An Act

Amending the act of December 17, 1959 (P.L.1913, No.694),
entitled "An act prohibiting discrimination in rate of pay
because of sex; conferring powers and imposing duties on the
Department of Labor and Industry; and prescribing penalties,
further providing for definitions and for wage rates;
providing for additional violations; further providing for
collection of unpaid wages and for penalties; and
establishing the Equal Pay Commission.

The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows:

Section 1. Section 2 of the act of December 17, 1959
(P.L.1913, No.694), known as the Equal Pay Law, is amended by
adding definitions to read:

Section 2. Definitions.--* * *

(e.1) "Commission" shall mean the Equal Pay Commission
established under section 8.1.

(e.2) "Comparable work" shall mean work that is
substantially similar, including substantially similar skill
levels, effort and responsibility. The term includes work that
is performed under similar working conditions.

(e.3) "Working conditions" includes the circumstances considered when setting salary or wages, including reasonable shift differentials, physical surroundings and hazards encountered by employees performing a job.

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Section 2. Section 3 of the act is amended to read:

Section 3. Wage Rates.--(a) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on [jobs, the performance of which, requires equal skill, effort, and responsibility, and which are] comparable work performed under similar working conditions, except where such payment is made pursuant to (1) a seniority system, so long as time spent on leave due to a pregnancy-related condition or protected parental, family or medical leave may not reduce seniority; (2) a merit system; (3) a system which measures earnings by quantity or quality of production; [or] (4) a differential based on any other factor other than [sex]; (5) the geographic location where a job is performed; (6) education, training or experience to the extent the factors are reasonably related to the job and consistent with business necessity; or (7) travel if the travel is a regular and necessary condition of the job: Provided, That any employer who is paying a wage rate differential in violation of this subsection shall not in order to comply with the provisions of this subsection, reduce the wage rate of any employee. The job...
title or job description alone shall not determine if two jobs are comparable.

(b) No labor organization, or its agents, representing employes of an employer having employes subject to any provisions of this section, shall cause or attempt to cause such an employer to discriminate against an employe in violation of subsection (a) of this section.

(c) An employer shall post a notice in the workplace informing employes of their rights under this act. The notice shall be posted in a conspicuous place in at least one location where employes congregate.

Section 3. The act is amended by adding a section to read:

Section 3.1. Additional Violations.--(a) An employer may not do any of the following:

(1) Require an employe to refrain from inquiring about, discussing or disclosing information about the employe's own wages, including benefits or other compensation, or about any other employe's wages.

(2) Screen job applicants based on wages, benefits, other compensation or salary histories, including requiring disclosure of benefits or salary history or requiring the information as a condition of being interviewed or a condition of an offer of employment.

(3) Prior to an employer offering employment and compensation to an employe and receiving written authorization from the employe, seek salary, benefit or prior wages from a former or current employer.

(4) Retaliate against or discharge an employe for any of the following:

   (i) Complaining about, opposing, instituting a proceeding
based on, or attempting or planning to complain about or oppose
or institute a proceeding based on, a violation of this act.

(ii) Testifying or planning to testify against an employer
in an action under this act.

(iii) Assisting an investigation or otherwise participating
in an action under this act.

(iv) Disclosing, inquiring about or discussing wages,
benefits or other compensation of the employe or another
employe.

(5) Contract with an employe to avoid complying with this
act.

(b) An employer may prohibit the disclosure of an employe's
compensation information without the written authorization of
the employe unless the information is a public record under the
act of February 14, 2008 (P.L.6, No.3), known as the Right-to-
Know Law.

Section 4. Sections 5 and 8(a) of the act are amended to
read:

Section 5. Collection of Unpaid Wages.--(a) An employer who
wilfully and knowingly violates the provisions of section 3 or
3.1 of this act shall be liable to the employe or employes
affected in the amount of their unpaid wages and in addition, an
equal amount as liquidated damages. Action to recover such wages
and damages may be maintained in any court of competent
jurisdiction by any one or more employes for and in behalf of
himself or themselves and other employes similarly situated. Any
agreement between the employer and an employe to work for less
than the wage to which such employe is entitled under this act
shall be no defense to such action. The court in such action
shall, in addition to any wages and damages, allow a reasonable
attorney's fee and costs of the action to the plaintiff. At the request of any employe paid less than the wage to which he is entitled under this act, the Secretary of Labor and Industry may take an assignment of such wage claim for collection and shall bring any legal action necessary to collect such claim. The secretary shall not be required to pay the filing fee or other costs in connection with such action. The secretary shall have power to join various claimants against the employer in one cause of action.

(b) [Any action pursuant to the provisions of this act must be brought within two years from the date upon which the violation complained of occurs.] An action under this act shall be commenced within three years of the date of the alleged violation. A violation shall be deemed to have occurred when any of the following occurs:

(1) A discriminatory compensation decision or other practice is adopted.

(2) An employe becomes subject to a discriminatory compensation decision or other practice.

(3) An employe is affected by an application of a discriminatory compensation decision or practice, including each time wages, benefits or other compensations are paid, resulting in whole or in part from a discriminatory decision or practice.

(c) It shall be an affirmative defense if an employer has completed a self-evaluation of pay practices in good faith and can demonstrate that reasonable progress has been made in eliminating gender-based compensation differentials. The self-evaluation may be designed by the employer if the evaluation is reasonable in details and scope.

(d) Self-evaluations or remedial steps taken by the employer
shall not be admissible in any proceeding as evidence of a
violation of this act. The lack of a self-evaluation shall not
be used against the employer.

Section 8. Penalties.--(a) Any employer who wilfully and
knowingly violates any provisions of this act, or who discharges
or in any other manner discriminates against any employe because
such employe has made any complaint to his employer, the
secretary or any other person who instituted or caused to be
instituted any proceeding under or related to this act, or has
testified or is about to testify in any such proceedings, shall,
upon conviction thereof in a summary proceeding, be sentenced to
pay a fine of not [less than fifty dollars ($50) nor] more than
[two hundred dollars ($200)] one thousand dollars ($1,000), and,
upon default in such fine and costs, shall undergo imprisonment
for not less than thirty days nor more than sixty days. Each day
such a violation continues shall constitute a separate offense.

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Section 5. The act is amended by adding a section to read:

Section 8.1. Commission.--(a) The Equal Pay Commission is
established to investigate, analyze and study the factors,
causes and impact of pay disparity based on gender.

(b) The commission shall consist of the following members:

(1) The Secretary of Labor and Industry or the secretary's
desigee, who shall serve as chairperson for the commission.

(2) The Attorney General or the Attorney General's desigee.

(3) Two members appointed by the President pro tempore of
the Senate.

(4) One member appointed by the Minority Leader of the
Senate.

(5) Two members appointed by the Speaker of the House of
Representatives.

(6) One member appointed by the Minority Leader of the House of Representatives.

(7) Seven members appointed by the Governor as follows:

(i) One member shall represent employers.

(ii) Two members shall have experience in the field of gender economics.

(iii) One member shall represent the Women's Law Project of Pennsylvania.

(iv) One member shall represent the Pennsylvania Commission for Women.

(v) One member shall represent the Pennsylvania chapter of the National Organization of Women.

(vi) One member shall represent organized labor.

(c) The commission shall hold its first meeting within forty-five days of the effective date of this section, regardless of the status of the appointments. The commission shall hold other meetings at the call of the chairperson.

(d) A member may not receive compensation for the member's services, but shall be reimbursed for all necessary travel and other reasonable expenses incurred in connection with the performance of the member's duties.

(e) The Department of Labor and Industry shall provide administrative support, meeting space and any other assistance required by the commission to carry out the commission's duties under this section. The department shall also provide the commission with data, research and other information upon request by the commission.

(f) The commission shall submit a report of the commission's findings to the General Assembly no later than January 1, 2020,
and annually on January 1 until January 1, 2025. The final report may include proposed legislation to further reduce gender-based pay disparities.

Section 6. This act shall take effect in 60 days.