

By: Thompson

H.B. No. 1244

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition on employment discrimination in compensation; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 2, Labor Code, is amended by adding Chapter 24 to read as follows:

CHAPTER 24. EMPLOYMENT DISCRIMINATION REGARDING COMPENSATION

Sec. 24.001. DEFINITIONS. In this chapter:

(1) "Employ" means to suffer or permit to work.

(2) "Employee" means a person employed by an employer. The term includes all of an employer's permanent employees, whether working full-time or part-time, and any temporary employee employed by an employer for a period of at least three months. The term does not include a person employed by the person's parents, spouse, or child.

(3) "Employer" means a person who employs 50 or more employees. The term includes the state and a political subdivision of the state.

(4) "Equivalent job" means a job or occupation the performance of which requires equal skill, effort, and responsibility and that is performed under similar working conditions.

(5) "Labor organization" has the meaning assigned by Section 21.002.

1 (6) "Market rate" means the rate that employers within
2 a prescribed geographic area actually pay, or are reported to pay,
3 for specific jobs, as determined by formal or informal surveys,
4 wage studies, or other means.

5 (7) "Wages" has the meaning assigned by Section
6 61.001.

7 Sec. 24.002. PROHIBITION AGAINST DISCRIMINATION IN WAGES.

8 (a) It is an unlawful employment practice in violation of this
9 chapter and Chapter 21 for an employer to discriminate among
10 employees on the basis of race, color, disability, religion, sex,
11 national origin, or age by paying wages to an employee at a rate
12 less than the rate paid to an employee who is not a member of a
13 protected class described by this subsection for work in an
14 equivalent job.

15 (b) Notwithstanding Subsection (a), it is not an unlawful
16 employment practice for an employer to pay different wage rates to
17 employees if the difference is based on:

18 (1) a bona fide seniority or merit system;

19 (2) a system that measures earnings by quantity or
20 quality of production; or

21 (3) a bona fide factor other than race, color,
22 disability, religion, sex, national origin, or age.

23 (c) For purposes of Subsection (b)(3), a wage differential
24 based on varying market rates for equivalent jobs or the differing
25 economic benefits to the employer of equivalent jobs is considered
26 a differential based on a bona fide factor other than race, color,
27 disability, religion, sex, national origin, or age.

1 (d) An employer who is paying wages in violation of this
2 section may not, in order to comply with this section, reduce the
3 wage of an employee.

4 (e) A labor organization or its agents representing
5 employees of an employer who has employees subject to this chapter
6 may not cause or attempt to cause the employer to discriminate
7 against an employee in violation of Subsection (a).

8 (f) The Commission on Human Rights by rule shall adopt
9 guidelines specifying the criteria for determining whether a job is
10 dominated by employees of a particular race, color, disability,
11 religion, sex, national origin, or age. The criteria must include:

12 (1) whether the job has ever been formally classified
13 as a "male" or "female" job or a "white" or "minority" job;

14 (2) whether there is a history of discrimination
15 against persons in a protected class with regard to wages,
16 assignment, access to jobs, or other terms and conditions of
17 employment; and

18 (3) the demographic composition of the workforce in
19 equivalent jobs.

20 (g) The guidelines adopted under Subsection (f) may include
21 a list of jobs.

22 Sec. 24.003. OTHER PROHIBITED ACTS. It is an unlawful
23 employment practice in violation of this chapter and Chapter 21 for
24 an employer to:

25 (1) take an adverse action or otherwise discriminate
26 against a person because the person has:

27 (A) opposed an act or practice made unlawful by

1 this chapter;

2 (B) sought to enforce rights protected under this
3 chapter; or

4 (C) testified, assisted, or participated in any
5 manner in an investigation, hearing, or other proceeding to enforce
6 this chapter; or

7 (2) discharge or in any other manner discriminate
8 against, coerce, intimidate, threaten, or interfere with an
9 employee or other person because the person:

10 (A) inquired about, disclosed, compared, or
11 otherwise discussed an employee's wages; or

12 (B) exercised or enjoyed, or aided or encouraged
13 another person to exercise or enjoy, any right granted or protected
14 by this chapter.

15 Sec. 24.004. WAGE DISCLOSURE, RECORDKEEPING, AND REPORTING
16 REQUIREMENTS. (a) On the request of an employee, and not more than
17 once annually thereafter, each employer subject to this chapter
18 shall provide to each employee a written statement sufficient to
19 inform the employee of the employee's job title and wage rate. On
20 the employee's request, the employer shall supplement the notice
21 when the employee is promoted, receives a raise, or is reassigned to
22 a different position with the employer. The employer is not
23 required to issue supplemental notices for a temporary reassignment
24 for a term that does not exceed three months. For purposes of this
25 subsection, an employee's pay stub constitutes a sufficient written
26 statement if the pay stub includes the employee's job title and wage
27 rate.

1 (b) The Texas Workforce Commission shall submit on an annual
2 basis to the Commission on Human Rights the information contained
3 in quarterly unemployment insurance records. The Commission on
4 Human Rights shall maintain the records on file for a period not to
5 exceed five years. The Commission on Human Rights shall adopt rules
6 that protect the confidentiality of employees and shall expressly
7 require that the reports not include names or other identifying
8 information from which a person could discern the identity of an
9 employee. The rules may also specify circumstances that warrant a
10 prohibition on disclosure under Chapter 552, Government Code, of
11 the report or of information identifying the employer.

12 (c) The Commission on Human Rights may use the information
13 provided under Subsection (b) for statistical and research purposes
14 and may compile and publish studies, analyses, reports, and surveys
15 based on that information as considered appropriate by that
16 commission.

17 (d) The Commission on Human Rights shall issue a report to
18 the legislature before the start of each regular legislative
19 session on the extent and nature of wage discrimination from
20 information gathered under this section and from complaints
21 received by the commission.

22 Sec. 24.005. COMPLAINT; ENFORCEMENT. (a) A person
23 aggrieved by an unlawful employment practice under this chapter may
24 file a complaint with the Commission on Human Rights. A complaint
25 filed under this section is subject to Subchapters E and F, Chapter
26 21.

27 (b) The Commission on Human Rights shall enforce this

1 chapter in accordance with Chapter 21.

2 (c) The Commission on Human Rights may request any employer
3 subject to a complaint under this chapter to compile records that
4 contain:

5 (1) the wage paid to each employee; and

6 (2) the method, system, computations, and other
7 factors used to establish, adjust, and determine the wage rates
8 paid to the employee.

9 SECTION 2. (a) Except as provided by Subsection (b) of this
10 section, this Act takes effect September 1, 2003.

11 (b) Section 24.005, Labor Code, as added by this Act, takes
12 effect January 1, 2004.