

By: Sherman, Sr.

H.B. No. 419

A BILL TO BE ENTITLED

AN ACT

relating to certain unlawful employment practices regarding compensation.

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. UNLAWFUL EMPLOYMENT PRACTICES REGARDING COMPENSATION

Sec. 24.001. DEFINITIONS. In this chapter:

(1) "Applicant" means a person who has made an oral or written application with an employer, or has sent a resume or other correspondence to an employer, indicating an interest in employment.

(2) "Commission" means the Texas Workforce Commission.

(3) "Employee" and "employer" have the meanings assigned by Section 21.002.

(4) "Wage history information" means information on wages paid by previous employers.

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

Sec. 24.002. EMPLOYER INQUIRY INTO AND CONSIDERATION OF WAGE HISTORY INFORMATION. (a) An employer commits an unlawful employment practice in violation of this chapter if the employer:

(1) relies on an applicant's or employee's wage

1 history information in determining:

2 (A) whether to hire the applicant;

3 (B) the wages to be paid to the applicant or
4 employee;

5 (C) whether to continue to employ the employee;
6 or

7 (D) whether to promote the employee;

8 (2) seeks, requests, or requires an applicant's or
9 employee's wage history information as a condition of:

10 (A) an applicant being interviewed or receiving
11 an offer of employment; or

12 (B) a current employee's continued employment or
13 promotion;

14 (3) seeks, requests, or requires an applicant's or
15 employee's wage history information from a previous employer of the
16 applicant or employee or other source, unless the wages in that
17 previous employment position are subject to disclosure under
18 Chapter 552, Government Code;

19 (4) refuses to interview, hire, promote, or otherwise
20 employ, or retaliates against, an applicant or employee based on
21 wage history information; or

22 (5) refuses to interview, hire, promote, or otherwise
23 employ, or retaliates against, an applicant or employee who did not
24 provide wage history information.

25 (b) Notwithstanding Subsection (a)(1)(B), if an applicant
26 or employee voluntarily discloses the applicant's or employee's
27 wage history information to an employer, the employer may consider

1 that information in determining the applicant's or employee's
2 wages.

3 (c) An employer may confirm wage history information if at
4 the time an offer of employment with compensation is made, the
5 applicant or employee responds to the offer by providing wage
6 history information to support a wage higher than that offered by
7 the employer.

8 Sec. 24.003. RETALIATION PROHIBITED. An employer commits
9 an unlawful employment practice in violation of this chapter if the
10 employer takes an adverse action or otherwise discriminates against
11 a person because the person has:

12 (1) filed a complaint with the commission alleging the
13 employer's violation of this chapter;

14 (2) opposed an act or practice made unlawful by this
15 chapter;

16 (3) sought to enforce rights protected under this
17 chapter; or

18 (4) testified, assisted, or participated in any manner
19 in an investigation, hearing, or other proceeding to enforce this
20 chapter.

21 Sec. 24.004. LIMITATIONS OF CHAPTER. (a) This chapter does
22 not diminish the rights, privileges, or remedies of an applicant or
23 current or former employee under:

24 (1) any other law or rule; or

25 (2) a collective bargaining agreement or employment
26 contract.

27 (b) This chapter does not affect any federal, state, or

1 local law that requires the disclosure or verification of wage
2 history information.

3 Sec. 24.005. COMPLAINT; ENFORCEMENT. (a) A person
4 aggrieved by an unlawful employment practice under this chapter may
5 file a complaint with the commission in the manner provided under
6 Chapter 21. A complaint filed under this section is subject to
7 Subchapters E and F, Chapter 21.

8 (b) The commission shall enforce this chapter in accordance
9 with Chapter 21.

10 Sec. 24.006. CIVIL ACTION BY APPLICANT OR EMPLOYEE. (a) An
11 applicant or employee aggrieved by a violation of this chapter may
12 bring a civil action to enforce rights protected by this chapter,
13 including an action for appropriate injunctive relief, in the
14 district court in the county in which the alleged violation
15 occurred or in which the alleged violator's residence or principal
16 place of business is located.

17 (b) The prospective employer of an applicant or the employer
18 of an employee who prevails in a civil action under this section is
19 liable to the affected applicant or employee for damages sustained
20 as a result of the violation.

21 (c) In addition to any judgment awarded to a plaintiff who
22 prevails in a civil action brought under this section, the court may
23 award injunctive relief or require the employer to pay reasonable
24 attorney's fees and other costs.

25 Sec. 24.007. INFORMATION FROM AND OUTREACH BY COMMISSION.

26 (a) The commission shall make available to the public on the
27 commission's Internet website information regarding the

1 requirements of and the rights and remedies under this chapter.

2 (b) The commission may conduct additional outreach efforts
3 to inform employers about this chapter.

4 SECTION 2. The changes in law made by this Act apply only to
5 an unlawful employment practice that occurs on or after January 1,
6 2022.

7 SECTION 3. This Act takes effect January 1, 2022.