

**Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015**

HOUSE BILL NO. 1257
(Representatives Oversen, Haak, Mooney, Muscha, Schneider, Wallman)
(Senators Heckaman, Nelson, Oban)

AN ACT to amend and reenact sections 34-06.1-03, 34-06.1-05, 34-06.1-06, and 34-06.1-07 of the North Dakota Century Code, relating to unequal pay for men and women; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

34-06.1-03. Prohibition of discrimination.

1. ~~No~~An employer may ~~not~~ discriminate between employees in the same establishment on the basis of gender, by paying wages to any employee in any occupation in this state at a rate less than the rate at which the employer pays any employee of the opposite gender for comparable work on jobs ~~which~~that have comparable requirements relating to skill, effort, and responsibility. Differentials that are paid pursuant to established seniority systems, ~~job-descriptive systems that measure earnings by quantity or quality of production~~, merit increase systems, or ~~executive training programs~~a bona fide factor other than gender, such as education, training, or experience, and which do not discriminate on the basis of gender, are not within this prohibition.
2. An employer ~~wh~~that is paying a wage differential in violation of this chapter may not, in order to comply with this chapter, reduce the wage rates of any employee. ~~Ne~~
3. A person may ~~not~~ cause or attempt to cause an employer to discriminate against any employee in violation of this chapter. ~~Ne~~
4. An employer may ~~not~~ discharge or discriminate against ~~any~~an employee by reason of any action taken by the employee to invoke or assist in any manner the enforcement of this chapter, except when proven that the act of the employee is fraudulent.
5. An unlawful employment practice occurs under this section when a discriminatory compensation decision or other practice is adopted; when an individual becomes subject to a discriminatory compensation decision or other practice; or when an individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

SECTION 2. AMENDMENT. Section 34-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

34-06.1-05. Collection of unpaid wages and other relief - District court - Commissioner.

1. ~~Any~~An employer ~~wh~~that violates the provisions of section 34-06.1-03 is liable to the employee or employees affected in the amount of their unpaid wages, and in instances of willful violation in employee suits up to an additional equal amount as liquidated damages. ~~Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of the employee or group of employees and other employees similarly situated. The~~

2. Any one or more individuals claiming to be aggrieved by an unlawful employment practice under section 34-06.1-03 may bring an action in the district court in the judicial district in which the unlawful employment practice is alleged to have been committed, in the district in which the records relevant to the alleged unlawful employment practice are maintained and administered, or in the district in which the individual would have worked or obtained credit were it not for the alleged unlawful employment practice. In an action brought under this chapter, the court in such action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.
3. An agreement by any such an employee to work for less than the wage to which such the employee is entitled under this chapter is does not a bar to any such an action or to a voluntary wage restitution of the full amount due under this chapter.
4. At the written request of any an employee claiming to have been paid less than the wage to which the employee may be entitled under this chapter, the commissioner may bring any legal action necessary in on behalf of the employee to collect such the claim for unpaid wages. The commissioner may is not be required to pay the filing fee, or other costs, in connection with such an action under this section. The commissioner has the power to may join various claims against the employer in one claim for relief. In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employees discharged in violation of this chapter. The commissioner has the power to may petition any the district court of competent jurisdiction to restrain violations of section 34-06.1-03, and for such affirmative relief as the court may deem appropriate, including restoration of unpaid wages and reinstatement of employees, consistent with the purpose of this chapter.
5. If a person elects to bring an action in district court under this chapter, the commissioner shall dismiss any action pending before the commissioner which is based on the same alleged unlawful employment practice.

SECTION 3. AMENDMENT. Section 34-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

34-06.1-06. Statute of limitations.

Court action under this chapter may be commenced no later than two years after the claim for relief occurs unlawful employment practice occurred. However, if a complaint of a discriminatory practice is first filed with the commissioner, this period of limitation for bringing an action in the district court is tolled until the commissioner completes an investigation or otherwise notifies the complainant the commissioner will be taking no further action on the complaint.

SECTION 4. AMENDMENT. Section 34-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

34-06.1-07. Records and reporting.

Every An employer subject to this chapter shall make, keep, and maintain such records of the wages and wage rates, job classifications, and other terms and conditions of employment of the persons individuals employed by the employer, and; shall preserve such records for such periods of time, as long as the employee is employed and two years thereafter; and shall make such reports therefrom from the records as the commissioner prescribes.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1257.

House Vote: Yeas 87 Nays 0 Absent 7

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2015.

Approved at _____ M. on _____, 2015.

Governor

Filed in this office this _____ day of _____, 2015,

at _____ o'clock _____ M.

Secretary of State