the Illinois Equal Pay Act. 820 Ill. Comp. Stat. 112/5.

**General Exceptions & Defenses:** Exceptions exist where payment is made under:

- A seniority system
- A merit system
- A system that measures earnings by quantity or quality of production; or
- A differential based on any other factor other than sex, race, or a factor that would constitute unlawful discrimination under the IHRA, provided that factor:
  - (a) Is not based on or derived from a differential in compensation based on sex or another protected characteristic
  - (b) Is job-related with respect to the position and consistent with a business necessity; and
  - (c) Accounts for the differential.

**Antiretaliation:** The Act also makes it unlawful for the employer to retaliate against an employee. 820 ILCS 112/10(b).

**Pay Transparency Protection:** N/A

**Salary History Ban:** The Act also includes a salary history inquiry ban, prohibiting employers from:

- Screening job applicants based on their salary history
- Requesting or requiring salary history be provided as a condition of being interviewed or considered for employment; or
- Otherwise requesting or requiring applicants to disclose salary history information as a condition of employment.

820 ILCS 112/10(b-5).

Employers are also prohibited from seeking an applicant's salary history information from the applicant's current or former employers, unless that salary history is a matter of public record or the applicant is a current employee of the hiring employer. 820 ILCS 112/10(b-10).

**Enforcement Agency:** The Director of the Illinois Department of Labor administers and enforces the Illinois Equal Pay Act. 820 ILCS 112/15.

**Private Right of Action:** An employee may bring a civil action for violation of the Illinois Equal Pay Act. 820 Ill. Comp. Stat. 112/20(a), (a-5).

**Statute of Limitations:** An employee or the Illinois Department of Labor must bring an action to recover unpaid wages under the Illinois Equal Pay Act within five years from the date of underpayment. The term "the date of underpayment" means each time wages are underpaid. 820 Ill. Comp. Stat. 112/30(a), (a-5).

Employees can file complaints with the Illinois Department of Labor within one year from the date of underpayment. 820 Ill. Comp. Stat. 112/15(b); Ill. Admin. Code tit. 56, § 320.210.

**Potential Damages & Remedies:** Under the Illinois Equal Pay Act, an employee paid less than the wage to which he or she is entitled may recover:

- The entire amount of the underpayment, with interest
- Compensatory damages, if the employee demonstrates that the employer acted with malice or reckless indifference
- Punitive damages
- Injunctive relief; and
- Costs and reasonable attorney's fees.

If an employer violates the wage disclosure or salary history provisions of the Act, an employee may recover:

- Any damages incurred
- Special damages up to \$10,000
- Compensatory damages to the extent they exceed the amount of special damages
- Injunctive relief; and
- Costs and reasonable attorney's fees.

If the employer retaliates against the employee as defined in 820 ILCS 112/10(b) or (c), the employee is entitled to such legal and equitable relief as may be appropriate, including:

- Backpay
- Front pay; and
- An additional equal amount as liquidated damages.

An employer that violates the Act may also be subject to a civil penalty of \$2,500 to \$5,000 for each violation for each employee, depending on the violation and whether it is a repeat offense. 820 ILCS 112/30(c).

- Indiana -

**Equal Pay Law:** Indiana's Minimum Wage Law (MWL), Ind. Code Ann. § 22-2-2-1 et seq., prohibits employers from discriminating within any workplace between employees based on sex by paying an employee at a rate less than the rate paid to an employee of the opposite sex for equal work on jobs requiring equal skill, effort, and responsibility, performed under similar working conditions. Ind. Code Ann. § 22-2-2-11(d).

Note also that the Indiana Civil Rights Law (ICRL), Ind. Code Ann. § 22-9-1-0.1 et seq., prohibits an employer from excluding a qualified person from equal employment opportunities based on membership in a protected class, including sex, and prohibits any such system of exclusion. Ind. Code Ann. §§ 22-9-1-2(a)-(b), 22-9-1-3(l).

**Covered Employers:** The Indiana MWL defines the term "employer" as a private employer, the State, or a political subdivision of the State, provided the employer has two or more employees. However, "employer" does not include any employer who is subject to the federal Fair Labor Standards Act (FLSA), 29 U.S.C.S. § 201 et seq. Ind. Code Ann. § 22-2-2-3.

**Covered Employees:** Under the Indiana Minimum Wage Law, the term "employee" means any employee, except the following:

- A person less than sixteen years old;
- A person engaged in an independently established trade, occupation, profession, or business who is free from control or direction under a service contract and in fact;
- A person performing services not in the course of the employer's business;
- A person employed on a commission basis;
- A person employed by his or her parent, spouse, or child;
- A member of a religious order performing a service for that order;
- A student nurse;
- A medical school graduate employed as an intern or a resident physician at a hospital;
- A student performing services at a university where he or she is enrolled and regularly attending classes;
- A person with a physical or mental disability performing services at a nonprofit organization organized primarily for providing employment to such individuals;
- A person working for a camp or other recreational facility run by a charitable, religious, or educational nonprofit organization;
- A person engaged in agricultural labor;
- A person in an executive, administrative, or professional occupation who has the authority to employ or discharge and earns more than \$150 a week;
- A person not employed more than four weeks in any four consecutive three-month periods; or
- Any employee covered under the federal Motor Carrier Act, 49 U.S.C.S. § 304(3).

Ind. Code Ann. § 22-2-2-3.

**General Exceptions & Defenses:** A pay rate differential is permitted if it is based upon:

- A seniority system;
- A merit system;



<ul style="list-style-type: none"> <li>• A system that measures earnings by quantity or quality; or</li> <li>• A differential based on a factor other than sex.</li> </ul> <p>Ind. Code Ann. § 22-2-2-4(a).</p>
<b>Antiretaliation:</b> N/A
<b>Pay Transparency Protection:</b> N/A
<b>Salary History Ban:</b> N/A
<b>Enforcement Agency:</b> The Indiana Department of Labor is responsible for enforcing the Indiana Minimum Wage Law.
<b>Private Right of Action:</b> An aggrieved employee has a private right of action for a violation of the Indiana Minimum Wage Law. Ind. Code Ann. § 22-2-2-9.
<b>Statute of Limitations:</b> An aggrieved employee must bring an action within three years of the alleged violation of the Indiana Minimum Wage Law. Ind. Code Ann. § 22-2-2-9.
<p><b>Potential Damages &amp; Remedies:</b> If a court finds that the Indiana Minimum Wage Law has been violated it may award an aggrieved employee:</p> <ul style="list-style-type: none"> <li>• The amount of his or her unpaid wages;</li> <li>• An equal amount as liquidated damages; and</li> <li>• A reasonable attorney's fee and costs.</li> </ul> <p>Ind. Code Ann. § 22-2-2-9.</p> <p>An employer who retaliates against an employee for exercising his or her rights under the Indiana Minimum Wage Law may be liable for a misdemeanor. Ind. Code Ann. § 22-2-2-11.</p>

– Iowa –

<p><b>Equal Pay Law:</b> Iowa does not have stand-alone equal pay act. Iowa’s Civil Rights Act of 1965 prohibits employers from discriminating against any employee based on his or her age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability by paying them a wage less than the rate paid to other employees at the same establishment for equal work on jobs requiring equal skill, effort, and responsibility, and performed under similar working conditions. Iowa Code § 216.6A(2).</p>
<p><b>Covered Employers:</b> For purposes of the wage discrimination provision of the Iowa Civil Rights Act, an employer is any employer with four or more employees in the state, including the state and its political subdivisions. Iowa Code § 216.2(7); Iowa Code § 216.6A(4).</p>
<p><b>Covered Employees:</b> A covered employee for purposes of the wage discrimination provision of the Iowa Civil Rights Act is any employee of an employer with four or more employees. Members of an employer’s family do not count as employees. Iowa Code § 216.2(6); Iowa Code § 216.6A(4).</p>
<p><b>General Exceptions &amp; Defenses:</b> It is an unfair or discriminatory practice under the Iowa Civil Rights Act for an employer to pay an employee at a rate less than that paid to other employees based upon the employee’s protected class or characteristic if the employee is engaging in the same type of</p>

work under similar working conditions as other employees. Iowa Code § 216.6A(2)(a). A separate violation occurs each time:

- An employee receives wages, benefits, or compensation based on a discriminatory pay decision or practice
- When an employer adopts a discriminatory pay decision or practice –or–
- When an employee becomes subject to a discriminatory pay decision or practice.

**Antiretaliation:** N/A

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Iowa Civil Rights Commission (Commission) administers and enforces Iowa Civil Rights Act. Iowa Code § 216.5. An employee may file a complaint alleging wage discrimination with the Commission. Iowa Code § 216.15(1).

**Private Right of Action:** An aggrieved employee has a private right of action under the Iowa Civil Rights Act. Iowa Code § 216.16(1). However, an employee alleging wage discrimination under the Iowa Civil Rights Act must first file a complaint with the Iowa Civil Rights Commission. Iowa Code § 216.16(1). Once a complaint has been filed, the employee may commence an action in district court if:

- The complaint was timely filed –and–
- The complaint has been on file with the Commission for 60 days and the Commission has issued a release to the employee.

**Statute of Limitations:** An employee’s complaint must be filed with the Iowa Civil Rights Commission within 300 days of the alleged wage discrimination. Iowa Code § 216.15(13). An employee’s civil action must be filed within 90 days of receiving a release from the Commission. Iowa Code § 216.16(4).

**Potential Damages & Remedies:** If the Iowa Civil Rights Commission or a district court concludes that an employer has engaged in wage discrimination under the Iowa Civil Rights Act, they may order:

- The hiring, reinstatement, or promotion of the employee
- Payment of actual damages, court costs, and attorney’s fees to the employee
- Payment of an amount equal to two times the wage differential paid to another employee for the time the employee was discriminated against –or–
- If the violation is willful, payment of an amount equal to three times the wage differential paid to another employee for the time employee was discriminated against.

– Kansas –

**Equal Pay Law:** Kansas’s equal pay law prohibits employers from engaging in wage discrimination on the basis of sex. Kan. Stat. Ann. § 44-1205. For more detail on Kansas’s equal pay laws, see Prohibited Conduct below. Kansas’s equal pay laws are substantially the same as the equal pay laws under the federal Equal Pay Act, but there are employer coverage differences. See Differences and Interaction between Federal and State Law below. See also 29 U.S.C. § 206 and Equal Pay Act: Key Compliance Issues.

Note also that the Kansas Act Against Discrimination (KAAD) prohibits discrimination concerning pay and conditions of employment based on sex, disability, race, color, religion, national origin, ancestry, and genetic information (Kan. Stat. Ann. § 44-1009) while the Kansas Age Discrimination in Employment Act (KADEA) prohibits discrimination concerning pay and conditions of employment based on age. Kan. Stat. Ann. § 44-1113 (a). For more detail on KAAD and KADEA, see Kansas Act Against Discrimination (KAAD) and Kansas Age Discrimination in Employment Act (KADEA).

**Covered Employers:** Kan. Stat. Ann. § 44-1205 applies to any employer employing both sexes. Kan. Stat. Ann. § 44-1205. Kan. Stat. Ann. § 44-1205 protects employees from wage discrimination on the basis of the employee's sex.

An "employer" includes any individual, association, corporation, person, or group directly or indirectly acting in the interest of an employer in relation to an employee. Kan. Stat. Ann. § 44-1202. This does not include employers subject to 29 U.S.C. § 201. Id.

**Covered Employees:** This statute applies to employees who are employed in an establishment where both sexes are employed. Kan. Stat. Ann. § 44-1205.

An "employee" is defined as any individual employed by an employer. Kan. Stat. Ann. § 44-1202(e).

The following are not employees protected by this statute:

- Agricultural employees
- Employees in domestic service
- Bona fide executive, administrative, or professional employees
- Salesman paid by outside commission
- Individuals employed by the United States
- Individuals gratuitously referring services to a non-profit
- Persons 18 years of age or less employed on an occasional or part-time basis
- Individuals employed by a unified school district in an executive, administrative, or professional capacity for 50% or more of the working hours.

**General Exceptions & Defenses:** Kansas law prohibits employers from:

- Paying lower wages based on an employee's sex for equal work requiring equal skill, effort, and responsibility (Kan. Stat. Ann. § 44-1205); or
- Retaliating against an employee for making a complaint, instituting, or causing to be instituted or otherwise participating in any proceeding under this statute (Kan. Stat. Ann. § 44-1210).

Note also that the Kansas Act Against Discrimination (KAAD) prohibits discrimination concerning pay and conditions of employment based on sex, disability, race, color, religion, national origin, ancestry, and genetic information (Kan. Stat. Ann. § 44-1009) while the Kansas Age Discrimination in Employment Act (KADEA) prohibits discrimination concerning pay and conditions of employment based on age. Kan. Stat. Ann. § 44-1113 (a). For more detail on KAAD and KADEA, see Kansas Act Against Discrimination (KAAD) and Kansas Age Discrimination in Employment Act (KADEA).

**Antiretaliation:** An employer cannot discharge or otherwise discriminate against an employee for filing a complaint or otherwise participating in proceedings related to a claim under Kan. Stat. Ann. § 44-1205. Kan. Stat. Ann. § 44-1210(b).

Any employer convicted of retaliation faces a fine of \$250 up to \$1000. Id.

<b>Pay Transparency Protection:</b> N/A
<b>Salary History Ban:</b> N/A
<b>Enforcement Agency:</b> The Secretary of the Kansas Department of Labor (Secretary) enforces Kan. Stat. Ann. § 44-1205. Kan. Stat. Ann. § 44-1202; Kan. Stat. Ann. § 44-1206.
<b>Private Right of Action:</b> An aggrieved employee may file an action to enforce these protections in a court of competent jurisdiction. Kan. Stat. Ann. § 44-1211(a). At the request of the employee, the Secretary may also take an assignment of a wage claim, join other claimants, and bring legal action against the employer. Kan. Stat. Ann. § 44-1211(b).
<b>Statute of Limitations:</b> Kansas authority addressing a statute of limitations for discrimination claims under Kan. Stat. Ann. § 44-1205.  Kansas law does provide that an action for a statutory penalty must be brought within one year. Kan. Stat. Ann. § 60-514(c). An action for a liability under statute other than a penalty must be filed within three years. Kan. Stat. Ann. § 60-512.
<b>Potential Damages &amp; Remedies:</b> An employer that violates Kan. Stat. Ann. § 44-1205 may be subject to the following damages: <ul style="list-style-type: none"> <li>• Full amount of the wages owed to an employee, less any amount paid (Kan. Stat. Ann. § 44-1211(a))</li> <li>• Costs and reasonable attorney fees incurred in recovering wages (Kan. Stat. Ann. § 44-1211(a))</li> <li>• Fine of \$250 to \$1,000 (Kan. Stat. Ann. § 44-1210(a)).</li> </ul> However, an employer is not required to reduce the wage rate of any employee in order to comply with this statute. Kan. Stat. Ann. § 44-1205.

– Kentucky –

<b>Equal Pay Law:</b> Kentucky’s “Wage Discrimination Because of Sex” provisions, Ky. Rev. Stat. Ann. §§ 337.420 to 337.433, prohibit an employer from paying any employee less than the rate paid to an employee of the opposite sex for comparable work requiring comparable skill, effort, and responsibility. Ky. Rev. Stat. Ann. § 337.423; 803 Ky. Admin. Regs. 1:025.  Note also that The Kentucky Civil Rights Act (KCRA), Ky. Rev. Stat. Ann. § 344.010 et seq., prohibits employers from discriminating against an individual with respect to compensation, terms, conditions, or privileges of employment, because of that person’s membership in a protected class, including sex. Ky. Rev. Stat. Ann. § 344.040(1)(a). See Kentucky Civil Rights Act (KCRA).
<b>Covered Employers:</b> For purposes of KRS §§ 337.420–337.433, "employer" is defined as any employer with two or more employees within the State in each of twenty or more weeks in the current or preceding year or an agent of that person. KRS § 337.420(2).  The provisions of KRS §§ 337.420–337.433 do not apply to an employer who is covered by the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. 201 et seq., when the FLSA imposes comparable or greater requirements than KRS §§ 337.420–337.433. KRS § 337.423(1).
<b>Covered Employees:</b> An employee may bring a claim under KRS §§ 337.420–337.433. "Employee" is defined as an individual employed by any employer, including the state and its political subdivisions. KRS § 337.420(1).

**General Exceptions & Defenses:** KRS § 337.423(1) prohibits an employer from paying an employee at a rate less than the rate the employer pays another employee of the opposite sex for equal work for jobs that require equal skill, effort, and responsibility and which are performed under similar conditions. A pay rate differential is permitted if it is based upon a seniority system or a merit system not based on sex.

KRS § 337.423(4) also prohibits the employer from discharging or discriminating against an employee because that employee took action to invoke rights under or assist in the enforcement of KRS §§ 337.420–337.433.

KRS § 337.423(3) prohibits any person from causing or attempting to cause an employer to discriminate against an employee in violation of KRS §§ 337.420–337.433.

**Antiretaliation:** KRS § 337.423(4) also prohibits the employer from discharging or discriminating against an employee because that employee took action to invoke rights under or assist in the enforcement of KRS §§ 337.420–337.433.

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Kentucky Commissioner of Workplace Standards has the authority to administer and enforce KRS §§ 337.420–337.433. KRS § 337.425.

**Private Right of Action:** An aggrieved employee has a private right of action to enforce the provisions of KRS §§.

**Statute of Limitations:** An aggrieved employee must file a civil action for an alleged violation of KRS §§ 337.420–337.433 within six months of the alleged unlawful pay practice. KRS § 337.430.

**Potential Damages & Remedies:** If a court finds that an employer has violated KRS §§ 337.420–337.433, it may:

- Award an aggrieved employee his or her unpaid wages;
- Award an equal amount as the unpaid wages as liquidated damages if the violation was willful;
- Award a reasonable attorney’s fee and costs; and
- Award appropriate affirmative relief, including reinstatement. KRS § 337.427(2) and (5).

A person may be liable for a civil penalty between \$100 and \$1,000 if that person discharges or otherwise discriminates against an employee for:

- Making a complaint to his or her employer, the Kentucky Commissioner of Workplace Standards or other person under KRS §§ 337.420–337.433;
- Instituting or causing to be instituted any proceeding under KRS §§ 337.420–337.433; or
- Testifying or preparing to testify in such a proceeding.

– Louisiana –

**Equal Pay Law:** The Louisiana Equal Pay for Women Act, La. Rev. Stat. § 23:661 et seq., protects employees from wage discrimination based solely on the employee’s sex. La. Rev. Stat. § 23:664(A). For more detail on Louisiana equal pay laws, see Prohibited Conduct. For information on the federal Equal Pay Act, 29 U.S.C. § 206(d), see Equal Pay Act: Key Compliance Issues.

Note also that the Louisiana Employment Discrimination Law, La. Rev. Stat. § 23:661 et seq., protects employees from discrimination, retaliation, and harassment in the hiring, discharge, compensation, terms, privileges, and conditions of employment, as well as other adverse effects on the employee's status as such, based on membership in protected classes, including sex. La. R.S. 23:332. See Louisiana Employment Discrimination Law.

**Covered Employers:** "Employer" is defined by the Louisiana Equal Pay for Women Act as any state:

- Department
- Office
- Division
- Agency
- Commission
- Board
- Committee –or–
- Other organizational unit.

**Covered Employees:** An "employee" is defined under the Louisiana Equal Pay for Women Act as a female individual employed by an employer for 40 or more hours a week. La. R.S. 23:663(2).

**General Exceptions & Defenses:** A pay rate differential is permitted if it is based upon:

- A seniority system
- A merit system
- A system that measures earnings by quantity or quality –or–
- A differential based on a bona fide factor other sex, provided it is related to the job position in question and there is no alternative employment practice that would serve the same business purpose without creating such a differential La. R.S. 23:664(B).

**Antiretaliation:** The Louisiana Equal Pay for Women Act prohibits an employer from discriminating or retaliating against an employee who:

- Inquires about, discloses, or compares her wages with the wages of any other employee for the purposes of exercising her rights under the Act
- Aids and encourages another employee to exercise her rights under the Act
- Has filed a complaint or instituted a proceeding to enforce her rights under the Act
- Has provided or will provide information in an inquiry or a proceeding under the Act –or–
- Has testified or will testify in an inquiry or proceeding under the Act.

**Pay Transparency Protection:** The Louisiana Equal Pay for Women Act prohibits an employer from discriminating or retaliating against an employee who inquires about, discloses, or compares her wages with the wages of any other employee for the purposes of exercising her rights under the Act.

**Salary History Ban (Only New Orleans)**

In an effort to address equal pay for equal work, the Mayor of the City of New Orleans issued an executive order, MJL 17-01, that prohibits city departments interviewing candidates for employment from asking about a candidate’s salary history throughout the job application and interview process.

**Enforcement Agency:** The Louisiana Commission on Human Rights has the authority to enforce the Louisiana Equal Pay for Women Act.

**Private Right of Action:** An aggrieved individual has a private right of action under the Louisiana Equal Pay for Women Act. La R.S. 23:665(C).

**Statute of Limitations:** An aggrieved employee should file a complaint alleging an unlawful discriminatory practice under the Louisiana Equal Pay for Women Act with the Louisiana Commission on Human Rights within 180 days of the alleged violation. La. R.S. 23:665(B); La. R.S. 51:2257(A).

The employee has one year from the date the employee was aware or should have been aware of the violation of the Louisiana Equal Pay for Women Act to file a civil action. The one-year period is stayed during the 60 days after the employee has given the employer notice of the violation and during the pendency of any administrative review or investigation of the employee’s claim by the Commission or the United States Department of Labor. La. R.S. 23:667.

**Potential Damages & Remedies:** An employer who violates the Louisiana Equal Pay for Women Act is liable to an employee for the employee’s unpaid wages and reasonable attorney’s fees and costs. La. R.S. 23:666(A). An award of monetary relief is limited to violations that occurred within the 36 months prior to when the employee gave written notice of the alleged violation to the employer. La. R.S. 23:666(B).

– Maine –

**Equal Pay Law:** Maine’s equal pay laws prohibit employers from:

- Discriminating by paying any employee wages at a rate less than that paid to employees of the opposite sex for comparable work on jobs requiring comparable skill, effort, and responsibility –and–
- Discharging or retaliating against any employee for invoking or seeking assistance in the enforcement of MEPA Me. Rev. Stat. tit. 26, § 628; CMR 12-170-012.

Note also that the Maine Human Rights Act (MHRA), Me. Rev. Stat. tit. 5, § 4551 et seq., protects employees from discrimination with respect to hire, tenure, promotion, transfer, compensation, terms, conditions, or privileges of employment or any other matter directly or indirectly related to employment, based on their membership in a protected class, including sex. Me. Rev. Stat. tit. 5, § 4572.

**Covered Employers:** Maine’s equal pay provision. Me. Rev. Stat. tit. 26, § 628, applies to employers, which it defines as an individual, partnership, association, corporation, legal representative, trustee, receiver, and any common carrier doing business in Maine. Me. Rev. Stat. tit. 26, § 591(2).

**Covered Employees:** Maine’s equal pay provision covers employees, which it defines as every person permitted, required, or directed by an employer for profit or gain, and engaging in employment. Me. Rev. Stat. tit. 26, § 591(1); Me. Rev. Stat. tit. 26, § 628.

**General Exceptions & Defenses:** However, employers may pay different wage rates to different sexes pursuant to:

- Established seniority systems
- Merit increase systems –or–

• The shift or time of the day worked so long as these systems or practices do not discriminate on the basis of sex. Id.

In addition, an employer will be presumed to have not violated Me. Rev. Stat. tit. 26, § 628 if the employer:

- Has completed a self-evaluation in accordance with CMR 12-170-012(V) –and–
- Can affirmatively show that it is making progress to removing or preventing wage differentials based on gender, including implementing any required remediation plan.

CMR 12-170-012(IV)(A) (the aggrieved party still has an opportunity to provide evidence to rebut this presumption).

**Antiretaliation:** N/A

**Pay Transparency Protection:** N/A

**Salary History Ban:** Evidence of unlawful employment discrimination under Maine’s equal pay provision includes an employer’s unlawful inquiry into a prospective employee’s compensation history prior to making an employment offer. Me. Rev. Stat. tit. 5, § 4577(2), (3) (eff. Sept. 17, 2019).

**Enforcement Agency:** The Department of Labor, Bureau of Labor Standards (Bureau) administers Maine’s equal pay provision. Me. Rev. Stat. tit. 26, § 628; CMR 12-170-012.

**Private Right of Action:** An action for a violation of the equal pay law can be brought either by the affected employee or by the Maine Department of Labor. CMR 12-170-012(III); Me. Rev. Stat. tit. 26, § 626-A.

**Statute of Limitations:** No identified Maine authority that addresses a statute of limitations specific to Maine’s equal pay law. Generally, a civil action must be brought within six years of the accrual of the cause of action. Me. Rev. Stat. tit. 14, § 752.

**Potential Damages & Remedies:** If the employer violates Me. Rev. Stat. tit. 26, § 628, a court may award:

- A fine of not less than \$100 and not more than \$500 for each violation
- The amount of unpaid wages and benefits plus interest
- An amount equal to twice the amount of unpaid wages as liquidated damages
- The costs of the legal action –and–
- A reasonable attorney’s fees.

Me. Rev. Stat. tit. 26, § 626-A.

### – Maryland –

**Equal Pay Law:** Maryland’s Equal Pay for Equal Work laws (MEPEW), Md. Code Ann., Lab. & Empl. §§ 3-301 to 3-309, prohibit employers from paying employees of one sex or gender identity less than employees of another sex or gender identity, or from providing less favorable employment opportunities based on sex or gender identity. Md. Code Ann., Lab. & Empl. § 3-304. For more detail on Maryland equal pay laws, see Prohibited Conduct. Maryland’s equal pay laws are different than the equal pay laws under the federal Equal Pay Act. 29 U.S.C. § 206(d).

Note also that the Maryland Fair Employment Practices Act (FEPA), Md. Code Ann., State Gov’t §§ 20-601 to 20-610, prohibits employers from discriminating against an individual because of that



person's membership in a protected class, including sex or gender identity. Md. Code Ann., State Gov't § 20-606. See Fair Employment Practices Act (FEPA) (MD).

**Covered Employers:** Maryland's equal pay for equal work provisions protect employees from discrimination in the payment of compensation based on sex. Md. LABOR AND EMPLOYMENT Code Ann. § 3-301 through Md. LABOR AND EMPLOYMENT Code Ann. § 3-308.

For purposes of Md. LABOR AND EMPLOYMENT Code Ann. § 3-301 through Md. LABOR AND EMPLOYMENT Code Ann. § 3-308, an "employer" is defined as:

- A person engaged in a business, industry, trade, or profession in the state
- The state
- A county
- A municipal government –or–
- A person who acts directly or indirectly in the interest of another employer with an employee.

**Covered Employees:** An employee can bring a claim under Md. LABOR AND EMPLOYMENT Code Ann. § 3-301 through Md. LABOR AND EMPLOYMENT Code Ann. § 3-308. Md. LABOR AND EMPLOYMENT Code Ann. § 3-307(a).

**General Exceptions & Defenses:** A pay rate differential is permitted if it is based upon:

- A seniority system
- A merit system
- Jobs that require different abilities and skills
- Jobs that require the regular performance of different duties or services –or–
- Work that is performed on different shifts or at different times of day.

Md. LABOR AND EMPLOYMENT Code Ann. § 3-304(b).

**Antiretaliation:** An employer is prohibited from retaliating against an employee for exercising rights under Md. LABOR AND EMPLOYMENT Code Ann. § 3-301 through Md. LABOR AND EMPLOYMENT Code Ann. § 3-308. An employer may not discharge or otherwise discriminate against an employee for:

- Making a complaint to the employer, the Maryland Commissioner of Labor and Industry, or another person
- Bringing an action under Md. LABOR AND EMPLOYMENT Code Ann. § 3-301 through Md. LABOR AND EMPLOYMENT Code Ann. § 3-308 –or–
- Testifying in an action or proceeding under Md. LABOR AND EMPLOYMENT Code Ann. § 3-301 through Md. LABOR AND EMPLOYMENT Code Ann. § 3-308.

Md. LABOR AND EMPLOYMENT Code Ann. § 3-308(a)(4).

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Maryland Commissioner of Labor and Industry has the authority to administer Md. LABOR AND EMPLOYMENT Code Ann. § 3-301 through Md. LABOR AND EMPLOYMENT Code Ann. § 3-308.

**Private Right of Action:** An aggrieved employee has a private right of action for a violation of Md. LABOR AND EMPLOYMENT Code Ann. § 3-304(a). Md. LABOR AND EMPLOYMENT Code Ann. § 3-307(a).

**Statute of Limitations:** An action alleging a violation of Md. LABOR AND EMPLOYMENT Code Ann. § 3-304(a) must be brought within three years of the discriminatory act. Md. LABOR AND EMPLOYMENT Code Ann. § 3-307(c).

**Potential Damages & Remedies:** An aggrieved employee may recover any unpaid wages and an equal amount as liquidated damages in an action for a violation of Md. LABOR AND EMPLOYMENT Code Ann. § 3-304(a). Md. LABOR AND EMPLOYMENT Code Ann. § 3-307(a). The employee may also recover reasonable attorney's fees and costs. Md. LABOR AND EMPLOYMENT Code Ann. § 3-307(e).

The Maryland Commissioner of Labor and Industry may bring an action for injunctive relief and damages for violations of Md. LABOR AND EMPLOYMENT Code Ann. § 3-308.

Effective October 1, 2019, if an employer is found to have violated the equal pay statute two or more times in a three-year period, the Commissioner or a court may require the employer to pay a civil penalty equal to 10% of the amount of damages owed by the employer. Md. LABOR AND EMPLOYMENT Code Ann. § 3-308(d)(2) (effective Oct. 1, 2019).

**– Massachusetts –**

**Equal Pay Law:** The Massachusetts Equal Pay Act (MEPA), Mass. Gen. Laws ch. 149, §§ 105A–105C, prohibits employers from:

- Discriminating in any way in the payment of wages as between the sexes
- Paying any employee salary or wage rates less than the rates paid to employees of the opposite sex for work of like or comparable character or work on like or comparable operations.

The Massachusetts Fair Employment Practices Law (MFEPL), Mass. Gen. Laws ch. 151B et seq., protects employees from discrimination in the terms, conditions, or privileges of employment based on their membership in a protected class, including sex. 804 Mass. Code Regs. 3.01(2).

**Covered Employers:** "Employer" as used in the Massachusetts Equal Pay Act means any person acting directly or indirectly in the interest of the employer. Mass. Gen. Laws ch. 149, § 1.

**Covered Employees:** Under the Massachusetts Equal Pay Act, an employee may bring a claim. "Employee" is defined as any person employed for hire by an employer, not including:

- Persons under the age of 18 engaged in domestic service
- Persons engaged in agricultural service –or–
- Employees of any social club, fraternal, charitable, educational, religious, scientific, or literary association, no part of the net earnings of which ensures to the benefit of any private individual.

Mass. Gen. Laws ch. 149, § 1.

**General Exceptions & Defenses:** Variations in wages are permitted if they are based upon:

- A system that rewards seniority, provided that leave due to pregnancy or pregnancy-related conditions or protected family and medical leave does not reduce seniority
- A merit system

- A system which measures earnings by quantity or quality of production, sales, or revenue
- The geographic location in which a job is performed
- Education, training, or experience as they are reasonably related to the job in question –or–
- Travel if it is a regular and necessary condition of the job.

**Antiretaliation:** The Massachusetts Equal Pay Act imposes a fine of \$100 against any employer who, among other things, discharges an employee for making a complaint or for participating in a proceeding under the Act.  
Mass. Gen. Laws ch. 149, § 105B.

**Pay Transparency Protection:** It is also an unlawful practice for an employer to require an employee to refrain from asking about, disclosing, or discussing information about the employee's wages or about any other employee's wages, although the employer is not required to disclose an employee's wages to another employee or a third party.

**Salary History Ban:** It is also an unlawful practice for an employer to seek the wage or salary history of a prospective employee from the prospective employee or a current or former employer or require that the prospective employee's prior wage or salary history meet certain criteria unless:

- The prospective employee voluntarily discloses such information and the employer is seeking confirmation –or–
- The employer is confirming the prospective employee's wage or salary history after compensation has been negotiated and an offer of employment has been made to the prospective employee.

**Enforcement Agency:** The Massachusetts Attorney General has the authority to enforce the provisions of the Massachusetts Equal Pay Act. Mass. Gen. Laws ch. 149, § 105C.

Effective July 1, 2018, under the Act to Establish Pay Equity, the Massachusetts Attorney General may bring an action to collect unpaid wages and liquidated damages on behalf of one or more employees. The Attorney General also may collect costs and reasonable attorney's fees and has the authority to issue regulations interpreting and applying the Massachusetts Equal Pay Act. Mass. Gen. Laws ch. 149, 105A(b), (e).

**Private Right of Action:** An aggrieved employee may file an action alleging a violation of the Massachusetts Equal Pay Act in any court of competent jurisdiction. Mass. Gen. Laws ch. 149, § 105A.

Effective July 1, 2018, for violations of the Act to Establish Pay Equity, an employee can bring an action on his or her own behalf as well as on behalf of similarly situated employees in any court of competent jurisdiction. Mass. Gen. Laws ch. 149, 105A(b). If an action is based upon an employer seeking a wage or salary history from a prospective employee, it may be brought on behalf of one or more applicants for employment. Mass. Gen. Laws ch. 149, 105A(c).

**Statute of Limitations:** An action based upon a violation of the Massachusetts Equal Pay Act must be instituted within one year from the date of the alleged violation. Mass. Gen. Laws ch. 149, § 105A.

Effective July 1, 2018, under the Act to Establish Pay Equity, an action based upon a violation of the Massachusetts Equal Pay Act must be brought within three years of the date of the alleged violation. For purposes of the statute of limitations, a violation occurs when a discriminatory decision or practice is adopted or when an employee becomes subject to or is affected by a discriminatory decision or practice, including each time wages are paid, resulting in whole or in part from such a decision or practice. Mass. Gen. Laws ch. 149, 105A(b).

**Potential Damages & Remedies:** Under the Massachusetts Equal Pay Act, an aggrieved employee may recover the amount of his or her unpaid wages plus an additional equal amount of liquidated damages. The employee may also recover reasonable attorney's fees and costs. Mass. Gen. Laws ch. 149, § 105A. An employer who violates the Act may be subject to a \$100 fine. Mass. Gen. Laws ch. 149, § 105B.

Effective July 1, 2018, under the Act to Establish Pay Equity, an employee or applicant who is successful in an action under the Massachusetts Equal Pay Act shall recover the amount of any unpaid wages plus an equal amount of liquidated damages. The employee also shall recover reasonable attorney's fees and costs. Mass. Gen. Laws ch. 149, § 105A(b), (c).

**– Michigan –**

**Equal Pay Law:** The Michigan Improved Workforce Opportunity Wage Act (IWOWA), Mich. Comp. Laws Serv. §§ 408.411–408.424, prohibits an employer from discriminating between employees on the basis of sex by paying wages to employees at a rate less than the rate paid to employees of the opposite sex for equal work on jobs requiring equal skill, effort, and responsibility, performed under similar working conditions. Mich. Comp. Laws § 408.943.

**Covered Employers:** The Michigan Improved Workforce Opportunity Wage Act defines an employer as a person, firm, or corporation, including the state and its political subdivisions, agencies, and instrumentalities, and a person acting in the interest of the employer, who employs two or more employees at any one time within a calendar year. An employer is subject to this Act during the remainder of that calendar year. Mich. Comp. Laws § 408.932(d).

**Covered Employees:** An employee may bring an action under the Michigan Improved Workforce Opportunity Wage Act. The law defines an employee as an individual not less than 16 years old who is employed on the premises of the employer or at a fixed site designated by the employer. Minors employed under the Youth Employment Standards Act, at Mich. Comp. Laws § 409.115, are also employees. Mich. Comp. Laws § 408.932(c).

**General Exceptions & Defenses:** A pay rate differential based on any of the following is permitted

- A seniority system
- A merit system
- A system that measures earnings by quantity or quality of production
- A differential based on a factor other than sex.

Mich. Comp. Laws § 408.943(1). An employer may not correct a violation under the Michigan Workforce Opportunity Act by reducing the wage of another employee. Mich. Comp. Laws § 408.943(2).

**Antiretaliation:** N/A

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Director of the Michigan Department of Licensing and Regulatory Affairs is charged with enforcing and administering the Michigan Improved Workforce Opportunity Act. Mich. Comp. Laws § 408.938.

**Private Right of Action:** An aggrieved employee has a private right of action under the Michigan Improved Workforce Opportunity Wage Act. Mich. Comp. Laws § 408.939(1).

**Statute of Limitations:** Within three years of a violation of the Michigan Improved Workforce Opportunity Wage Act, an aggrieved employee may:

- Bring a civil action against an employer –or–
- File a claim with the Director of the Michigan Department of Licensing and Regulatory Affairs who shall investigate the claim and who may bring a civil action on behalf of all employees not paid by the employer in compliance with the Act.

**Potential Damages & Remedies:** In a civil action under the Michigan Improved Workforce Opportunity Act, an aggrieved employee may recover the difference in the amount he or she was paid and the amount he or she should have been paid plus an equal additional amount in liquidated damages together with costs and reasonable attorney's fees. Mich. Comp. Laws § 408.939(1)(a). Offending employers are also subject to a civil fine of not more than \$1,000. Mich. Comp. Laws § 408.939(3).

– **Minnesota** –

**Equal Pay Law:** The Minnesota Equal Pay for Equal Work Law (MEPEWL) protects employees from discrimination in the payment of compensation based on an employee's sex. Minn. Stat. § 181.66 et seq.

Note also that the Minnesota Human Rights Act (MHRA) prohibits employers from discriminating against an employee concerning their compensation based on race, color, creed, religion, national origin, sex (including pregnancy and childbirth), marital status, status with regard to public assistance, familial status, membership or activity in a local commission, disability, sexual orientation, or age. Minn. Stat. § 363A.08, subd. 2(3).

**Covered Employers:** The Equal Pay for Equal Work Law defines "employer" as any person employing one or more employees in the state, but it does not include the state, a political subdivision of the state which has a civil service system based on merit, or the federal government. Minn. Stat. § 181.66, subd. 2.

**Covered Employees:** The Equal Pay for Equal Work Law defines "employee" as an individual who renders a personal service to an employer in the state who pays the individual at a fixed rate. An employee does not include a copartner or independent contractor. Minn. Stat. § 181.66, subd. 3.

**General Exceptions & Defenses:** A pay rate differential is permitted if it is based upon:

- A seniority system
- A merit system
- A system that measures earnings by quantity or quality –or–
- A differential based on a factor other than sex.

**Antiretaliation:** The Equal Pay for Equal Work Law prohibits an employer from discriminating against an employee for:

- Filing a complaint under the Law –and–
- Testifying in any investigation or proceedings under the Law.

Minn. Stat. § 181.67, subd. 2.

<b>Pay Transparency Protection:</b> N/A
<b>Salary History Ban:</b> N/A
<b>Enforcement Agency:</b> There is no agency enforcement under the Equal Pay for Equal Work Law.
<b>Private Right of Action:</b> An aggrieved employee has a private right of action to recover for a violation of the Equal Pay for Equal Work Law. Minn. Stat. § 181.68, subd. 1.
<b>Statute of Limitations:</b> It is not clear what the applicable statute of limitations for a civil action under the Equal Pay for Equal Work Law is, although the two-year limitations period under Minn. Stat. § 541.07(4) applicable to actions to recover wages may apply.
<b>Potential Damages &amp; Remedies:</b> If a court finds that an employer has violated the Equal Pay for Equal Work Law, it may award an aggrieved employee the amount of unpaid wages for a period of one year before the commencement of the action, and an amount up to the full amount of unpaid wages as exemplary damages. The court may also award the employee reasonable attorney’s fees. Minn. Stat. § 181.68, subd. 1 and subd. 2.  A violation of any provision of the Equal Pay for Equal Work Law is a misdemeanor. Minn. Stat. § 181.70.

– Mississippi –

<b>Equal Pay Law:</b> Mississippi does not have its own standalone equal pay statute.  Note, however, that the Mississippi Employment Fairness Act (MEFA), Miss. Code Ann. § 71-15-1 et seq., proclaims that state and federal laws seek to protect individuals from discrimination and defines discrimination as an action or distinction by an employer adversely affecting an employee or job applicant based on his or her membership in a group, class, or category. Miss. Code Ann. § 71-15-5(c).
<b>Covered Employers:</b> N/A
<b>Covered Employees:</b> N/A
<b>General Exceptions &amp; Defenses:</b> N/A
<b>Antiretaliation:</b> N/A
<b>Pay Transparency Protection:</b> N/A
<b>Salary History Ban:</b> N/A
<b>Enforcement Agency:</b> N/A
<b>Private Right of Action:</b> N/A
<b>Statute of Limitations:</b> N/A
<b>Potential Damages &amp; Remedies:</b> N/A

- Missouri -

**Equal Pay Law:** Missouri's wage discrimination law protects female employees from discrimination in the payment of compensation. Mo. Rev. Stat. §§ 290.400 to 290.460.

**Covered Employers:** Rev. Stat. Section 290.400 defines "employer" as:

- A person
- A firm
- A corporation
- An agent
- A manager
- A representative
- A contractor
- A subcontractor
- A principal –or–
- Any other person that has control or direction over an employee, or is responsible directly or indirectly for the wages of an employee.

Mo. Rev. Stat. § 290.400(3).

Mo. Rev. Stat. Sections 290.400 to 290.460 protect female employees from discrimination in the payment of compensation.

**Covered Employees:** Mo. Rev. Stat. Section 290.400 defines "employee" as any person in receipt of, or entitled to compensation for, labor performed for an employer. Mo. Rev. Stat. § 290.400(2).

**General Exceptions & Defenses:** A pay rate differential is permitted if it is based upon:

- A seniority system
- Jobs that require different abilities and skills
- Jobs that require the regular performance of different duties or services
- Work that is performed on different shifts or at different times of day
- Restrictions or prohibitions on lifting or moving objects in excess of specified weight -or-
- Other reasonable differentiation based on factors other than sex.

Mo. Rev. Stat. § 290.410.

**Antiretaliation:** N/A

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Labor and Industrial Relations Commission of Missouri has the authority to administer Mo. Rev. Stat. Sections 290.430 to 290.460. See Mo. Rev. Stat. § 290.430.

**Private Right of Action:** An aggrieved employee has a private right of action for a violation of Mo. Rev. Stat. Section 290.410. See Mo. Rev. Stat. § 290.440(2).

**Statute of Limitations:** A civil action for a violation of Mo. Rev. Stat. section 290.410 must be filed within six months of the date of the alleged violation. However, an employer will not be liable for any pay due for more than 30 days prior to when it first received written notice from an aggrieved employee. Mo. Rev. Stat. § 290.450.

**Potential Damages & Remedies:** If a court finds that an employer has violated Mo. Rev. Stat. section 290.410, it may award an aggrieved employee unpaid wages and the costs of suit. Mo. Rev. Stat. § 290.440(2).

– Montana –

**Equal Pay Law:** Montana has a standalone equal pay statute, Montana Code Ann. § 39-3-104, which prohibits employers from compensating women at a rate less than that paid to men for equivalent service or for the same amount or class of work or labor in the same industry, school, establishment, office, or place of employment. Mont. Code Ann. § 39-3-104(1).

Note also that the Montana Human Rights Act (MHRA), Mont. Code Ann. § 49-1-101 et seq., prohibits employers from discriminating against a person in compensation, among other things, because of membership in a protected class, including sex. Mont. Code Ann. § 49-2-303(1)(a).

**Covered Employers:** Montana’s equal pay statute applies to the state, any county, municipal entity, public or private corporations, persons, or firms that employ women in any occupation. Mont. Code Ann. § 39-3-104(1).

**Covered Employees:** Montana’s equal pay statute covers women employed in any occupation. Mont. Code Ann. § 39-3-104(1).

**General Exceptions & Defenses:** N/A

**Antiretaliation:** N/A

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Department of Labor and Industry enforces Mont. Code Ann. § 39-3-104. Mont. Code Ann. § 39-1-102.

**Private Right of Action:** N/A

**Statute of Limitations:** An employer in violation of Mont. Code Ann. § 39-3-104 is guilty of a misdemeanor punishable by a fine of no less than \$25 and no more than \$500 for each offense. Mont. Code Ann. § 39-3-104(2).

**Potential Damages & Remedies:** N/A



– Nebraska –

<p><b>Equal Pay Law:</b> Nebraska has a standalone equal pay statute, the Nebraska Equal Pay Act (NEPA).</p>
<p><b>Covered Employers:</b> The Nebraska Equal Pay Act (NEPA) applies to employers. Neb. Rev. Stat. Ann. § 48-1221.</p> <p>An “employer” is defined as any person engaged in an industry with two or more employees for each day of 20 or more calendar weeks in the current or preceding calendar year;</p> <ul style="list-style-type: none"><li>• The state and its governmental agencies and political subdivisions, regardless of the number of employees;</li><li>• Any party whose business is financed by the Nebraska Investment Finance Authority Act; and</li><li>• The agent of any employer.</li></ul> <p>Neb. Rev. Stat. Ann. § 48-1220(2). A “person” includes one or more individuals, partnerships, limited liability companies, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations. Id. at § 48-1220(6).</p> <p>However, the following are not employers:</p> <ul style="list-style-type: none"><li>• The United States</li><li>• Any corporation wholly owned by the federal government</li><li>• Any Native American tribe.</li></ul> <p>Id. at § 48-1220(2).</p>
<p><b>Covered Employees:</b> The NEPA covers employees, which it defines as any person employed by an employer, including the state or any of its political subdivisions. Neb. Rev. Stat. Ann. § 48-1220(1); Neb. Rev. Stat. Ann. § 48-1221.</p>
<p><b>General Exceptions &amp; Defenses:</b> Once a prima facie case is established, the employer has the burden to prove a statutory affirmative defense. Id. Employers may pay different wage rates to different sexes when based on any of the following:</p> <ul style="list-style-type: none"><li>• Seniority system</li><li>• Merit system</li><li>• System measuring earnings by quality or quantity of production</li><li>• Differential based on a factor other than sex.</li></ul> <p>Neb. Rev. Stat. Ann. § 48-1221(1).</p>
<p><b>Antiretaliation:</b> Nebraska’s standalone equal pay statutes, the Nebraska Equal Pay Act (NEPA), Neb. Rev. Stat. Ann. §§ 48-1219 to 48-1227.01, prohibit employers from retaliating against an employee who takes action or assists in the enforcement of the NEPA.</p>
<p><b>Pay Transparency Protection:</b> N/A</p>
<p><b>Salary History Ban:</b> N/A</p>
<p><b>Enforcement Agency:</b> Protections against discriminatory wage practices are enforced by the Equal Opportunity Commission (Commission). Neb. Rev. Stat. Ann. § 48-1222(1). The Commission has the</p>

power to petition any court of competent jurisdiction to restrain violations and seek affirmative relief. Neb. Rev. Stat. Ann. § 48-1223(6).

**Private Right of Action:** One or more employees may file an action, on behalf of themselves and those similarly situated, to enforce these protections in a court of competent jurisdiction. Neb. Rev. Stat. Ann. § 48-1223(2).

**Statute of Limitations:** A court action for wage discrimination under the NEPA must be commenced within four years after the cause of action accrues. Neb. Rev. Stat. Ann. § 48-1224. Criminal prosecution of a class III or class V misdemeanor must commence within one year and six months the offense. Neb. Rev. Stat. Ann. § 29-110(2).

**Potential Damages & Remedies:** If an employer is found in violation of NEPA, the court may award the following damages:

- Unpaid wages owed to an employee
- Costs and reasonable attorney's fees
- Liquidated damages, if the violation was willful.

Neb. Rev. Stat. Ann. § 48-1223. The court may also order affirmative action as appropriate, such as reinstatement of an employee discharged in violation of NEPA. Id. at § 48-1223(5).

In addition, any person found to have discriminated or retaliated in violation of these NEPA is guilty of a Class III misdemeanor. Neb. Rev. Stat. Ann. § 48-1227. Moreover, any employer that fails to maintain or furnish records as required, or falsifies such records, will be guilty of a Class V misdemeanor.

A class III misdemeanor conviction is punishable by up to a \$500 fine, up to three months imprisonment, or both. Neb. Rev. Stat. Ann. § 28-106(1). A class V misdemeanor conviction is punishable by up to a \$100 fine. Id.

– Nevada –

**Equal Pay Law:** Nevada's equal pay statute prohibits an employer from paying an employee at a rate less than the rate paid an employee of the opposite sex for equal work for jobs requiring equal skill, effort, and responsibility, performed under similar conditions. Nev. Rev. Stat. Ann. § 608.017(1).

Note also that the Nevada's Equal Opportunities for Employment statute (NEOE), Nev. Rev. Stat. Ann. §§ 613.310–613.435, prohibits employers from discriminating against any person in compensation (and other terms and conditions of employment) based on membership in a protected class, including sex. Nev. Rev. Stat. Ann. § 613.330(1)(a)–(b).

**Covered Employers:** For purposes of Nev. Rev. Stat. Ann. § 608.017, "employer" is defined as any person that has control or custody over any employment, place of employment, or employee. Nev. Rev. Stat. Ann. § 608.011.

**Covered Employees:** An "employee" is defined as a male or female person in the service of an employer under an appointment, or an express or implied, written or oral contract for hire, whether lawfully or unlawfully employed. Nev. Rev. Stat. Ann. § 608.010.

**General Exceptions & Defenses:** A pay rate differential is permitted if it is based upon:

- A seniority system
- A merit system

- A system that measures earnings by quantity or quality; or
- A differential based on a factor other than sex.

**Antiretaliation:** It is unlawful for a person, by force, intimidation, threat of dismissal, or other means, to prevent or attempt to prevent an employee from testifying in any investigation or proceeding arising out of a violation of Nev. Rev. Stat. Ann. § 608.017 or to discharge or otherwise penalize an employee for so testifying. Nev. Rev. Stat. Ann. § 608.015.

**Pay Transparency Protection:** It is unlawful for certain employers to discriminate against any employee because the employee has inquired about, discussed, or voluntarily disclosed their wages or the wages of another employee. Nev. Rev. Stat. § 613.330(1)(c).

**Salary History Ban:** N/A

**Enforcement Agency:** The Nevada Labor Commissioner is charged with enforcing Nev. Rev. Stat. Ann. § 608.017.

**Private Right of Action:** There is no private right of action for a violation of Nev. Rev. Stat. Ann. § 608.017.

**Statute of Limitations:** N/A

**Potential Damages & Remedies:** Any person who violates Nev. Rev. Stat. Ann. § 608.017 is guilty of a misdemeanor. Nev. Rev. Stat. Ann. § 608.195.

The Nevada Labor Commissioner may impose a penalty of not more than \$5,000 for each violation of Nev. Rev. Stat. Ann. § 608.017. Nev. Rev. Stat. Ann. § 608.195.

### – New Hampshire –

**Equal Pay Law:** New Hampshire’s equal pay statute, N.H. Rev. Stat. Ann. § 275:36, et seq., prohibit employers from discriminating in the payment of wages as between the sexes or paying any female employee a salary or wage rate less than the rate paid to male employees for equal work or work on the same operations. N.H. Rev. Stat. Ann. § 275:37(I).

Note also that the New Hampshire Law Against Discrimination (NHLAD), N.H. Rev. Stat. Ann. § 354-A:1 et seq., prohibits employers from discriminating between employees in compensation or in terms, conditions or privileges of employment based on membership in a protected class, including sex, absent a bona fide occupational qualification.

**Covered Employers:** New Hampshire’s equal pay statute covers employers and persons seeking employees. N.H. Rev. Stat. Ann. § 275:37.

An “employer” includes any person acting directly or indirectly in the interest of an employer. N.H. Rev. Stat. Ann. § 275:36.

**Covered Employees:** New Hampshire’s equal pay statute protects “employees,” which includes any person employed for hire by an employer in lawful employment. N.H. Rev. Stat. Ann. § 275:36. This does not include persons engaged in

- Domestic service in the home of the employer,
- Agricultural service,
- Temporary or seasonal employment, or

- Employment with a non-profit social club, or non-profit fraternal, charitable, educational, or religious association.

N.H. Rev. Stat. Ann. § 275:36.

**General Exceptions & Defenses:** Under New Hampshire’s equal pay statute, employers may pay different wage rates to different sexes pursuant to any of the following:

- Seniority system
- Merit or performance system
- System that measures earnings by quantity or quality of production
- Expertise
- Difference in the shift or time of day worked
- Factor other than sex, such as education, training, or experience.

N.H. Rev. Stat. Ann. § 275:37(I).

**Antiretaliation:** Employers may not retaliate against an employee for commencing or assisting or planning to partake in an investigation, hearing, action, or other enforcement of these protections (N.H. Rev. Stat. Ann. § 275:38-a(I)).

**Pay Transparency Protection:** Employers may not

- Discriminate against an employee for asking about, disclosing, or discussing his or her wages or the wages of another employee (N.H. Rev. Stat. Ann. § 275:38-a(I); N.H. Rev. Stat. Ann. § 275:41-b(II)),
- Require an employee to refrain from disclosing—or to sign a document denying the right to disclose—their wages, salary, or paid benefits (N.H. Rev. Stat. Ann. § 275:41-b(I)).

**Salary History Ban:** N/A

**Enforcement Agency:** The New Hampshire Department of Labor Commissioner (Commissioner) enforces New Hampshire’s equal pay law. N.H. Rev. Stat. Ann. § 275:38.

**Private Right of Action:** An affected employee may bring an action in any court of competent jurisdiction, or the wage claim may be assigned to the Commissioner at the employee’s request. N.H. Rev. Stat. Ann. § 275:39.

**Statute of Limitations:** An employee must bring an action to recover unpaid wages and liquidated damages within three years of discovery of the violation. N.H. Rev. Stat. Ann. § 275:41. However, the action cannot include a violation that occurred more than four years prior. Id.

Each time an employer presents disparate paychecks to employees for equal work is a separate violation and subject to the statute of limitations. *Gardner v. Blue Mt. Forest Ass'n*, 902 F. Supp. 14, 16 (D.N.H. 1995).

**Potential Damages & Remedies:** An employer found in violation of the New Hampshire provision requiring equal pay (N.H. Rev. Stat. Ann. § 275:37) is liable for the amount of unpaid wages with an additional equal amount of unpaid wages as liquidated damages. N.H. Rev. Stat. Ann. § 275:39.

An employer found to have violated N.H. Rev. Stat. Ann. § 275:37, N.H. Rev. Stat. Ann. § 275:38-a, or N.H. Rev. Stat. Ann. § 275:41-b is guilty of a criminal violation (if a natural person) or a misdemeanor (if any other person), and subject to a fine of not more than \$2,500. N.H. Rev. Stat. Ann. § 275:40.

Each time an employer presents disparate paychecks to employees for equal work is a separate violation subject to recovery of unpaid wages and penalties. Gardner v. Blue Mt. Forest Ass'n, 902 F. Supp. 14, 16 (D.N.H. 1995).

– New Jersey –

**Equal Pay Law:** The New Jersey Equal Pay Act prohibits employers from discriminating in the rate or method of payment of wages based solely on an employee's sex. N.J. Stat. § 34:11-56.2. The New Jersey Law Against Discrimination (NJLAD), N.J. Stat. § 10:5-1 et seq., protects employees from discrimination against an individual in compensation based on their membership in a protected class. N.J. Stat. § 10:5-12(a).

**Covered Employers:** The New Jersey Equal Pay Act defines "employer" as any employer, except for nonprofit hospital associations or nonprofit corporations. N.J. Stat. § 34:11-56.1(b). NJLAD The NJLAD applies to any employer. N.J. Stat. § 10:5-5(e).

**Covered Employees:** Any employee employed by an employer may bring a claim under the New Jersey Equal Pay Act, except for:

- Persons performing volunteer service for nonprofit organizations
- Persons employed on a farm –or–
- Persons employed in domestic service at a private home or in a hotel.

Any employee may bring a claim under NJLAD, except for any individual employed in the domestic service of any person. N.J. Stat. § 10:5-5(f).

**General Exceptions & Defenses:** An employer may pay a different rate of compensation only if the employer demonstrates that the differential is made pursuant to a seniority system, a merit system, or the employer demonstrates that:

- The differential is based on one or more bona fide factors other than the characteristics of members of the protected class, such as training, education, or experience, or the quality or quantity of production
- The factor or factors are not based on, and do not perpetuate, a differential in compensation based on sex or any other characteristic of members of a protected class
- The employer has applied each of the factors reasonably
- One or more of the factors account for the entire wage differential –and–
- The factors are job-related with respect to the position in question and based on a legitimate business necessity
- A factor is not based on business necessity if there are alternative business practices that would serve the same business purpose without resulting in a wage differential.

N.J. Stat. § 10:5-12(t).

**Antiretaliation:** An employer cannot retaliate against an employee because the employee requests from, discusses with, or discloses to any other employee or former employee, a lawyer from whom the employee is seeking advice, or any government agency, information relating to the employee's job title, occupational category, or pay rate. The NJLAD prohibits employers from requiring as a condition of employment that an employee or prospective employee sign a waiver in which he or she agrees not to make such requests or disclosures. N.J. Stat. § 10:5-12(r).

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Commissioner of the New Jersey Department of Labor and Workforce Development is charged with administering and enforcing the New Jersey Equal Pay Act. N.J. Stat. § 34:11-56.3; N.J. Stat. § 34:11-56.4; N.J. Stat. § 34:11-56.5.

The Division of Civil Rights in the New Jersey Department of Law and Public Safety is charged with administering and enforcing the provisions of the NJLAD. N.J. Stat. § 10:5-6.

**Private Right of Action:** An aggrieved employee has a private right of action under the New Jersey Equal Pay Act. N.J. Stat. § 34:11-56.8.

**Statute of Limitations:** It is likely the two-year statute of limitations under N.J. Stat. § 2A:14-2 applies to civil actions brought under the New Jersey Equal Pay Act. An aggrieved employee who chooses to file his or her complaint with the Division of Civil Rights must do so within 180 days of the alleged violation of the NJLAD. N.J. Stat. § 10:5-18.

An aggrieved employee must file his or her complaint with the superior court within two years of the alleged violation of the NJLAD. N.J. Stat. § 2A:14-2; *Montells v. Haynes*, 133 N.J. 282, 285 (1993). Private agreements between employees and employers that shorten the two-year limitations period for private NJLAD claims are unenforceable. *Rodriguez v. Raymours Furniture Co.*, 225 N.J. 343, 347 (2016).

An employee subject to wage discrimination may obtain relief for back pay for the entire period of time, except not more than six years, in which the violation has been continuous, if the violation continues to occur within the statute of limitations. An unlawful employment practice occurs on each occasion that an individual is affected by application of a discriminatory compensation decision or other practice, including each occasion wages, benefits, or other compensation is paid. The New Jersey common law doctrines of “continuing violation” and the “discovery rule” apply to any appropriate claim. Employers cannot require employees to consent to a shortened statute of limitations or to waive any of the protections under the NJLAD. N.J. Stat. § 10:5-12(a).

**Potential Damages & Remedies:** In a civil action under the New Jersey Equal Pay Act, a prevailing employee may recover:

- The full amount of wages due plus an additional equal amount as liquidated damages –and–
- Reasonable attorney's fees and costs.

N.J. Stat. § 34:11-56.8.

An employer who willfully violates the New Jersey Equal Pay Act by discharging or otherwise discriminating against an employee who has exercised a right under the Act may be convicted of a misdemeanor and subject to a fine of not less than \$50, but not more than \$200, and/or imprisonment for not less than 10 days, but not more than 90 days. N.J. Stat. § 34:11-56.6.

If the Division of Civil Rights finds that an employer has violated the NJLAD, it may:

- Issue a cease and desist letter
- Take affirmative action, including, but not limited to, the hiring, reinstatement, or promotion of the aggrieved employee(s), with or without backpay
- Award damages to compensate for emotional distress –and–
- Award a reasonable attorney's fee.

N.J. Stat. § 10:5-17; N.J. Stat. § 10:5-27.1.

Any person who violates the NJLAD is subject to a penalty not to exceed \$50,000. The amount of the penalty is dependent upon how many prior violations of the NJLAD the person has had in a five to seven-year time period. N.J. Stat. § 10:5-14.1a.

If it is determined in an action in the superior court that the employer has violated the NJLAD, all remedies that are available in common law tort actions are available to the aggrieved employee. N.J. Stat. § 10:5-13. Punitive damages awarded under the NJLAD are subject to the procedural requirements of the New Jersey Punitive Damages Act (PDA), N.J. Stat. §§ 2A:15-5.9 to 2A:15-5.17, but they are not subject to the PDA's cap on such damages. *Saffos v. Avaya Inc.*, 419 N.J. Super. 244 (App. Div. 2011).

In addition to other relief available under the NJLAD, an aggrieved individual alleging wage discrimination may obtain back pay for the entire period of time, except not more than six years, in which the violation has been continuous, provided the violation continues to occur within the statute of limitations. N.J. Stat. § 10:5-12(a).

If the director of the Division of Civil Rights or a jury determines that an employer engaged in unlawful wage discrimination or retaliation based on protected activity pertaining to wage discrimination, an aggrieved employee is entitled to three times any monetary damages. N.J. Stat. §§ 10:5-13, 10:5-17.

– New Mexico –

**Equal Pay Law:** New Mexico Fair Pay for Women Act prohibits employers from paying wages to employees at a rate less than the rate that the employer pays wages to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort and responsibility and that are performed under similar working conditions. N.M. Stat. Ann. § 28-23-2.

Note also that the New Mexico Human Rights Act bars discrimination in compensation based on race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap, serious mental condition, or spousal affiliation (if employer has more than 50 employees). N.M. Stat. Ann. § 28-1-7(A).

**Covered Employers:** The New Mexico Fair Pay for Women Act applies to any employer with four or more employees. N.M. Stat. Ann. § 28-23-2(E).

**Covered Employees:** Any employee who works for an employer is covered by the New Mexico Fair Pay for Women Act. N.M. Stat. Ann. § 28-23-2(D).

**General Exceptions & Defenses:** Employers may pay different pay rates to employees based upon:

- A seniority system
- A merit system; or
- A system that measures earnings by quantity or quality of production.

**Antiretaliation:** N/A

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Human Rights Bureau of the Labor Relations Division of New Mexico's Workforce Solutions Department may enforce the New Mexico Fair Pay for Women Act. N.M. Stat. Ann. § 28-23-4(A)(2).

**Private Right of Action:** An employee aggrieved by an unfair discriminatory practice under the New Mexico Fair Pay for Women Act may bring a civil action in a court of competent jurisdiction or may seek relief under the New Mexico Human Rights Act. N.M. Stat. Ann. § 28-23-4(A).

**Statute of Limitations:** An action arising under the New Mexico Fair Pay for Women Act must be brought within two years of the last date of the employee's employment. N.M. Stat. Ann. § 28-23-4(D).

**Potential Damages & Remedies:** If an employer is found to have violated the New Mexico Fair Pay for Women Act is liable for damages and equitable relief, including employment, reinstatement, and promotion. Damages are calculated on the basis of:

- The employee's unpaid wages and damages from retaliation
- All other actual damages; and
- Treble damages

N.M. Stat. Ann. § 28-23-6(A). A court may also award:

- Injunctive relief
- Punitive damages
- Costs; and
- Reasonable attorney's fees.

N.M. Stat. Ann. § 28-23-4(B), (C); N.M. Stat. Ann. § 28-23-6(C)

**– New York –**

**Equal Pay Law:** New York's stand-alone equal pay law is the New York Equal Pay Act, N.Y. Lab. Law § 194.

Note also that the New York State Human Rights Law (NYSHRL) protects employees, applicants, and unpaid interns from discrimination and harassment based on their membership in a protected class, and prohibits retaliation. N.Y. Exec. Law § 290 et seq.

**Covered Employers:** Under the New York Equal Pay Act, an employer is defined as any person, corporation, limited liability company, or association. The term "employer" does not include a governmental agency. N.Y. Lab. Law § 190(3).

**Covered Employees:** Any person who is employed by an employer that is not a governmental agency may bring a claim under the New York Equal Pay Act. N.Y. Lab. Law § 190(2), N.Y. Lab. Law § 190(3).

**General Exceptions & Defenses:** An employer may avoid a violation of the New York Equal Pay Act if the difference in wages between an aggrieved employee and a similarly situated employee is made pursuant to:

- A seniority system
- A merit system



- A system which measures earnings by quantity or quality of production –or–
- Any other bona fide factor other than status within one or more protected classes, such as education, training, or experience.

Such a factor (1) cannot be based upon or derived from differential in pay based on status within one or more protected classes, (2) must be job-related with respect to the position in question, and (3) must be consistent with a business necessity. Furthermore, the exception does not apply if an employee demonstrates that (1) an employer uses a particular employment practice that causes a disparate impact on the basis of status within one or more protected classes, (2) an alternative employment practice exists that would serve the same business purpose without resulting in a disparate impact, and (3) the employer refuses to adopt this alternative employment practice.

N.Y. Lab. Law § 194.

**Antiretaliation:** The New York Equal Pay Act prohibits an employer from the following: Disciplining or terminating an employee for discussing his or her current wage or salary (see N.Y. Lab. Law § 194(4))

Note, however, that on February 1, 2017, the New York Department of Labor promulgated regulations providing that an employer may place reasonable limitations on the time, place, and manner that any employee may discuss wages. Any such limitation must be (1) justified without reference to the content of the regulated speech, (2) narrowly tailored to serve a significant interest, and (3) crafted to leave open ample alternative channels for the communication of information. See N.Y. Comp. Codes R. & Regs. tit. 12, § 194-1.3.

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The New York Commissioner of Labor is authorized to administer and enforce the New York Equal Pay Act. N.Y. Lab. Law § 196.

**Private Right of Action:** An employee or former employee may bring an action in court to recover unpaid wages under the New York Equal Pay Act. N.Y. Lab. Law § 198.

**Statute of Limitations:** The statute of limitations on an action to recover wages under the New York Equal Pay Act is six years, whether the individual files a complaint with the New York Commissioner of Labor or a civil action. N.Y. Lab. Law § 198(3); *Dragone v. Bob Bruno Excavating, Inc.*, 45 A.D.3d 1238 (N.Y. App. Div. 3d Dep't 2007).

**Potential Damages & Remedies:** In an action under the New York Equal Pay Act, the New York Commissioner of Labor may award the following:

- Ordinary costs as well as a reasonable sum, not exceeding \$50.00 for expenses which may be taxed as costs
- The full amount of the underpayment
- Liquidated damages up to 100% of the total amount of wages due for a non-willful violation and 300% for a willful violation

N.Y. Lab. Law § 198(1) and (1-a).

In a civil action brought by an employee under the New York Equal Pay Act, the employee may recover the following:

- Ordinary costs as well as a reasonable sum, not exceeding \$50.00 for expenses which may be taxed as costs
  - The full amount of the underpayment
  - All reasonable attorney's fees
  - Prejudgment interest
  - Liquidated damages up to 100% of the total amount of wages due for a non-willful violation and 300% for a willful violation.
- N.Y. Lab. Law § 198(1) and (1-a).

**– North Carolina–**

**Equal Pay Law:** North Carolina does not have a stand-alone equal pay act statute for private employers. Note, however, that North Carolina’s Equal Employment Practices Act (NCEEPA), N.C. Gen. Stat. § 143-422.1 et seq., declares it to be North Carolina’s public policy to protect and safeguard persons from employment discrimination based on membership in a protected class, including sex. N.C. Gen. Stat. § 143-422.2.

**Covered Employers:** The NCEEPA applies to employers who regularly employ 15 or more employees. N.C. Gen. Stat. § 143-422.2(a).

**Covered Employees:** N/A

**General Exceptions & Defenses:** N/A

**Antiretaliation:** N/A

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** Under the NCEEPA, the North Carolina Human Relations Commission may receive charges of discrimination from the Equal Employment Opportunity Commission and may investigate and conciliate the charges of discrimination. N.C. Gen. Stat. § 143-422.3.

**Private Right of Action:** The NCEEPA itself does not provide for a private right of action. However, North Carolina law recognizes a claim for wrongful discharge based upon public policy for at-will employees; thus, an aggrieved employee may allege a claim for wrongful discharge with the public policy being the anti-discrimination policy of the NCEEPA.

**Statute of Limitations:** A claim for wrongful discharge based on public policy as expressed in the NCEEPA—N.C. Gen. Stat. § 143-222(a)—must be brought within three years. N.C. Gen. Stat. § 1-52(5).

**Potential Damages & Remedies:** The NCEEPA does not offer any remedies.

**– North Dakota–**

**Equal Pay Law:** North Dakota’s standalone equal pay act is the North Dakota Equal Pay Act (NDEPA).

<p>Note also that the North Dakota Human Rights Act (NDHRA), N.D. Cent. Code, § 14-02.4-01 et seq., prohibits compensation discrimination against protected class individuals. See North Dakota Human Rights Act.</p>
<p><b>Covered Employers:</b> Under the NDEPA, an “employer” is defined as any person who acts directly or indirectly in the interest of an employer with respect to one or more employees of each sex. N.D. Cent. Code, § 34-06.1-02(4).</p> <p>A “person” includes one or more individuals, partnerships, limited liability companies, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations. Id. at § 34-06.1-02(6).</p>
<p><b>Covered Employees:</b> An “employee” is defined as any individual employed by an employer, including the state, its political subdivisions, and public bodies. N.D. Cent. Code, § 34-06.1-02(3).</p>
<p><b>General Exceptions &amp; Defenses:</b> However, employers may pay different wages pursuant to</p> <ul style="list-style-type: none"> <li>• An established seniority system,</li> <li>• Systems that measure earnings by quantity or quality of production,</li> <li>• Merit systems, or</li> <li>• A bona fide factor other than gender, such as education, training, or experience.</li> </ul> <p>Id. at § 34-06.1-03(1).</p>
<p><b>Antiretaliation:</b> Prohibits employers from retaliating against an employee who takes action or assists in the enforcement of these provisions.</p>
<p><b>Pay Transparency Protection:</b> N/A</p>
<p><b>Salary History Ban:</b> N/A</p>
<p><b>Enforcement Agency:</b> The North Dakota Commissioner of Labor (Commissioner) enforces the NDEPA. N.D. Cent. Code, § 34-06.1-04. The Commissioner may, at the written request of an employee, bring legal action in a district court of competent jurisdiction to restrain violations of the NDEPA and seek affirmative relief. N.D. Cent. Code, § 34-06.1-05.</p>
<p><b>Private Right of Action:</b> An aggrieved party may bring an action in the district court of the judicial district where</p> <ul style="list-style-type: none"> <li>• The unlawful practice was committed,</li> <li>• The records relevant to the practice are maintained, or</li> <li>• The person would have worked if not for the discriminatory practice.</li> </ul> <p>N.D. Cent. Code, § 34-06.1-05(2). An aggrieved party may also file a complaint with the Commissioner. Id. at § 34-06.1-05(4).</p> <p>If a person elects to bring an action in district court, the Commissioner will dismiss any pending action based on the same alleged unlawful activity. Id. at § 34-06.1-05(5).</p>
<p><b>Statute of Limitations:</b> A civil action under the NDEPA must be brought within two years after the cause of action accrues. N.D. Cent. Code, § 34-06.1-06.</p> <p>If the complaint is first filed with the Commissioner, the period of limitation for bringing an action in court is tolled until the Commissioner completes its investigation or notifies the complainant that it will not take further action.</p>

Criminal prosecution of a class B misdemeanor must commence within two years of the offense. N.D. Cent. Code, § 29-04-03.

**Potential Damages & Remedies:** If an employer violates the NDEPA, the court may order or award the following:

- Unpaid wages owed to an employee
- Costs and reasonable attorney's fees
- Liquidated damages, if the violation was willful
- Appropriate affirmative action, such as reinstatement.

N.D. Cent. Code, §§ 34-06.1-05(1), (2), (4).

In addition, any person found to have discriminated or retaliated in violation of the NDEPA is guilty of a Class B misdemeanor. N.D. Cent. Code, § 34-06.1-09.

A class B misdemeanor conviction is punishable by a fine up to \$1,500, imprisonment for up to 30 days, or both fine and imprisonment. N.D. Cent. Code, § 12.1-32-01.

– Ohio –

**Equal Pay Law:** The Ohio Minimum Fair Wage Standards Act prohibits an employer from paying an employee in a protected class less than the rate paid to another employee for equal work requiring equal skill, effort, and responsibility, is performed under similar conditions.

Note also that the Ohio Fair Employment Practices Law (OFEPL), Ohio Rev. Code Ann. §§ 4112.01–4112.99, prohibits employers from discriminating against a person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, based on that person's membership in a protected class, including sex. Ohio Rev. Code Ann. § 4112.02(A). Among other things, the Ohio Minimum Fair Wage Standards Act, Ohio Rev. Code Ann. § 4111.01 through Ohio Rev. Code Ann. § 4111.17, protects employees from wage discrimination based on their membership in a protected class, and prohibits retaliation.

**Covered Employers:** The term "employer" has the same definition as that set forth under 29 U.S.C. § 203 of the federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq. Ohio Rev. Code Ann. § 4111.14(B).

Effective March 20, 2019, a franchisor is not a covered employer with respect to the franchisor's relationship with a franchisee or an employee of a franchisee, unless the franchisor agrees to assume that role in writing or a court determines that the franchisor exercises a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademark, brand, or both. Ohio Const. Art. II, § 34a; Ohio Rev. Code Ann. § 4111.14(B)(3).

**Covered Employees:** An employee may bring a claim under the Ohio Minimum Fair Wage Standards Act. The term "employee" has the same definition as that set forth under 29 U.S.C. § 203 of the federal Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 et seq. Ohio Rev. Code Ann. § 4111.14(B).

**General Exceptions & Defenses:** A pay rate differential is permitted if it is based upon

- A seniority system
- A merit system
- A system that measures earnings by quantity or quality –or–

<ul style="list-style-type: none"> <li>• A differential based on a factor other than one of the protected classes.</li> </ul>
<p><b>Antiretaliation:</b> The Ohio Minimum Fair Wage Standards Act prohibits an employer from discharging or otherwise discriminating against an employee for:</p> <ul style="list-style-type: none"> <li>• Claiming to the employer or the director of commerce that he or she has not been paid wages in accordance with the Act</li> <li>• Making a complaint or planning to institute a proceeding under the Act –or–</li> <li>• Testifying or planning to testify in a proceeding under the Act.</li> </ul> <p>Ohio Rev. Code Ann. § 4111.13(B).</p>
<p><b>Pay Transparency Protection:</b> N/A</p>
<p><b>Salary History Ban:</b> N/A</p>
<p><b>Enforcement Agency:</b> The Ohio Director of Commerce is charged with administering and enforcing the discrimination and retaliation provisions the Ohio Minimum Fair Wage Standards Act. Ohio Rev. Code Ann. § 4111.17(D).</p>
<p><b>Private Right of Action:</b> An employee aggrieved by a violation of the discrimination and retaliation provisions of the Ohio Minimum Fair Wage Standards Act may bring a civil action. Ohio Rev. Code Ann. § 4111.17(D).</p>
<p><b>Statute of Limitations:</b> A discrimination or retaliation claim under the Ohio Minimum Fair Wage Standards Act must be brought within one year of the violation. Ohio Rev. Code Ann. § 4111.17(E).</p>
<p><b>Potential Damages &amp; Remedies:</b> In a civil action for discrimination or retaliation under the Ohio Minimum Fair Wage Standards Act, an aggrieved employee may recover two times the amount of the difference between the wages he or she received and the wages received by a person performing equal work. The employee may also recover attorney's fees and costs. Ohio Rev. Code Ann. § 4111.17(D).</p>

– Oklahoma –

<p><b>Equal Pay Law:</b> Oklahoma’s equal pay law prohibits employers from engaging in wage discrimination on the basis of sex. Okla. Stat. tit. 40, § 198.1.</p> <p>Note also that the Oklahoma Anti-Discrimination Act (OADA) prohibits discrimination concerning pay and conditions of employment based on sex, disability, race, religion, age, national origin, and genetic information. Okla. Stat. tit. 25, § 1302 (A).</p>
<p><b>Covered Employers:</b> The OEPA applies to all employers within the state of Oklahoma.</p>
<p><b>Covered Employees:</b> The OEPA applies to female employees. Okla. Stat. tit. 40, § 198.1.</p>
<p><b>General Exceptions &amp; Defenses:</b> Employers do not violate the OEPA when a lower rate of pay is based on:</p> <ul style="list-style-type: none"> <li>• A seniority system,</li> <li>• A merit system,</li> <li>• A system that measures earnings by quantity or quality of production, or</li> <li>• A differential based on any factor other than sex.</li> </ul>

Okla. Stat. tit. 40, § 198.1.
<b>Antiretaliation:</b> An employer cannot retaliate against an employee for filing a complaint or otherwise participating in proceedings related to a claim under Okla. Stat. tit. 40, § 198.1. Okla. Stat. tit. 40, § 199.
<b>Pay Transparency Protection:</b> N/A
<b>Salary History Ban:</b> N/A
<b>Enforcement Agency:</b> The OEPA is enforced by the Oklahoma commissioner of labor. Okla. Stat. tit. 40, § 198.2. The commissioner has discretion to commence proceedings before any court of competent jurisdiction to enforce penalties. Id.
<b>Private Right of Action:</b> Oklahoma authority does not clarify whether a private right of action exists for discrimination claims under the OEPA.
<b>Statute of Limitations:</b> The OPEA does not specify the statute of limitations for wage discrimination claims.
<b>Potential Damages &amp; Remedies:</b> An employer convicted of a violation of the OEPA is guilty of a misdemeanor and will be fined \$25 to \$100. Okla. Stat. tit. 40, § 198.2.  In addition, the Retaliation section above discusses penalties for retaliatory conduct related to an OEPA claim.

– Oregon –

<b>Equal Pay Law:</b> Oregon Equal Pay Act Or. Rev. Stat. § 652.220(1).
<b>Covered Employers:</b> For purposes of the wage discrimination laws, an employer is defined as a person employing one or more employees, including the state and its political subdivisions. Or. Rev. Stat. § 652.210(2).
<b>Covered Employees:</b> For purposes of the wage discrimination laws, an employee “is any individual who renders personal services in the state for which an employer agrees to pay the individual at a fixed rate.” If services are rendered only partly in the state, the individual is not an employee unless the contract of employment the individual entered into, or the payment made to the individual, is within the state. Or. Rev. Stat. § 652.210(1).  The term "employee" does not include: <ul style="list-style-type: none"> <li>• A copartner of the employer,</li> <li>• An independent contractor-or--</li> <li>• A participant in a work training program administered under state or federal assistance laws.</li> </ul>
<b>General Exceptions &amp; Defenses:</b> The wage discrimination laws allow employers to pay employees at different compensation levels for comparable work if the difference is based upon a bona fide factor related to the job, such as: <ul style="list-style-type: none"> <li>• A seniority system</li> <li>• A merit system</li> <li>• A system that measures earnings by quantity or quality of production, including piece-rate work</li> </ul>

- Workplace locations, including:
  - Cost of living
  - Desirability of worksite location
  - Access to worksite location
  - Minimum wage zones
  - Wage and hour zones
- Travel, if necessary and regular for an employee
- Education
- Training
- Experience –or–
- Any combination of these factors.

Or. Rev. Stat. § 652.220(2); Or. Admin. R. 839-008-0015. See also Technical Assistance for Employers, Pay Equity.

**Antiretaliation:** Employers are prohibited from discriminating against an employee in the payment of compensation because that employee has:

- Filed an administrative complaint or civil action alleging wage discrimination
- Has testified or is about to testify in a proceeding under the wage discrimination provisions –or–
- Has testified or is about to testify in an investigation by the Commissioner of the Bureau of Labor and Industries.

Or. Rev. Stat. 652.220(3).

**Pay Transparency Protection:** N/A

**Salary History Ban:** The Oregon Equal Pay Act of 2017 makes it an unlawful practice under the unlawful employment discrimination laws (Chapter 659A) for an employer or prospective employer to seek the salary history of an applicant or employee or a current or former employer of the applicant or employee. However, employers are permitted to seek written authorization from a prospective employee to confirm the employee’s prior compensation after the employer has made a job offer that includes an amount of compensation. Or. Rev. Stat. § 659A.357.

**Enforcement Agency:** An employee aggrieved by a violation of the wage discrimination laws may file a complaint with the Commissioner of the Bureau of Labor and Industries under Or. Rev. Stat. § 659A.820. Or. Rev. Stat. § 652.220(7). An employee cannot file an administrative complaint if he or she has already commenced a civil action alleging the same matters. Or. Rev. Stat. § 659A.870(1).

**Private Right of Action:** An aggrieved employee has a private right of action for a violation of the wage discrimination laws. Or. Rev. Stat. § 652.230.

An employee aggrieved by a violation of the wage discrimination provisions may file a civil action under either the wage discrimination or the unlawful employment discrimination laws. Or. Rev. Stat. § 652.220(7); Or. Rev. Stat. § 659.885. See also Technical Assistance for Employers, Pay Equity.

**Statute of Limitations:** An aggrieved employee must file an administrative complaint or a civil action to recover unpaid wages under the wage or unlawful employment discrimination laws within one year. Or. Rev. Stat. § 652.230(6); Or. Rev. Stat. § 659A.820(2); Or. Rev. Stat. § 659A.875(1). For

purposes of the limitation period, a violation of the wage discrimination laws occurs each time an employer pays an employee pursuant to a discriminatory decision or practice. Or. Rev. Stat. § 652.230(5).

**Potential Damages & Remedies:** If the Commissioner of the Bureau of Labor and Industries finds in favor of a person on his or her complaint alleging wage discrimination, the Commissioner may require the employer to pay an award of back pay that is the lesser of the underpayment for:

- The two-year period immediately preceding the filing of the complaint plus the period of time commencing with the date on which the complaint was filed and ending on the date the Commissioner issued the order –or–
- The period of time the employee was subjected to the unlawful wage differential by the employer plus the period of time commencing with the date on which the complaint was filed and ending on the date on which the Commissioner issued the order.

Or. Rev. Stat. § 659A.870(4).

In a civil action under the wage discrimination laws, if a court finds that there has been a violation, it may:

- Award the amount of unpaid wages to which an aggrieved employee was entitled for a period of one year prior to commencing the action
- Award an additional equal amount as liquidated damages –and–
- Award reasonable attorney’s fees.

Or. Rev. Stat. § 652.230(1) and (2).

If the court determines that the employee had no objectively reasonable basis for asserting a claim under the wage discrimination laws, the court may award the employer reasonable attorney’s and expert witness fees. Or. Rev. Stat. § 652.230(2).

If an aggrieved employee is successful in a civil action for wage discrimination under the unlawful employment discrimination laws, a court may:

- Order injunctive relief
- Order the hiring or reinstatement of the aggrieved individual with or without back pay not to exceed what the employer owes the employee for the two-year period immediately prior to the filing of the complaint
- Award compensatory damages or \$200.00, whichever is greater
- Award punitive damages –and–
- Award attorney’s fees.

Or. Rev. Stat. § 659A.885(1) and (3).

Punitive damages may be awarded only in two scenarios: (1) the employer previously violated the wage discrimination or unlawful discrimination laws, or (2) it is established by clear and convincing evidence that the employer has engaged in fraud, acted with malice, or acted with willful and wanton misconduct. Id.

In a civil action under either the wage discrimination or the unlawful discrimination laws, an employer may file a motion to disallow an award of compensatory and punitive damages. To prevail, the employer must show, by a preponderance of the evidence, that it completed an equal pay analysis within three years of the employee’s complaint, eliminated the wage differentials for the employee, and made reasonable and substantial progress towards eliminating the wage differential for members of the employee’s protected class. If the motion is granted, the court may award back pay only for the two-



year period preceding the filing of the action, and award the prevailing employee reasonable costs and attorney's fees. 2017 OR H.B. 2005, § 12.

– Pennsylvania –

**Equal Pay Law:** The Pennsylvania Equal Pay Law, 43 Pa. Stat. Ann. § 336.1 et seq., protects employees from gender discrimination in the payment of compensation. 43 Pa. Stat. Ann. § 336.3(a).

Note also that the Pennsylvania Human Relations Act (PHRA), 43 Pa. Stat. Ann. § 951 et seq., protects employees from discrimination in compensation based on their membership in a protected class. 43 Pa. Stat. Ann. § 955(a).

**Covered Employers:** The Pennsylvania Equal Pay Law applies to any employer.

**Covered Employees:** Any employee employed by an employer in the Commonwealth may bring an action under the Pennsylvania Equal Pay Law, except any person who is subject to Section 6 of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. 43 P.S. § 336.2(a).

**General Exceptions & Defenses:** A differential in pay based upon a reasonable factor other than sex, such as a seniority system, a merit system, or a system that measures earning by quantity and quality of production, is permitted. 43 P.S. § 336.3(a).

**Antiretaliation:** The Pennsylvania Equal Pay Law prohibits an employer from discharging or otherwise discriminating against an employee because the employee complained of a violation to the employer, or instituted a proceeding, or testified in a proceeding, under the Law. 43 P.S. § 336.8(a).

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Secretary of the Pennsylvania Department of Labor and Industry has the authority to enforce and administer the Pennsylvania Equal Pay Law. 43 P.S. § 336.4.

**Private Right of Action:** An aggrieved employee has a private right of action under the Pennsylvania Equal Pay Law. 43 P.S. § 336.5(a).

**Statute of Limitations:** An aggrieved employee must file a civil action to assert his or her rights under the Pennsylvania Equal Pay Law within two years of the date of the alleged violation. 43 P.S. § 336.5(b).

**Potential Damages & Remedies:** If a court finds that an employer has willfully and knowingly violated the Pennsylvania Equal Pay Law, it may award:

- Unpaid wages
- Damages –and–
- Reasonable attorney's fees and costs.

43 P.S. § 336.5(a).

An employer that knowingly and willfully violates the Pennsylvania Equal Pay Law by discharging or otherwise discriminating against an employee who has exercised a right under the Law may, upon conviction in a summary proceeding, be sentenced to pay a fine between \$50 and \$200. 43 P.S. § 336.8(a).

– Rhode Island –

**Equal Pay Law:** Rhode Island’s equal pay statute, R.I. Gen. Laws §§ 28-6-17 to 28-6-21, prohibits employers from discriminating in the payment of wages as between the sexes or paying any female employee a salary or wage rate less than the rate paid to male employees for equal work or work on the same operations. R.I. Gen. Laws § 28-6-18(a).

Note also that the Rhode Island Fair Employment Practices Act (FEPA), R.I. Gen. Laws § 28-5-1 et seq., protects employees from employment discrimination based on membership in a protected class, including sex. R.I. Gen. Laws § 28-5-7.

**Covered Employers:** Rhode Island’s statute prohibiting wage discrimination on the basis of sex applies to employers. R.I. Gen. Laws § 28-6-18(a).

“Employer” includes any person directly or indirectly acting in the interest of an employer. R.I. Gen. Laws § 28-6-17(c).

**Covered Employees:** Rhode Island’s statute prohibiting wage discrimination on the basis of sex protects employees. R.I. Gen. Laws § 28-6-18(a). “Employee” does not include the following:

- Individuals working in domestic service in the employer’s home –or–
- Employees of any social club, fraternal, charitable, educational, or religious association that operates as a nonprofit organization.

**General Exceptions & Defenses:** Employers may pay different wage rates to different sexes when based on the following:

- Seniority, experience, training, skill, or ability
- Duties or services performed
- Differences in the shift or time of day worked
- Availability for other operations
- Any other reasonable factor other than sex.

R.I. Gen. Laws § 28-6-18(b).

Any agreement or contract establishing a wage variation between sexes will be null and void. R.I. Gen. Laws § 28-6-18(c).

**Antiretaliation:** Rhode Island’s statute prohibits employers from retaliation against an employee for making a complaint or instituting or otherwise participating in a proceeding under these statutes (R.I. Gen. Laws § 28-6-21)

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Director of Labor and Training (Director) administers Rhode Island’s statute prohibiting wage discrimination on the basis of sex. R.I. Gen. Laws § 28-6-19.

**Private Right of Action:** An affected employee may bring an action in any court of competent jurisdiction. R.I. Gen. Laws § 28-6-20. At the employee’s request, the Director may also take an assignment of the wage claim and bring an action for wages and liquidated damages. Id.

**Statute of Limitations:** Rhode Island courts impose a one-year statute of limitations for wage discrimination claims under this statute. *Donilon v. City of Providence*, 2009 R.I. Super. LEXIS 86, at \*12–13 (R.I. Super. Ct. July 13, 2009) (applying the same statute of limitations as claims under Rhode Island’s State Fair Employment Practices Act).

**Potential Damages & Remedies:** If an employer violates R.I. Gen. Laws § 28-6-18, the court may:

- Award the amount of unpaid wages
- Award an additional amount equal to the unpaid wages as liquidated damages –and–
- Impose a fine of no more than \$200 or imprisonment for no more than six months, or both.

R.I. Gen. Laws §§ 28-6-20 to 28-6-21.

An employer who retaliates against an employee for asserting rights or participating in a proceeding under Rhode Island’s statute prohibiting wage discrimination on the basis of sex may also receive a fine of not more than \$200 or imprisonment for no more than six months, or both. R.I. Gen. Laws § 28-6-21.

– South Carolina –

**Equal Pay Law:** South Carolina does not have a standalone Equal Pay Act.

Note that the South Carolina Human Affairs Law (SCHAL), S.C. Code Ann. § 1-13-10 et seq., makes it an unlawful employment practice to discriminate against an individual with respect to compensation or terms, conditions, or privileges of employment because of the individual’s membership in a protected class, including sex.

**Covered Employers:** The South Carolina Human Affairs Law (SCHAL) also does not specifically address wage discrimination based on sex; however, among other things, it addresses compensation discrimination. S.C. Code Ann. § 1-13-80(A). Under the SCHAL, an employer is a person that has at least 15 employees for each working day for at least 20 calendar weeks in the current or preceding year or an agent of that person. The term "employer" does not include the following:

- An Indian tribe
- A bona fide private membership club other than a labor organization.

**Covered Employees:** The South Carolina Human Affairs Law (SCHAL), which, among other things, addresses compensation discrimination (S.C. Code Ann. § 1-13-80(A)) applies to any individual employed by an employer in South Carolina. S.C. Code Ann. § 1-13-30(h). However, the SCHAL does not apply to any person elected to public office, on such an officer's personal staff, or an appointee on the policy-making level or an immediate adviser to such an officer with respect to the exercise of the constitutional or legal powers of the office.

**General Exceptions & Defenses:** Provided that differences in compensation or in the terms, conditions, or privileges of employment are not the result of an intent to discriminate on the basis of one of the protected classes, it is not an unlawful employment practice for an employer to pay employees differently based on:

- A bona fide seniority system
- A merit system
- A system that measures earnings based on quantity or quality of production –or–
- Employees who work in different locations

S.C. Code Ann. § 1-13-80(I)(3).
<b>Antiretaliation:</b> N/A
<b>Pay Transparency Protection:</b> N/A
<b>Salary History Ban:</b> N/A
<b>Enforcement Agency:</b> N/A
<b>Private Right of Action:</b> The South Carolina Human Affairs Commission is charged with administering and enforcing the South Carolina Human Affairs Law (SCHAL). S.C. Code Ann. § 1-13-70.
<b>Statute of Limitations:</b> If a charge alleging a violation of the SCHAL has been dismissed by the South Carolina Human Affairs Commission, or 180 days have elapsed since the filing of the charge and the Commission has not filed an action or entered into a conciliation agreement, an aggrieved individual may bring an action in equity against an employer in circuit court. S.C. Code Ann. § 1-13-90(d)(6).
<b>Potential Damages &amp; Remedies:</b> A complaint alleging a violation of the SCHAL must be filed with the South Carolina Human Affairs Commission within 180 days of the alleged discriminatory practice. S.C. Code Ann. § 1-13-90(a).  An action alleging a violation of the SCHAL must be brought in a circuit court within one year from the date of the alleged violation or within 120 days from the date that the aggrieved individual's charge was dismissed by the Commission, whichever occurs earlier. S.C. Code Ann. § 1-13-90(d)(6).

– South Dakota –

<b>Equal Pay Law:</b> South Dakota’s standalone equal pay law, S.D. Codified Laws § 60-12-15 et seq., prohibits employers from discriminating between employees based on sex, by paying any employee less than the rate paid to an employee of the opposite sex for comparable work on jobs with comparable requirements relating to skill, effort, and responsibility, but not to physical strength. S.D. Codified Laws § 60-12-15.
<b>Covered Employers:</b> South Dakota’s equal pay law applies to all employers. S.D. Codified Laws § 60-12-15.  Although an “employer” is not defined, a contract of employment exists where the employer engages the employee to do something for the employer or for a third person. S.D. Codified Laws § 60-1-2.
<b>Covered Employees:</b> South Dakota’s equal pay law covers employees in any occupation in the state. S.D. Codified Laws § 60-12-15.  An “employee” is defined as a person who is employed to render personal service to an employer, except in an independent calling, and who in such service remains entirely under the control and direction of the employer. S.D. Codified Laws § 60-1-1.
<b>General Exceptions &amp; Defenses:</b> As long as the following do not discriminate based on sex, employers may pay different wage rates pursuant to <ul style="list-style-type: none"> <li>• Established seniority systems</li> <li>• Job descriptive systems</li> </ul>

<ul style="list-style-type: none"> <li>• Merit increase systems</li> <li>• Executive training programs.</li> </ul> <p>S.D. Codified Laws § 60-12-16.</p> <p>An agreement by an employee to work for a lower wage rate is not a defense in an action for violating South Dakota’s equal pay law. S.D. Codified Laws § 60-12-19.</p>
<p><b>Antiretaliation:</b> N/A</p>
<p><b>Pay Transparency Protection:</b> N/A</p>
<p><b>Salary History Ban:</b> N/A</p>
<p><b>Enforcement Agency:</b> The South Dakota Department of Labor and Regulations enforces the state’s equal pay laws and assists employers and employees to meet their respective obligations and benefit from the statutory protections. S.D. Codified Laws § 60-5-4; S.D. Codified Laws § 60-5-11.</p>
<p><b>Private Right of Action:</b> An affected employee and those on behalf of other similarly situated employees may bring an action in a court of competent jurisdiction to recover unpaid wages due to sex discrimination. S.D. Codified Laws § 60-12-18. An action under South Dakota’s equal pay laws does not limit an action brought under the South Dakota Human Relations Act of 1972.</p>
<p><b>Statute of Limitations:</b> A court action for wage discrimination must be commenced no later than two years after the cause of action occurs. S.D. Codified Laws § 60-12-20.</p>
<p><b>Potential Damages &amp; Remedies:</b> The court may award unpaid wages, reasonable attorney fees, and costs. S.D. Codified Laws § 60-12-18.</p>

– Tennessee –

<p><b>Equal Pay Law:</b> The Tennessee Equal Pay Act (TEPA), Tenn. Code Ann. § 50-2-201 et seq., prohibits an employer from paying an employee at a rate less than the rate paid to employees of the opposite sex for equal work requiring equal skill, effort, and responsibility, performed under similar conditions.</p> <p>Note also that the Tennessee Human Rights Act (THRA), Tenn. Code Ann. § 4-21-101 et seq., prohibits employers from refusing to hire, discharging, or otherwise discriminating against a person with respect to the compensation, terms, conditions, or privileges of employment based on membership in a protected class, including sex.</p>
<p><b>Covered Employers:</b> The Tennessee Equal Pay Act (TEPA), Tenn. Code Ann. § 50-2-201 et seq., protects employees from discrimination on the basis of sex in the payment of compensation.</p> <p>The TEPA defines "employer" as any person acting in the interest of any employer, directly or indirectly, including the state, but not its political subdivisions. Tenn. Code Ann. § 50-2-201(4).</p>
<p><b>Covered Employees:</b> An employee may bring a claim under the TEPA. "Employee" is defined as an individual employed by any employer in the state, including individuals employed by the state, but not its political subdivisions. "Employee" does not include an individual who is covered by the equal pay provisions of the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq.; Tenn. Code Ann. § 50-2-201(3).</p>
<p><b>General Exceptions &amp; Defenses:</b> A pay rate differential is permitted if it is based upon a:</p>

- Seniority system
- Merit system
- System that measures earnings by quantity or quality –or–
- Differential based on a factor other than sex.

Tenn. Code Ann. § 50-2-202(a).

**Antiretaliation:** An employer is prohibited from discharging or discriminating against any employee because the employee invoked a right under the TEPA or assisted in the enforcement of the TEPA. Tenn. Code Ann. § 50-2-202(c).

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Tennessee Commissioner of Labor and Workforce Development is charged with administering the TEPA. Tenn. Code Ann. § 50-2-203.

**Private Right of Action:** An aggrieved employee has a private right of action under the TEPA. Tenn. Code Ann. § 50-2-204(b).

**Statute of Limitations:** A civil action under the TEPA must be brought within two years of the alleged violation. Tenn. Code Ann. § 50-2-205.

**Potential Damages & Remedies:** If a court finds that an employer has knowingly violated Tenn. Code Ann. § 50-2-202(b), it may award an aggrieved employee his or her unpaid wages and up to an amount equal to the unpaid wages as liquidated damages. Tenn. Code Ann. § 50-2-204(a)(1).

If it is a second distinct judicial proceeding against the employer for violation of Tenn. Code Ann. § 50-2-202(b), the employer may be liable for the employee's unpaid wages and up to two times the amount of the unpaid wages as liquidated damages. Tenn. Code Ann. § 50-2-204(a)(2).

If it is a third distinct judicial proceeding against the employer for violation of Tenn. Code Ann. § 50-2-202(b), the employer may be liable for the employee's unpaid wages and up to three times the amount of the unpaid wages as liquidated damages. Tenn. Code Ann. § 50-2-204(a)(3).

The court may also award the aggrieved employee a reasonable attorney's fee and costs. Tenn. Code Ann. § 50-2-204(b).

An employer who has discharged or discriminated against any employee because the employee invoked a right under the TEPA, or assisted in the enforcement of the TEPA, is guilty of a Class A misdemeanor. Tenn. Code Ann. § 50-2-206.

– Texas –

**Equal Pay Law:** Texas does not have a stand-alone equal pay statute. However, the Texas Commission on Human Rights Act (TCHRA), Tex. Lab. Code § 21.001 et seq., protects employees from discrimination, retaliation, or harassment in the hiring, termination, terms, privileges, and conditions of employment based on membership in protected classes, including sex. Tex. Lab. Code §§ 21.051, 21.106.

**Covered Employers:** Under the TCHRA, an employer is:

- A person who has 15 or more employees working 20 or more calendar weeks in the current or preceding year
  - An agent of the employer
  - An individual elected to public office in the state or a political subdivision of the state –or–
  - A county, municipality, or state agency, regardless of the number of individuals that it employs.
- Tex. Lab. Code § 21.002(8).

**Covered Employees:** The Texas Commission on Human Rights Act (TCHRA), which, among other things, addresses compensation discrimination, applies to any individual employed in Texas (including employees subject to state or local civil service laws). Tex. Lab. Code § 21.002(7); Tex. Lab. Code § 21.111. However, the TCHRA does not apply to individuals elected to state or local public office, nor does it apply to an individual employed by the individual’s parent, child, or spouse. Tex. Lab. Code § 21.007(7); Tex. Lab. Code § 21.117.

**General Exceptions & Defenses:** It is not an unlawful employment practice for an employer to pay employees differently based on:

- A bona fide seniority, merit system, or employee benefit plan
- A system that measures earnings by quantity or quality of production –or–
- Employees who work at different locations.

Tex. Lab. Code § 21.102(a); Tex. Lab. § 21.112.

**Antiretaliation:** N/A

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Texas Workforce Commission Division of Civil Rights administers and enforces the Texas Commission on Human Rights Act (TCHRA), which, among other things, addresses compensation discrimination. Tex. Lab. Code § 21.003; Tex. Lab. Code § 21.102(a); Tex. Lab. § 21.112; Tex. Lab. Code § 21.0015.

**Private Right of Action:** An employee has a private right of action under the TCHRA. Tex. Lab. Code § 21.254.

**Statute of Limitations:** A claim under the TCHRA must be filed with the Texas Workforce Commission Division of Civil Rights (or the Equal Employment Opportunity Commission) within 180 days of the alleged unlawful practice giving rise to the complaint. Tex. Lab. Code § 21.201(a).

A civil action must be brought no more than two years after the date that the complaint was filed with the Commission. Tex. Lab. Code § 21.256.

**Potential Damages & Remedies:** If a court finds an employer has violated the TCHRA, it may award:

- Injunctive relief
- Equitable relief, which includes the hiring, reinstatement, or promotion of the aggrieved individual
- Back pay for no more than two years before the complaint was filed with the Commission

- Compensatory damages, which include:
  - Future pecuniary losses
  - Emotional pain and suffering
  - Mental anguish –or–
  - Loss of enjoyment of life
- Punitive damages against a nongovernmental employer –and–
- Reasonable attorney's fees and costs, including reasonable expert fees.

Tex. Lab. Code § 21.258; Tex. Lab. Code § 21.2585; Tex. Lab. Code § 21.259.

Compensatory and punitive damages awards for violations of the TCHRA are capped between \$50,000 and \$300,000 based upon the number of employees working for an employer. Tex. Lab. Code § 21.2585.

– Utah –

**Equal Pay Law:** Utah does not have a standalone equal pay act statute. The Utah Antidiscrimination Act (UADA) prohibits discrimination in pay based on race, color, national origin, sex, religion, pregnancy, age, disability, sexual orientation, and gender identity. Utah Code Ann. § 34A-5-106.

**Covered Employers:** UADA, which, among other things, addresses compensation discrimination by an employer, includes:

- The state and its political subdivisions
- A board, commission, department, school district, or agent of the state or its political subdivisions; and
- Any person employing 15 or more employees in Utah for each working day in each of 20 or more calendar weeks in the current or preceding year. Utah Code Ann. § 34A-5-102(1)(h).

The definition of employer excludes various religious entities and Boys Scouts of America entities. Utah Code Ann. § 34A-5-102(1)(h)(ii).

**Covered Employees:** The UADA, which, among other things, specifically addresses compensation discrimination, applies to any person applying with or employed by an employer. Utah Code Ann. § 34A-5-106(1)(h).

**General Exceptions & Defenses:** The UADA defines discrimination in matters of compensation as the payment of differing wages or salaries to employees that have substantially equal experience, responsibilities, and skill for a particular job. However, a pay differential is allowed under the UADA if:

- It is based on seniority and applied uniformly and available to all employees on a substantially proportional basis; or
- The employer and employee have agreed to a rate of pay or work schedule that protects the employee from the loss of Social Security payments or benefits if the employee is eligible for those benefits. Utah Code Ann. § 34A-5-106(1)(a)(iii).

**Antiretaliation:** N/A

**Pay Transparency Protection:** N/A



**Salary History Ban:** N/A

**Enforcement Agency:** The Utah Labor Commission (Commission) has jurisdiction over all employment practices and discrimination under the UADA. Utah Code Ann. § 34A-5-104(1)(a). The UADA specifically addresses compensation discrimination, among other types of discrimination. The Utah Antidiscrimination and Labor Division (UALD) of the Commission is responsible for receiving, rejecting or investigating all complaints alleging discrimination in employment. Utah Code Ann. § 34A-5-104(2).

The UALD assigns investigators to each claim, and issues a determination and order based on the evidence collected by the investigator. Utah Code Ann. § 34A-5-107(3). The determination and order may be reviewed de novo by the Division of Adjudication upon written request by either party. Utah Code Ann. § 34A-5-107(4)(c). Review of the adjudicating officer's order by the Commission or the Appeals Board can also be requested in writing by either party. Utah Code Ann. § 34A-5-107(11).

**Private Right of Action:** The UADA does not create a private right of action. The administrative procedures described above are the exclusive remedy under state law for claims of employment discrimination. Utah Code Ann. § 34A-5-107(15).

The UALD has a work-share agreement with the Equal Employment Opportunity Commission (EEOC) and may transfer requests for agency action to the EEOC for adjudication. Utah Code Ann. § 34A-5-107(1)(d).

An aggrieved party may withdraw their claim from the UALD and request a Right to Sue from the EEOC at any time prior to the entry of a final order. Utah Code Ann. § 34A-5-107(16).

**Statute of Limitations:** A charge alleging violation of the UADA must be filed within 180 days after the discriminatory or prohibited employment action. Utah Code Ann. § 34A-5-107(1)(c).

A plaintiff must file a claim in federal court within 90 days of receiving a Right to Sue letter from the EEOC. 42 U.S.C. 2000e-5(f)(1).

Review of a UALD determination and order must be requested in writing no more than 30 days after the order is issued. Utah Code Ann. § 34A-5-107(4)(c); Utah Code Ann. § 34A-5-107(5)(c). If the request is timely, it will be assigned for a hearing before an Administrative Law Judge. Utah Admin. Code R606-1-4.

**Potential Damages & Remedies:** If an employer is found to have engaged in wage discrimination in violation of UADA, a hearing officer may award:

- Injunctive relief
- Reinstatement
- Back pay and benefits
- Attorneys' fees; and
- Costs. Utah Code Ann. § 34A-5-107(9).

The award for back pay will be doubled unless the employer can establish:

- The act or omission that gave rise to the order was in good faith; and
- The employer had reasonable grounds to believe that the act or omission was not discrimination in matters of compensation in violation of the UADA. Utah Code Ann. § 34A-7-107(10).

For all discriminatory or prohibited employment practice claims, if the hearing officer finds no discriminatory conduct by the employer, he or she will issue an order dismissing the claim and may

order the employee to reimburse the employer for attorney’s fees and costs. Utah Code Ann. § 34A-5-107(8).

– Vermont –

**Equal Pay Law:** Vermont does not have its own standalone equal pay statute, but the Vermont Fair Employment Practices Act (VFEPa) specifically prohibits an employer from discriminating in wages on based on sex. 21 V.S.A. § 495(a)(7).

**Covered Employers:** For purposes of the Vermont Fair Employment Practices Act (VFEPa), which, among other things, specifically addresses wage discrimination based on sex, an employer is any individual, business entity, or governmental body, foreign or domestic, that does business in and has one or more employees performing services in Vermont. 21 V.S.A. § 495d(1).

**Covered Employees:** For purposes of the Vermont Fair Employment Practices Act (VFEPa), which, among other things, specifically addresses wage discrimination based on sex, an employee is defined as any person who may be permitted, required, or directed by any employer to perform services in return for consideration (whether direct or indirect). 21 V.S.A. § 495d(2).

**General Exceptions & Defenses:** However, an employer may pay different wage rates if the rates are based on:

- A seniority system
- A merit system
- A system in which earnings are based on quantity or quality of production –or–
- A bona fide factor other than sex. 21 V.S.A. § 495(a)(7)(A). An employer claiming a pay differential based on a bona fide factor other than sex must show that the factor does not perpetuate a sex-based differential in compensation, is job related, and is based upon a legitimate business consideration.

**Antiretaliation:** The VFEPa also prohibits an employer from:

- Requiring, as a condition of employment, that an employee refrain from disclosing the amount of his or her wages or from asking about or discussing the wages of other employees –or–
- Signing a waiver intended to deny the employee the right to disclose the amount of his or her wages or to ask about or discuss the wages of other employees.

An employer may not discharge or discriminate against any employee because the employee disclosed his or her wages or inquired about or discussed the wages of other employees. 21 V.S.A. § 495(a)(8)(D). An employer is not required to disclose the wages of an employee in response to the inquiry of another employee, unless the refusal would constitute unlawful employment discrimination. 21 V.S.A. § 495(h). An employee is never required to disclose their wages in response to the inquiry of another employee.

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** Any person who believes that he or she was subject to discrimination under the Vermont Fair Employment Practices Act (VFEPa) can report the allegations to the Vermont Human Rights Commission (Commission), which may investigate the allegations on his or her behalf. 9 V.S.A. § 4554. The Vermont Fair Employment Practices Act (VFEPa) specifically addresses wage discrimination based on sex, among other types of discrimination.

**Private Right of Action:** An aggrieved individual may bring an action under the VFEPA in superior court. 21 V.S.A. § 495b(b).

**Statute of Limitations:** We have not identified Vermont state authority that addresses the statute of limitations applicable to the VFEPA.

Generally, a civil action in Vermont must be commenced within six years after the cause of action accrues. 12 V.S.A. § 511.

An allegation of discrimination must be reported to the Commission within one year of the last alleged discriminatory act or practice. CVR 80-250-001(2).

**Potential Damages & Remedies:** A court may impose:

- Temporary or permanent injunction and costs of obtaining such injunctions
- Penalties of up to \$10,000 per violation of the VFEPA
- Costs of state investigations and prosecution –and–
- Up to \$10,000 per violation of an injunction.

21 V.S.A. § 495b(a) (incorporating the provisions of 9 V.S.A. §§ 2458 to 2461 that treat unlawful employment practice as an unfair act in commerce).

In addition, the court may order:

- Compensatory and punitive damages,
- Equitable relief, including restraint of prohibited acts,
- Restitution of wages or other benefits,
- Reinstatement,
- Costs and reasonable attorney’s fees –and–
- Any other appropriate relief.

21 V.S.A. § 495b(b).

Any employer that violates wage discrimination provisions of the VFEPA will be liable for the amount of underpaid wages, if any, and an equal amount as liquidated damages, in addition to any other remedies available. 21 V.S.A. § 495b(c).

– Virginia –

**Equal Pay Law:** Virginia Equal Pay Act Va. Code Ann. § 40.1-28.6.

**Covered Employers:** Va. Code Ann. § 40.1-28.6 applies to any employer that has employees, except employers covered by the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq.

**Covered Employees:** Any employee may bring a claim under Va. Code Ann. § 40.1-28.6.

**General Exceptions & Defenses:** A pay rate differential is permitted if it is based upon:

- A seniority system
- A merit system
- A system that measures earnings by quantity or quality –or–

<ul style="list-style-type: none"> <li>• A differential based on a factor other sex.</li> </ul> <p>Va. Code Ann. § 40.1-28.6.</p>
<p><b>Antiretaliation:</b> N/A</p>
<p><b>Pay Transparency Protection:</b> N/A</p>
<p><b>Salary History Ban:</b> N/A</p>
<p><b>Enforcement Agency:</b> There is no enforcement agency for Va. Code Ann. § 40.1-28.6.</p>
<p><b>Private Right of Action:</b> An aggrieved employee has a private right of action under Va. Code Ann. § 40.1-28.6.</p>
<p><b>Statute of Limitations:</b> An action for a violation of Va. Code Ann. § 40.1-28.6 must be brought within two years of the alleged violation.</p>
<p><b>Potential Damages &amp; Remedies:</b> An aggrieved employee may recover two times the amount of unpaid wages in an action for a violation of Va. Code Ann. § 40.1-28.6.</p>

– Washington –

<p><b>Equal Pay Law:</b> The amended Washington State Equal Pay Act (Equal Pay Act) protects employees from wage discrimination because of gender. Rev. Code Wash. (ARCW) § 49.12.175; 2018 Wa. ALS 116.</p> <p>Note also that the Washington Law Against Discrimination (WLAD), Wash. Rev. Code § 49.60.010 et seq., prohibits employers from discriminating against an individual on several terms of employment, including compensation, based on membership in a protected class, including sex. Wash. Rev. Code § 49.60.180.</p>
<p><b>Covered Employers:</b> The Washington State Equal Pay Act applies to any employer in the state. “Employer” is defined as:</p> <ul style="list-style-type: none"> <li>• Any person</li> <li>• Any firm</li> <li>• Any corporation</li> <li>• Any partnership</li> <li>• Any business trust</li> <li>• Any legal representative</li> <li>• Any business entity in any business, industry, profession, or activity</li> <li>• The state, its agencies, institutions, and political subdivisions.</li> </ul> <p>2018 Wa. ALS 116, § 2(5).</p>
<p><b>Covered Employees:</b> "Employee" is defined as an employee who is employed in the business of the employer, including manual labor. 2018 Wa. ALS 116, § 2(4).</p>
<p><b>General Exceptions &amp; Defenses:</b> The Equal Pay Act allows employers to maintain a wage differential that is based on one or more bona fide job-related factors, provided the factors are consistent with business necessity, are not based on or derived from a gender differential, and account</p>

for the entire differential. Rev. Code Wash. (ARCW) § 49.12.175(3)(a). Bona fide factors include, but are not limited to:

- An education, training, and experience
- A seniority system
- A merit system
- A system that measures earnings by quantity or quality of production –or–
- A bona fide regional difference in compensation levels.

Rev. Code Wash. (ARCW) § 49.12.175(3)(b).

**Antiretaliation:** Employers may not retaliate, discharge, or otherwise discriminate against an employee for:

- Filing a complaint, instituting a proceeding, or causing a proceeding to be instituted under the Equal Pay Act
- Testifying in a proceeding or being about to testify in a proceeding under the Equal Pay Act –or–
- Exercising any rights under the Equal Pay Act on behalf of the employee or others.

2018 Wa. ALS 116, § 6.

**Pay Transparency Protection:** An employer cannot require non-disclosure of wages by employees as a condition of employment or require an employee to sign a waiver or other document preventing the employee from disclosing the amount of his or her wages. 2018 Wa. ALS 116, § 5(1).

An employer cannot retaliate against an employee for:

- Inquiring about, disclosing, comparing, or discussing the employee’s wages or the wages of another employee
- Asking the employer to provide a reason for the employee’s wages or lack of opportunity for advancement –or–
- Aiding and encouraging another employee to exercise his or her rights under the Equal Pay Act

2018 Wa. ALS 116, § 5(2). An employer may prohibit an employee who has access to the compensation information of other employees or applicants as an essential job function from disclosing this information to individuals who do not otherwise have access to it, unless the disclosure is in response to a complaint or charge, is in response to an investigation, or is consistent with the employer’s legal duty to provide the information, and the disclosure is part of the employee’s essential job functions. 2018 Wa. ALS 116, § 5(3).

**Salary History Ban:** N/A

**Enforcement Agency:** The Director of the Washington Department of Labor and Industries administers and enforces the Equal Pay Act. 2018 Wa. ALS 116, §§ 4, 7.

An employee may file a complaint alleging a violation of the Equal Pay Act with the Director. 2018 Wa. ALS 116, § 7(1).

**Private Right of Action:** An aggrieved employee has a private right of action under the Equal Pay Act. 2018 Wa. ALS 116, § 8(1).

**Statute of Limitations:** A civil action alleging a violation of the Equal Pay Act must be brought within three years of the alleged discrimination. 2018 Wa. ALS 116, § 8(1).

**Potential Damages & Remedies:** If an employer violates the Equal Pay Act by paying an employee less than a similarly situated employee because of gender, the employer is guilty of a misdemeanor. Rev. Code Wash. (ARCW) § 49.12.175(1).

The Director of the Washington Department of Labor and Industries (WDLI) may order an employer that violates the Equal Pay Act to pay:

- Actual damages
- Statutory damages equal to the actual damages or \$5,000, whichever is greater
- Interest of 1% a month on all compensation owed
- Payment to the WDLI of the costs of investigation and enforcement –and–
- Any other appropriate relief.

2018 Wa. ALS 116, § 7(2)(a). The Director of the WDLI may also order the employer to pay a civil penalty of up to \$500 for a first violation and up to \$1,000 or 10% in damages, whichever is greater, for a subsequent violation. A violation as to each individual employee constitutes a separate violation.

2018 Wa. ALS 116, § 7(2)(b).

If the court determines that a violation of the Equal Pay Act has occurred, it may award:

- Actual damages
- Statutory damages equal to the actual damages or \$5,000, whichever is greater
- Interest of 1% a month on all compensation owed
- Costs and reasonable attorney’s fees
- Reinstatement –and–
- Injunctive relief

2018 Wa. ALS 116, § 8(1).

– West Virginia –

**Equal Pay Law:** West Virginia has a standalone equal pay act, the Equal Pay for Equal Work Act (VEPA), W. Va. Code § 21-5B-1 et seq.

Note also that the West Virginia Human Rights Act (WVHRA), W. Va. Code § 5-11-1 et seq., also protects against employment discrimination based on membership in a protected class, including sex.

**Covered Employers:** The Equal Pay Act applies to employers. W. Va. Code § 21-5B-3.

It defines “employer” as any person, partnership, firm, or corporation employing one or more employees. W. Va. Code §21-5B-1(1). This does not include:

- The state
- Any political subdivision of the state using a merit system for civil service –or–
- Any individual or entity subject to any federal act related to equal wages for equal work.

**Covered Employees:** The Equal Pay Act protects employees, which it defines as any individual who renders personal services to an employer who pays or agrees to pay a fixed rate. W. Va. Code § 21-5B-1(2). If the services are only partly rendered in the state, the Equal Pay Act only applies if the parties entered into a contract of employment within the state, or the employer ordinarily made or will make payments within the state. Id.

Independent contractors are not employees under the Equal Pay Act.
<p><b>General Exceptions &amp; Defenses:</b> Employers may pay different rates of pay where the rate is:</p> <ul style="list-style-type: none"> <li>• Pursuant to a seniority or merit system that does not discriminate based on sex –or–</li> <li>• Based in good faith on factors other than sex.</li> </ul> <p>W. Va. Code § 21-5B-3(2).</p>
<b>Antiretaliation:</b> N/A
<b>Pay Transparency Protection:</b> N/A
<b>Salary History Ban:</b> N/A
<p><b>Enforcement Agency:</b> The West Virginia Commissioner of Labor is authorized to enforce the Equal Pay Act. W. Va. Code § 21-5B-2; W. Va. Code R. § 42-20-1, et seq.</p>
<p><b>Private Right of Action:</b> An employee aggrieved under the Equal Pay Act has a private right of action against the employer. W. Va. Code § 21-5B-4(1). Such an action may be maintained by one or more employees on behalf of themselves or other employees similarly situated. W. Va. Code § 21-5B-4(3).</p>
<p><b>Statute of Limitations:</b> The Equal Pay Act does not specify a statute of limitations. However, in West Virginia, a civil action must be brought:</p> <ul style="list-style-type: none"> <li>• For a breach of written contract signed by the employer, within 10 years</li> <li>• For a breach of any other contract, express or implied, within five years.</li> </ul> <p>W. Va. Code § 55-2-6.</p> <p>A criminal misdemeanor action must be brought within one year of the offense. (W. Va. Code § 61-11-9).</p>
<p><b>Potential Damages &amp; Remedies:</b> If an employer is found liable for violating the Equal Pay Act, a court will grant:</p> <ul style="list-style-type: none"> <li>• Any unpaid wages for the one-year period prior to the inception of the action</li> <li>• Liquidated damages equal to the amount awarded as unpaid wages –and–</li> <li>• Reasonable attorney’s fees.</li> </ul> <p>W. Va. Code § 21-5B-4(1), (2).</p> <p>In addition to civil damages, an employer that violates the Equal Pay Act will, upon conviction, be guilty of a misdemeanor and fined no less than \$25 and no more than \$100. W. Va. Code § 21-5B-5.</p>

– Wisconsin –

<p><b>Equal Pay Law:</b> Wisconsin does not have a standalone equal pay act statute for private employers.</p> <p>Note, however, that Wisconsin’s Fair Employment Act (WFEA), Wis. Stat. § 111.31 et seq., prohibits any employer, labor organization, employment agency, licensing agency, or other person from engaging in compensation discrimination against any individual on the basis of membership in a protected class, including sex. Wis. Stat. § 111.321.</p>
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<p><b>Covered Employers:</b> For purposes of the Wisconsin Fair Employment Act (WFEA), which, among other things, specifically addresses wage discrimination based on sex, an employer is the State, its agencies, and any other person engaging in any activity, enterprise, or business who employs at least one individual. Social clubs and fraternities are not employers under the WFEA. Wis. Stat. § 111.32(6).</p>
<p><b>Covered Employees:</b> Under the Wisconsin Fair Employment Act (WFEA), which, among other things, specifically addresses wage discrimination based on sex, any employee may bring a claim. An individual employed by his or her parent, child, or spouse is not an employee under the WFEA. Wis. Stat. § 111.32(5).</p>
<p><b>General Exceptions &amp; Defenses:</b> Among the other things, the Wisconsin Fair Employment Act (WFEA) has a specific provision that prohibits an employer from discriminating against an individual with respect to promotion, compensation paid for equal or substantially similar work, or in the terms, conditions, or privileges of employment on the basis of sex unless sex is a bona fide occupational qualification. Wis. Stat. § 111.36(1). Sex is a bona fide occupational qualification only if all the members of one sex are physically incapable of performing the essential duties of the job or if the essence of the employer’s business would be undermined by not hiring exclusively from one sex. Wis. Stat. § 111.36(2).</p>
<p><b>Antiretaliation:</b> N/A</p>
<p><b>Pay Transparency Protection:</b> N/A</p>
<p><b>Salary History Ban:</b> N/A</p>
<p><b>Enforcement Agency:</b> The Wisconsin Department of Workforce Development is charged with administering and enforcing the Wisconsin Fair Employment Act (WFEA). Wis. Stat. § 111.375; Wis. Stat. § 111.39. The WFEA has a provision specifically addressing wage discrimination based on sex.</p>
<p><b>Private Right of Action:</b> There is no private right of action under the WFEA.</p>
<p><b>Statute of Limitations:</b> An aggrieved individual must file a complaint alleging a violation of the WFEA with the Wisconsin Department of Workforce Development within 300 days of the last alleged act of discrimination or harassment.</p>
<p><b>Potential Damages &amp; Remedies:</b> N/A</p>

– Wyoming –

<p><b>Equal Pay Law:</b> Wyoming’s standalone equal pay law, the Wyoming Equal Pay Act (WEPA), Wyo. Stat. § 27-4-301 et seq., prohibits employers from discriminating between employees working in the same establishment by paying lower wages to employees of one gender than is paid to the opposite gender for equal work in occupations requiring equal skill, effort, and responsibility under similar work conditions. Wyo. Stat. § 27-4-302(a).</p>
<p><b>Covered Employers:</b> WEPA defines an “employer” to include any person who acts directly or indirectly in the interest of an employer in relation to an employee. Wyo. Stat. § 27-4-301(b).</p>
<p><b>Covered Employees:</b> An “employee” is defined as any individual employed by an employer. Wyo. Stat. § 27-4-301(a).</p>



**General Exceptions & Defenses:** WEPA prohibits employers from discriminating between employees working in the same establishment by paying lower wages to employees of one gender than is paid to the opposite gender for equal work in occupations requiring equal skill, effort, and responsibility under similar work conditions. Wyo. Stat. § 27-4-302(a).

Employers may differentiate in the payment of wages pursuant to the following:

- A seniority system
- A merit system
- A system that measures earning by quantity or quality of production
- A differential based on any factor other than gender.

**Antiretaliation:** An employer is also prohibited from retaliating against an employee because the employee has made a complaint, instituted, caused to be instituted, or has participated in any proceeding under the WEPA. Wyo. Stat. § 27-4-304.

**Pay Transparency Protection:** N/A

**Salary History Ban:** N/A

**Enforcement Agency:** The Director of the Department of Workforce Services (Director) administers the WEPA. Wyo. Stat. § 27-4-301(e). The Director may, upon receiving a written claim by an employee, investigate and determine the validity of such claim. Wyo. Stat. § 27-4-303(b).

**Private Right of Action:** An aggrieved party may bring an action in any court of competent jurisdiction. Wyo. Stat. § 27-4-303(a).

**Statute of Limitations:** A request for a hearing with the Director must be made within 15 days of the receipt of the Director's determination. Wyo. Stat. § 27-4-303(b).

No apparent Wyoming authority specifically addresses a statute of limitations for bringing a civil action under the WEPA. Generally, a civil action based upon a liability created by statute must be commenced within eight years of the date that the cause of action accrued. Wyo. Stat. § 1-3-105(a)(ii).

**Potential Damages & Remedies:** An employer found in violation of the WEPA will be liable for the amount of unpaid wages, and an additional equal amount as liquidated damages. Wyo. Stat. § 27-4-303(a).

In addition, an employer that willfully violates the WEPA or discharges or otherwise discriminates against an employee because the employee made a complaint, instituted proceedings, or testified regarding a claim under the WEPA will be punished by a fine of not more than \$500, by imprisonment for not more than six months, or both. Wyo. Stat. § 27-4-304.

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This white paper was commissioned by Dr. Susan R. Madsen at the Utah Women & Leadership Project at Utah State University. It was completed in partnership with the “Equality and Opportunity” portion of the *One Utah Roadmap* efforts, which are overseen by Governor Spencer Cox and Lt. Governor Deidre Henderson. For questions, email Dr. Susan Madsen at [susan.madsen@usu.edu](mailto:susan.madsen@usu.edu) or find other research publications at <http://utwomen.org/>.

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