S T A T E O F N E W Y O R K

3690

2011-2012 Regular Sessions

I N A S S E M B L Y

January 26, 2011

Introduced by M. of A. LIFTON, DESTITO, AUBRY, BENEDETTO, BING, COLTON, GOTTFRIED, JAFFEE, JEFFRIES, SCHROEDER, WRIGHT, GALEF, SCHIMEL, LUPARDO, LANCMAN -- Multi-Sponsored by -- M. of A. BOYLAND, BROOK-KRASNY, CAHILL, CLARK, GABRYSZAK, GLICK, GUNTHER, HOOPER, JACOBS, MAISEL, McENENY, PEOPLES-STOKES, PHEFFER, REILLY, J. RIVERA, ROBINSON, ROSENTHAL, TOWNS -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to making it a discriminatory practice to compensate employees of different sexes differently for work that is of comparable worth

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 296 of the executive law is amended by adding a new subdivision 22 to read as follows:

22. (A) IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER TO DISCRIMINATE BETWEEN EMPLOYEES IN THE SAME PLACE OF BUSINESS ON THE BASIS OF SEX, BY COMPENSATING ANY EMPLOYEE IN ANY OCCUPATION AT A SALARY OR RATE LESS THAN THE SALARY OR RATE AT WHICH HE OR SHE COMPENSATES ANY EMPLOYEE OF THE OPPOSITE SEX FOR JOBS WHICH HAVE COMPARABLE WORTH AS MEASURED BY THE SKILL, EFFORT AND RESPONSIBILITY NORMALLY REQUIRED IN THE PERFORMANCE OF WORK AND THE CONDITIONS UNDER WHICH THE WORK IS NORMALLY PERFORMED.

(B) NOTHING IN PARAGRAPH (A) OF THIS SUBDIVISION SHALL PROHIBIT DIFFERING COMPENSATION TO EMPLOYEES WHERE SUCH COMPENSATION IS CALCULATED PURSUANT TO:

(1) A BONA FIDE SENIORITY SYSTEM;

(2) A MERIT SYSTEM; OR

(3) A SYSTEM THAT MEASURES EARNINGS BY QUANTITY OR QUALITY OF PRODUCTION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(C) AN EMPLOYER WHO IS IN VIOLATION OF THIS SUBDIVISION SHALL NOT, IN ORDER TO COMPLY WITH THIS SUBDIVISION, REDUCE THE COMPENSATION OF ANY EMPLOYEE OR REDUCE THE RATE OF COMPENSATION FOR ANY POSITION.

(D) AN AGREEMENT BY ANY EMPLOYEE TO WORK FOR LESS THAN THE COMPENSATION TO WHICH THE EMPLOYEE IS ENTITLED UNDER THIS SUBDIVISION SHALL NOT BE A BAR TO ANY ACTION TO WHICH THE EMPLOYEE WOULD OTHERWISE BE ENTITLED TO ENFORCE THE PROVISIONS OF THIS SUBDIVISION.

(E) NOTHING SET FORTH IN THIS SUBDIVISION SHALL BE CONSTRUED TO IMPEDE, INFRINGE OR DIMINISH THE RIGHTS AND BENEFITS WHICH ACCRUE TO EMPLOYEES THROUGH BONA FIDE COLLECTIVE BARGAINING AGREEMENTS, OR OTHERWISE DIMINISH THE INTEGRITY OF THE EXISTING COLLECTIVE BARGAINING RELATIONSHIP.

(F) NO EMPLOYER SHALL BE FOUND TO BE IN VIOLATION OF THIS SUBDIVISION FOR COMPENSATING EMPLOYEES OF DIFFERENT SEXES DIFFERENTLY FOR WORK THAT IS OF COMPARABLE WORTH DURING THE THREE YEAR PERIOD BEGINNING ON THE EFFECTIVE DATE OF THIS SUBDIVISION, PROVIDED SUCH EMPLOYER HAS INSTITUTED A PLAN THAT WILL LEAD TO COMPLIANCE WITH THIS SUBDIVISION AFTER SUCH THREE YEAR PERIOD EXPIRES.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.