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

2707

2015-2016 Regular Sessions

I N A S S E M B L Y

January 20, 2015

Introduced by M. of A. KATZ -- Multi-Sponsored by -- M. of A. FINCH, LUPINACCI, TENNEY -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the penal law, in relation to implementing stricter penalties for unlawful wage discrimination and creating the crime of unlawful wage discrimination

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

Section 1. Subdivision 1 of section 296 of the executive law is amended by adding a new paragraph (a-1) to read as follows:

(A-1)(I) NO EMPLOYER SHALL DISCRIMINATE, WITHIN ANY ESTABLISHMENT IN WHICH INDIVIDUALS ARE EMPLOYED, BETWEEN EMPLOYEES ON BASIS OF SEX BY PAYING WAGES TO EMPLOYEES IN SUCH ESTABLISHMENT AT A RATE LESS THAN THE RATE AT WHICH HE OR SHE 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 PERFORMED UNDER SIMILAR WORKING CONDITIONS. PROVIDED, HOWEVER, THAT AN EMPLOYER WHO IS PAYING A WAGE RATE DIFFERENTIAL IN VIOLATION OF THIS PARAGRAPH SHALL NOT, IN ORDER TO COMPLY WITH THE PROVISIONS OF THIS PARAGRAPH, REDUCE THE WAGE RATE OF ANY EMPLOYEE.

(II) IN ADDITION TO ANY CIVIL CAUSES OF ACTION, A PERSON THAT KNOWINGLY DISCRIMINATES UNDER THE PROVISIONS OF THIS PARAGRAPH, MAY BE CHARGED WITH THE CRIME OF UNLAWFUL WAGE DISCRIMINATION PURSUANT TO THE PROVISIONS OF SECTION 245.07 OF THE PENAL LAW.

S 2. The penal law is amended by adding a new section 245.07 to read as follows:

S 245.07 UNLAWFUL WAGE DISCRIMINATION.

A PERSON IS GUILTY OF UNLAWFUL WAGE DISCRIMINATION WHEN HE OR SHE KNOWINGLY, PAYS WAGES AT A RATE LESS THAN THE RATE PAID TO EMPLOYEES OF THE OPPOSITE SEX WITHIN THE SAME ESTABLISHMENT FOR EQUAL WORK ON JOBS

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

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THE PERFORMANCE OF WHICH REQUIRES EQUAL SKILL, EFFORT, AND RESPONSIBILITY, AND WHICH ARE PERFORMED UNDER SIMILAR WORKING CONDITIONS.

UNLAWFUL WAGE DISCRIMINATION IS A CLASS C FELONY.

S 3. Subdivision 1 of section 80.10 of the penal law, as amended by section 28 of subpart A of part H of chapter 55 of the laws of 2014, is amended to read as follows:

1. In general. A sentence to pay a fine, when imposed on a corporation for an offense defined in this chapter or for an offense defined outside this chapter for which no special corporate fine is specified, shall be a sentence to pay an amount, fixed by the court, not exceeding:

(a) Ten thousand dollars, when the conviction is of a felony;

(b) Five thousand dollars, when the conviction is of a class A misdemeanor or of an unclassified misdemeanor for which a term of imprisonment in excess of three months is authorized;

(c) Two thousand dollars, when the conviction is of a class B misdemeanor or of an unclassified misdemeanor for which the authorized term of imprisonment is not in excess of three months;

(d) Five hundred dollars, when the conviction is of a violation;

(e) FIFTEEN THOUSAND DOLLARS, WHEN THE CONVICTION IS FOR THE CLASS C FELONY OF UNLAWFUL WAGE DISCRIMINATION;

(F) Any higher amount not exceeding double the amount of the corporation's gain from the commission of the offense or, if the corporation is convicted of a crime defined in article four hundred ninety-six of this chapter, any higher amount not exceeding three times the amount of the corporation's gain from the commission of such offense.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.