

As Introduced

**127th General Assembly
Regular Session
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S. B. No. 69

Senator Miller, R.

Cosponsors: Senators Miller, D., Smith

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A B I L L

To amend sections 121.084 and 4111.17 of the Revised Code to increase the civil penalties imposed on employers that discriminate in the payment of wages on the basis of race, color, religion, sex, age, national origin, or ancestry.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 121.084 and 4111.17 of the Revised Code be amended to read as follows:

Sec. 121.084. (A) All moneys collected under division (D)(2) of section 4111.17 and sections 3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 4169.03, 4171.04, and 5104.051 of the Revised Code, and any other moneys collected by the division of industrial compliance shall be paid into the state treasury to the credit of the industrial compliance operating fund, which is hereby created. The department of commerce shall use the moneys in the fund for paying the operating expenses of the division and the administrative assessment described in division (B) of this section.

(B) The director of commerce, with the approval of the director of budget and management, shall prescribe procedures for

assessing the industrial compliance operating fund a proportionate 20
share of the administrative costs of the department of commerce. 21
The assessment shall be made in accordance with those procedures 22
and be paid from the industrial compliance operating fund to the 23
division of administration fund created in section 121.08 of the 24
Revised Code. 25

Sec. 4111.17. (A) No employer, including the state and its 26
political subdivisions ~~thereof~~, shall discriminate in the payment 27
of wages on the basis of race, color, religion, sex, age, national 28
origin, or ancestry by paying wages to any employee at a rate less 29
than the rate at which the employer pays wages to another employee 30
for equal work on jobs the performance of which requires equal 31
skill, effort, and responsibility, ~~and which~~ that are performed 32
under similar conditions. 33

(B) Nothing in this section prohibits an employer from paying 34
wages to one employee at a rate different from that at which the 35
employer pays another employee for the performance of equal work 36
under similar conditions on jobs requiring equal skill, effort, 37
and responsibility, when the payment is made pursuant to any of 38
the following: 39

(1) A seniority system; 40

(2) A merit system; 41

(3) A system ~~which~~ that measures earnings by the quantity or 42
quality of production; 43

(4) A wage rate differential determined by any factor other 44
than race, color, religion, sex, age, national origin, or 45
ancestry. 46

(C) No employer shall reduce the wage rate of any employee in 47
order to comply with this section. 48

(D) The director of commerce shall carry out, administer, and 49

enforce this section. ~~Any~~ 50

(1) Any employee discriminated against in violation of this 51
section may sue in any court of competent jurisdiction to recover 52
two times the amount of the difference between the wages actually 53
received and the wages received by a person performing equal work 54
for the employer, from the date of the commencement of the 55
violation, and for costs, including attorney fees. The director 56
may take an assignment of any such wage claim in trust for ~~such~~ 57
~~that~~ employee and sue in the employee's behalf. In any civil 58
action under division (D)(1) of this section, two or more 59
employees of the same employer may join as co-plaintiffs in one 60
action. The director may sue in one action for claims assigned to 61
the director by two or more employees of the same employer. ~~No~~ 62

(2) Any employer who violates any provision of this section 63
or any applicable rule adopted by the director under section 64
4111.05 of the Revised Code to carry out the purposes of this 65
section shall pay a civil penalty of two thousand five hundred 66
dollars to the director for each violation for each employee 67
affected. At the request of the director, if an employer has not 68
paid this civil penalty within a reasonable time after its 69
assessment, the attorney general, or under the attorney general's 70
direction the prosecuting attorney of the county where a violation 71
occurred, shall institute an action to recover the amount of the 72
penalty. Any money collected under division (D)(2) of this section 73
shall be paid into the state treasury to the credit of the 74
industrial compliance operating fund created under section 121.084 75
of the Revised Code. 76

(3) No agreement to work for a discriminatory wage 77
constitutes a defense for any civil or criminal action to enforce 78
this section. ~~No~~ 79

(4) No employer shall discriminate against any employee 80
because such employee makes a complaint or institutes, or 81

testifies in, any proceeding under this section. An employer who 82
discriminates against an employee in violation of this prohibition 83
is liable to the employee for the value of any wages or benefits 84
lost by the employee as a result of the employer's actions. 85

(E) Any action arising under this section shall be initiated 86
within one year after the date of violation. 87

Section 2. That existing sections 121.084 and 4111.17 of the 88
Revised Code are hereby repealed. 89