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SENATE FILE
BY DOTZLER

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BUSINESS & LABOR

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to wage discrimination by providing for the
2 determination of wage discrimination, applicable remedies, and
3 providing an effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SC 69
BUSINESS & LABOR

1 Section 1. NEW SECTION. 91F.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 provides:

4 1. "Employee" means a person employed by an employer and
5 includes all of an employer's year-round employees, whether
6 working full-time or part-time, and any temporary employee
7 employed by an employer for a period of at least three months.
8 "Employee" shall not include an individual employed by the
9 individual's parent, spouse, or child.

10 2. "Employer" means a person who employs three or more
11 persons and includes the state and all political subdivisions
12 of the state.

13 3. "Equivalent jobs" means jobs or occupations that are
14 equal within the meaning of 29 U.S.C. § 206(d), or jobs or
15 occupations that are dissimilar but whose requirements are
16 equivalent, when viewed as a composite of skills, effort,
17 responsibility, and working conditions, or jobs or occupations
18 that are equally productive and have equal value for an
19 employer.

20 4. "Labor organization" means an organization that exists
21 for the purpose, in whole or in part, of collective bargaining
22 or of dealing with employers concerning grievances, terms of
23 conditions of employment, or of other mutual aid or protection
24 in connection with employment.

25 5. "Market rates" means the rates that employers within a
26 prescribed geographic area actually pay, or are reported to
27 pay, for specific jobs, as determined by formal or informal
28 surveys, wage studies, or other means.

29 6. "Wages" and "wage rates" include all compensation in
30 any form that an employer provides to employees in payment for
31 work done or services rendered, including but not limited to
32 base pay, bonuses, commissions, awards, tips, or various forms
33 of nonmonetary compensation if provided in lieu of or in
34 addition to monetary compensation and that have economic value
35 to an employee.

1 Sec. 2. NEW SECTION. 91F.2 WAGE DISCRIMINATION
2 PROHIBITION.

3 1. It shall be an unlawful employment practice in
4 violation of this chapter for an employer to discriminate
5 between employees on the basis of sex, race, or national
6 origin by doing any of the following:

7 a. Paying wages to employees at a rate less than the rate
8 paid to employees of the opposite sex or of a different race
9 or national origin for work in equivalent jobs.

10 b. Paying wages to employees in a job that is dominated by
11 employees of a particular sex, race, or national origin at a
12 rate less than the rate at which such employer pays to
13 employees in another job that is dominated by employees of the
14 opposite sex or of a different race or national origin, for
15 work on equivalent jobs.

16 2. An employer may pay different wage rates to employees
17 where such payments are made pursuant to any of the following:

18 a. A bona fide seniority or merit system.

19 b. A system that measures earnings by quantity or quality
20 of production.

21 c. A bona fide factor other than sex, race, or national
22 origin. However, wage differentials based on varying market
23 rates for equivalent jobs or based on the differing economic
24 benefits to the employer of equivalent jobs shall not be
25 considered to be based on a bona fide factor other than sex,
26 race, or national origin.

27 3. An employer who is paying wages in violation of this
28 section shall not, in order to comply with the provisions of
29 this section, reduce the wage of any employee.

30 4. A labor organization or its agents representing
31 employees of an employer having employees subject to any
32 provision of this chapter shall not cause or attempt to cause
33 such an employer to discriminate against an employee in
34 violation of subsection 1.

35 5. The labor commissioner shall adopt rules specifying the

1 criteria for determining whether a job is dominated by
2 employees of a particular sex, race, or national origin.
3 Criteria shall include, but not be limited to, factors such as
4 whether the job has ever been formally classified as or
5 traditionally considered to be a male or female or white or
6 minority job; whether a history of discrimination based on
7 sex, race, or national origin exists with regard to wages,
8 assignment, or access to jobs, or other terms and conditions
9 of employment; and the demographic composition of the
10 workforce in equivalent jobs. The rules shall not include a
11 list of jobs.

12 Sec. 3. NEW SECTION. 91F.3 OTHER PROHIBITED ACTS.

13 It shall be an unlawful employment practice in violation of
14 this chapter for an employer to do any of the following:

15 1. Take adverse actions or otherwise discriminate against
16 an individual because such individual has opposed any act or
17 practice made unlawful by this chapter; has sought to enforce
18 rights protected under this chapter; or has testified,
19 assisted, or participated in any manner in an investigation,
20 hearing, or other proceeding to enforce this chapter.

21 2. Discharge or in any other manner discriminate against,
22 coerce, intimidate, threaten, or interfere with an employee or
23 another person because the employee inquired about, disclosed,
24 compared, or otherwise discussed the employee's wages or the
25 wages of any other employee, or because the employee
26 exercised, enjoyed, aided, or encouraged another person to
27 exercise or enjoy any right granted or protected by this
28 chapter.

29 Sec. 4. NEW SECTION. 91F.4 WAGE DISCLOSURE,
30 RECORDKEEPING, AND REPORTING REQUIREMENTS.

31 1. Upon commencement of an individual's employment and at
32 least annually thereafter, the individual's employer subject
33 to this chapter shall provide to the employee a written
34 statement sufficient to inform the employee of the employee's
35 job title, wage rate, and how the wage is calculated. This

1 notice shall be supplemented whenever an employee is promoted
2 or reassigned to a different position with the employer.
3 However, the employer is not required to issue supplemental
4 notifications for temporary reassignments that are no greater
5 than three months in duration.

6 2. An employer subject to this chapter shall make and
7 preserve records that document the wages paid to employees and
8 that document and support the method, system, calculations,
9 and other bases used to establish, adjust, and determine the
10 wage rates paid to employees. An employer subject to this
11 chapter shall preserve the records for such periods of time
12 and shall make reports from the records as shall be prescribed
13 by rules or orders of the labor commissioner.

14 3. The rules adopted under this chapter, relating to the
15 form of reports required by subsection 2, shall provide for
16 protection of the confidentiality of employees, and shall
17 expressly require that reports shall not include the names or
18 other identifying information from which readers could discern
19 the identities of employees. The rules may also identify
20 circumstances that warrant a prohibition on disclosure of
21 reports or information identifying the employer.

22 4. The labor commissioner may use the information and data
23 collected pursuant to subsection 2 for statistical and
24 research purposes, and may compile and publish such studies,
25 analyses, reports, and surveys based on the information and
26 data, as appropriate.

27 Sec. 5. NEW SECTION. 91F.5 REMEDIES AND ENFORCEMENT.

28 1. a. In an action in which a court finds that an
29 employer has engaged in acts that violate this chapter, the
30 court shall award to an affected employee or employees
31 monetary relief, including back pay in an amount equal to the
32 difference between the employee's actual earnings and what the
33 employee would have earned but for the employer's unlawful
34 practices, and an additional amount in compensatory and
35 punitive damages, as appropriate.

1 b. In an action in which a court finds that an employer
2 has engaged in acts that violate this chapter, the court shall
3 enjoin the employer from continuing to discriminate against an
4 affected employee or employees and shall direct the employer
5 to comply with this chapter, and may order the employer to
6 take such additional affirmative steps as are necessary,
7 including reinstatement or reclassification of an affected
8 employee or employees, to ensure an end to unlawful
9 discrimination.

10 c. In an action in which an affected employee or employees
11 prevail in their claims against an employer, the court shall,
12 in addition to any judgment awarded to the plaintiffs, order
13 the employer to pay a reasonable attorney fee, reasonable
14 expert witness fees, and costs of the action.

15 2. a. An action to recover the damages or equitable
16 relief prescribed in subsection 1 may be maintained against an
17 employer in any court of competent jurisdiction by one or more
18 employees or their representative on their own behalf or on
19 their own behalf and on the behalf of other employees
20 similarly situated.

21 b. (1) The labor commissioner shall receive, investigate,
22 and attempt to resolve complaints of violations of this
23 chapter.

24 (2) If the labor commissioner is unable to reach a
25 voluntary resolution of a complaint, the labor commissioner
26 may bring an action in any court of competent jurisdiction to
27 recover the equitable and monetary relief described in
28 subsection 1.

29 (3) Any sums recovered by the labor commissioner pursuant
30 to this paragraph "b" shall be paid directly to each employee
31 affected by the employer's unlawful acts.

32 c. An action may be brought under this section not later
33 than two years after the date of the last event constituting
34 the alleged violation for which the action is brought.

35 Sec. 6. EFFECTIVE DATE. This Act, being deemed of

1 immediate importance, takes effect upon enactment.

2 EXPLANATION

3 This bill creates a new Code chapter governing wage
4 discrimination.

5 The bill makes it unlawful for an employer to pay wages
6 that discriminate between employees based on sex, race, or
7 national origin unless the differences are due to a valid
8 factor unrelated to sex, race, or national origin. The bill
9 also makes it unlawful for an employer to take action against
10 a person exercising their rights pursuant to this new chapter.

11 The bill requires employers, on an annual basis, to provide
12 employees with information on how the employees' wage is
13 calculated. The bill also requires employers to maintain
14 records concerning wages paid to employees.

15 The bill permits an affected employee to maintain an action
16 against an employer who violates this chapter and to obtain
17 damages, seek an injunction, and be awarded witness and
18 attorney fees and costs. The bill also permits employees to
19 maintain an action on behalf of other employees. In addition,
20 the labor commissioner is granted the authority to resolve
21 complaints arising out of this chapter and to maintain a civil
22 action for monetary and equitable relief on behalf of
23 employees.

24 The bill takes effect upon enactment.

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