

SENATE BILL No. 259

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-9.

Synopsis: Wage discrimination. Provides that it is an unlawful employment practice to: (1) pay wages that discriminate based on sex for substantially similar work; (2) discharge, discipline, discriminate against, coerce, intimidate, threaten, or interfere with any employee or other person because the employee inquired about, disclosed, compared, or otherwise discussed the employee's wages; (3) require as a condition of employment nondisclosure by an employee of the employee's wages; or (4) require an employee to sign a waiver or other document that purports to deny the employee the right to disclose the employee's wage information. Provides that the civil rights commission has jurisdiction for the investigation and resolution of complaints of these employment actions.

Effective: July 1, 2019.

Mrvan

January 3, 2019, read first time and referred to Committee on Pensions and Labor.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 259

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-9-1-2, AS AMENDED BY P.L.136-2014,
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2019]: Sec. 2. (a) It is the public policy of the state to provide
 4 all of its citizens equal opportunity for education, employment, access
 5 to public conveniences and accommodations, and acquisition through
 6 purchase or rental of real property, including but not limited to housing,
 7 and to eliminate segregation or separation based solely on race,
 8 religion, color, sex, disability, national origin, or ancestry, since such
 9 segregation is an impediment to equal opportunity. Equal education
 10 and employment opportunities and equal access to and use of public
 11 accommodations and equal opportunity for acquisition of real property
 12 are hereby declared to be civil rights.

13 (b) The practice of denying these rights to properly qualified
 14 persons by reason of the race, religion, color, sex, disability, national
 15 origin, or ancestry of such person is contrary to the principles of
 16 freedom and equality of opportunity and is a burden to the objectives
 17 of the public policy of this state and shall be considered as



1 discriminatory practices. The promotion of equal opportunity without
 2 regard to race, religion, color, sex, disability, national origin, or
 3 ancestry through reasonable methods is the purpose of this chapter.

4 (c) It is also the public policy of this state to protect employers,
 5 labor organizations, employment agencies, property owners, real estate
 6 brokers, builders, and lending institutions from unfounded charges of
 7 discrimination.

8 (d) It is hereby declared to be contrary to the public policy of the
 9 state and an unlawful practice for any person, for profit, to induce or
 10 attempt to induce any person to sell or rent any dwelling by
 11 representations regarding the entry or prospective entry into the
 12 neighborhood of a person or persons of a particular race, religion,
 13 color, sex, disability, national origin, or ancestry.

14 (e) The general assembly recognizes that on February 16, 1972,
 15 there are institutions of learning in Indiana presently and traditionally
 16 following the practice of limiting admission of students to males or to
 17 females. It is further recognized that it would be unreasonable to
 18 impose upon these institutions the expense of remodeling facilities to
 19 accommodate students of both sexes, and that educational facilities of
 20 similar quality and type are available in coeducational institutions for
 21 those students desiring such facilities. It is further recognized that this
 22 chapter is susceptible of interpretation to prevent these institutions
 23 from continuing their traditional policies, a result not intended by the
 24 general assembly. Therefore, the amendment effected by Acts 1972,
 25 P.L.176, is desirable to permit the continuation of the policies
 26 described.

27 (f) It is against the public policy of the state and a discriminatory
 28 practice for an employer to discriminate against a prospective
 29 employee on the basis of status as a veteran by:

30 (1) refusing to employ an applicant for employment on the basis
 31 that the applicant is a veteran of the armed forces of the United
 32 States; or

33 (2) refusing to employ an applicant for employment on the basis
 34 that the applicant is a member of the Indiana National Guard or
 35 member of a reserve component.

36 **(g) The definitions set forth in IC 22-9-12 apply to this**
 37 **subsection. After June 30, 2019, it is against the public policy of the**
 38 **state and an unlawful employment practice for an employer to**
 39 **discriminate against an employee on the basis of sex by paying**
 40 **wages to an employee at a rate less than the rate paid to an**
 41 **employee of the opposite sex for substantially similar work.**

42 ~~(g)~~ (h) This chapter shall be construed broadly to effectuate its



1 purpose.

2 SECTION 2. IC 22-9-12 IS ADDED TO THE INDIANA CODE AS
3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2019]:

5 **Chapter 12. Equal Pay and Wage Disclosure Protection**

6 **Sec. 1. As used in this chapter, "commission" means the civil
7 rights commission created by IC 22-9-1-4.**

8 **Sec. 2. As used in this chapter, "complaint" has the meaning set
9 forth in IC 22-9-1-3(o).**

10 **Sec. 3. As used in this chapter, "employee" has the meaning set
11 forth in IC 22-9-1-3(i).**

12 **Sec. 4. As used in this chapter, "employer" has the meaning set
13 forth in IC 22-9-1-3(h).**

14 **Sec. 5. As used in this chapter, "substantially similar work"
15 means jobs or occupations that are:**

16 (1) equal within the meaning of the federal Equal Pay Act of
17 1963 (29 U.S.C. 206(d)); or

18 (2) dissimilar but whose requirements are equivalent when:

19 (A) viewed as a composite of skill, effort, and
20 responsibility; and

21 (B) performed under similar working conditions.

22 **Sec. 6. As used in this chapter, "wages" or "wage rates" include
23 all compensation of any kind that an employer provides to an
24 employee in payment for work done or services rendered,
25 including:**

26 (1) base pay;

27 (2) bonuses;

28 (3) commissions;

29 (4) awards;

30 (5) tips; or

31 (6) any form of nonmonetary compensation:

32 (A) if provided instead of or in addition to monetary
33 compensation; and

34 (B) that has economic value to an employee.

35 **Sec. 7. It is an unlawful employment practice for an employer
36 to discriminate between employees on the basis of sex by paying
37 any of its employees at wage rates less than the wage rates paid to
38 employees of the opposite sex for substantially similar work.**

39 **Sec. 8. (a) Notwithstanding section 7 of this chapter, it is not an
40 unlawful employment practice for an employer to pay different
41 wage rates to employees when the employer demonstrates that the
42 wage differential is based upon one (1) or more of the following**



- 1 factors:
- 2 (1) A bona fide seniority system.
- 3 (2) A bona fide merit system.
- 4 (3) A bona fide system that measures earnings by quantity or
- 5 quality of production.
- 6 (4) A bona fide factor other than sex, such as education,
- 7 training, or experience.
- 8 (b) For the factor described in subsection (a)(4) to be used as a
- 9 defense to a complaint of an unlawful employment practice
- 10 described in section 7 of this chapter, an employer shall
- 11 demonstrate that the bona fide factor:
- 12 (1) is not based on or derived from a wage differential that is
- 13 the result of the job or occupation being a historically
- 14 undervalued, traditionally female job or occupation;
- 15 (2) is job related for the position in question; and
- 16 (3) is consistent with business necessity.
- 17 (c) If an employee demonstrates that an alternative business
- 18 practice exists that:
- 19 (1) would serve the same business purpose as the bona fide
- 20 factor demonstrated by the employer in subsection (b); and
- 21 (2) does not result in the wage differential;
- 22 the employer may not use the factor as a defense to a complaint of
- 23 an unlawful employment practice described in section 7 of this
- 24 chapter.
- 25 Sec. 9. (a) It is an unlawful employment practice for an
- 26 employer to do any of the following:
- 27 (1) To discharge, discipline, discriminate against, coerce,
- 28 intimidate, threaten, or interfere with any employee or other
- 29 person because the employee inquired about, disclosed,
- 30 compared, or otherwise discussed the employee's wages.
- 31 (2) To require as a condition of employment nondisclosure by
- 32 an employee of the employee's wages.
- 33 (3) To require an employee to sign a waiver or other
- 34 document that purports to deny the employee the right to
- 35 disclose the employee's wage information.
- 36 (b) This section does not require an employee to disclose the
- 37 employee's wages.
- 38 Sec. 10. This chapter may not be construed to impede, infringe,
- 39 or diminish the rights and benefits that accrue to an employee
- 40 through a bona fide collective bargaining agreement or otherwise
- 41 diminish the integrity of an existing collective bargaining
- 42 relationship.



1 **Sec. 11. The commission may adopt and enforce rules under**
2 **IC 4-22-2, including emergency rules in the manner provided**
3 **under IC 4-22-2-37.1, that are necessary to carry out this chapter.**

4 **Sec. 12. (a) The commission shall receive, investigate, and**
5 **attempt to resolve complaints of violations of this chapter in the**
6 **manner provided by IC 22-9-1-6.**

7 **(b) IC 22-9-1-16, IC 22-9-1-17, and IC 22-9-1-18 apply to**
8 **complaints filed in accordance with this chapter.**

