

118TH CONGRESS
1ST SESSION

H. R. 17

To amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2023

Ms. DELAURO (for herself, Mr. JEFFRIES, Mr. AGUILAR, Ms. CLARK of Massachusetts, Ms. PELOSI, Mr. HOYER, Mr. CLYBURN, Mr. SCOTT of Virginia, Ms. SPANBERGER, Ms. ADAMS, Ms. SALINAS, Ms. CRAIG, Ms. KUSTER, Ms. ESHOO, Ms. PRESSLEY, Ms. LEE of California, Ms. BALINT, Ms. MCCOLLUM, Mrs. WATSON COLEMAN, Ms. PETTERSEN, Ms. PINGREE, Ms. HOULAHAN, Ms. BUSH, Mrs. DINGELL, Ms. WASSERMAN SCHULTZ, Ms. ROSS, Ms. DEGETTE, Ms. TITUS, Ms. MATSUI, Ms. NORTON, Ms. SLOTKIN, Ms. WILSON of Florida, Ms. MENG, Mrs. NAPOLITANO, Ms. MOORE of Wisconsin, Ms. STEVENS, Ms. SCHOLTEN, Ms. OMAR, Mrs. HAYES, Ms. SCHAKOWSKY, Ms. CROCKETT, Ms. WEXTON, Ms. TOKUDA, Mrs. BEATTY, Ms. CHU, Ms. BROWNLEY, Ms. CASTOR of Florida, Ms. MANNING, Ms. PORTER, Ms. SCHRIER, Ms. UNDERWOOD, Ms. SÁNCHEZ, Ms. BLUNT ROCHESTER, Mrs. FLETCHER, Ms. LOIS FRANKEL of Florida, Mrs. TRAHAN, Mrs. MCBATH, Ms. DEAN of Pennsylvania, Ms. KAPTUR, Ms. PEREZ, Ms. STRICKLAND, Ms. SCANLON, Ms. WATERS, Ms. STANSBURY, Ms. SHERRILL, Ms. BARRAGÁN, Ms. WILLIAMS of Georgia, Ms. BUDZINSKI, Mrs. TORRES of California, Ms. VELÁZQUEZ, Ms. JAYAPAL, Ms. TLAIB, Ms. KELLY of Illinois, Ms. JACOBS, Ms. DAVIDS of Kansas, Mrs. CHERFILUS-McCORMICK, Ms. JACKSON LEE, Ms. BROWN, Ms. PLASKETT, Ms. LEE of Pennsylvania, Ms. WILD, Mrs. LEE of Nevada, Ms. DELBENE, Ms. BONAMICI, Ms. KAMLAGER-DOVE, Ms. GARCIA of Texas, Ms. LEGER FERNANDEZ, Ms. SEWELL, Ms. HOYLE of Oregon, Mrs. FOUSHEE, Ms. ESCOBAR, Ms. CARAVEO, Ms. CLARKE of New York, Ms. LOFGREN, Mr. SCHIFF, Mr. SMITH of Washington, Mr. ESPAILLAT, Mr. GREEN of Texas, Mr. BERA, Mr. CARSON, Mr. KIM of New Jersey, Mr. THOMPSON of Mississippi, Mr. FOSTER, Mr. PASCRELL, Mr. SCHNEIDER, Mr. SHERMAN, Mr. BOYLE of Pennsylvania, Mr. HIGGINS of New York, Mr. RUPPERSBERGER, Mr. DELUZIO, Mr. ALLRED, Mr. KILDEE, Mr. DAVIS of Illinois, Mr. SOTO, Mr. CICILLINE, Mr. DAVID SCOTT of Georgia, Mr. TRONE, Mr. PHILLIPS, Mr. KILMER, Mr. DAVIS of North Carolina, Mr. PAYNE, Mr. NORCROSS, Mr. BEYER, Mr. EVANS, Mr. BLUMENAUER, Mr. CLEAVER, Mr.

SORENSEN, Mr. SWALWELL, Mr. MRVAN, Mr. PALLONE, Mr. CONNOLLY, Mr. IVEY, Mr. CASAR, Mr. STANTON, Mr. SABLAN, Mr. MEEKS, Mr. JOHNSON of Georgia, Mr. CUELLAR, Mr. AUCHINCLOSS, Mr. BOWMAN, Mr. MCGOVERN, Mr. RASKIN, Mr. GOLDEN of Maine, Mr. HUFFMAN, Mr. MOSKOWITZ, Mr. CROW, Mr. NADLER, Mr. GARCÍA of Illinois, Mr. COSTA, Mr. HIMES, Mr. GOMEZ, Mr. PANETTA, Mr. CASTRO of Texas, Mr. COURTNEY, Mr. NEGUSE, Mr. LARSON of Connecticut, Mr. GARAMENDI, Mr. SARBANES, Mr. JACKSON of Illinois, Mr. MORELLE, Mr. GOTTHEIMER, Mr. HARDER of California, Mr. VARGAS, Mrs. SYKES, Mr. MULLIN, Mr. MFUME, Mr. DOGGETT, Mr. VEASEY, Mr. DESAULNIER, Mr. POCAN, Mr. TAKANO, Mr. CARTWRIGHT, Mr. FROST, Mr. LEVIN, Mr. QUIGLEY, Mr. THOMPSON of California, Mr. MCGARVEY, Mr. RYAN, Mr. TONKO, Mr. KRISHNAMOORTHY, Mr. GRIJALVA, Mr. RUIZ, Mr. NEAL, Mr. LARSEN of Washington, Mr. TORRES of New York, Mr. KHANNA, Mr. MENENDEZ, Mr. ROBERT GARCIA of California, Mr. GALLEGO, Mr. CARBAJAL, Mr. BISHOP of Georgia, Mr. PETERS, Mr. CASTEN, Mr. MOULTON, Mr. LYNCH, Mr. COHEN, Mr. HORSFORD, Mr. LIEU, Mr. CÁRDENAS, Mr. CARTER of Louisiana, Mr. VICENTE GONZALEZ of Texas, Mr. NICKEL, Mr. KEATING, Mr. THANEDAR, Mr. FITZPATRICK, Mrs. MCCLELLAN, and Mr. CORREA) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Oversight and Accountability, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Paycheck Fairness
 5 Act”.

1 **SEC. 2. ENHANCED ENFORCEMENT OF EQUAL PAY RE-**
 2 **QUIREMENTS.**

3 (a) DEFINITIONS.—Section 3 of the Fair Labor
 4 Standards Act of 1938 (29 U.S.C. 203) is amended by
 5 adding at the end the following:

6 “(z) ‘Sex’ includes—

7 “(1) pregnancy, childbirth, or a related medical
 8 condition;

9 “(2) sexual orientation or gender identity; and

10 “(3) sex characteristics, including intersex
 11 traits.

12 “(aa) ‘Sexual orientation’ includes homosexuality,
 13 heterosexuality, and bisexuality.

14 “(bb) ‘Gender identity’ means the gender-related
 15 identity, appearance, mannerisms, or other gender-related
 16 characteristics of an individual, regardless of the individ-
 17 ual’s designated sex at birth.”.

18 (b) BONA FIDE FACTOR DEFENSE AND MODIFICA-
 19 TION OF SAME ESTABLISHMENT REQUIREMENT.—Section
 20 6(d)(1) of the Fair Labor Standards Act of 1938 (29
 21 U.S.C. 206(d)(1)) is amended—

22 (1) by striking “No employer having” and in-
 23 serting “(A) No employer having”;

24 (2) by striking “the opposite” and inserting
 25 “another”;

1 (3) by striking “any other factor other than
2 sex” and inserting “a bona fide factor other than
3 sex, such as education, training, or experience”; and

4 (4) by inserting at the end the following:

5 “(B) The bona fide factor defense described in sub-
6 paragraph (A)(iv) shall apply only if the employer dem-
7 onstrates that such factor (i) is not based upon or derived
8 from a sex-based differential in compensation; (ii) is job-
9 related with respect to the position in question; (iii) is con-
10 sistent with business necessity; and (iv) accounts for the
11 entire differential in compensation at issue. Such defense
12 shall not apply where the employee demonstrates that an
13 alternative employment practice exists that would serve
14 the same business purpose without producing such dif-
15 ferential and that the employer has refused to adopt such
16 alternative practice.

17 “(C) For purposes of subparagraph (A), employees
18 shall be deemed to work in the same establishment if the
19 employees work for the same employer at workplaces lo-
20 cated in the same county or similar political subdivision
21 of a State. The preceding sentence shall not be construed
22 as limiting broader applications of the term ‘establish-
23 ment’ consistent with rules prescribed or guidance issued
24 by the Equal Employment Opportunity Commission.”.

1 (c) NONRETALIATION PROVISION.—Section 15 of the
2 Fair Labor Standards Act of 1938 (29 U.S.C. 215) is
3 amended—

4 (1) in subsection (a)—

5 (A) in paragraph (3), by striking “em-
6 ployee has filed” and all that follows and insert-
7 ing “employee—

8 “(A) has made a charge or filed any com-
9 plaint or instituted or caused to be instituted
10 any investigation, proceeding, hearing, or action
11 under or related to this Act, including an inves-
12 tigation conducted by the employer, or has tes-
13 tified or is planning to testify or has assisted or
14 participated in any manner in any such inves-
15 tigation, proceeding, hearing or action, or has
16 served or is planning to serve on an industry
17 committee;

18 “(B) has opposed any practice made un-
19 lawful by this Act; or

20 “(C) has inquired about, discussed, or dis-
21 closed the wages of the employee or another
22 employee (such as by inquiring or discussing
23 with the employer why the wages of the em-
24 ployee are set at a certain rate or salary);”;

1 (B) in paragraph (5), by striking “and” at
2 the end;

3 (C) in paragraph (6), by striking the pe-
4 riod at the end and inserting “; or”; and

5 (D) by adding at the end the following:

6 “(7) to require an employee to sign a contract
7 or waiver that would prohibit the employee from dis-
8 closing information about the employee’s wages.”;
9 and

10 (2) by adding at the end the following:

11 “(c) Subsection (a)(3)(C) shall not apply to instances
12 in which an employee who has access to the wage informa-
13 tion of other employees as a part of such employee’s essen-
14 tial job functions discloses the wages of such other employ-
15 ees to individuals who do not otherwise have access to such
16 information, unless such disclosure is in response to a
17 complaint or charge or in furtherance of an investigation,
18 proceeding, hearing, or action under section 6(d), includ-
19 ing an investigation conducted by the employer. Nothing
20 in this subsection shall be construed to limit the rights
21 of an employee provided under any other provision of
22 law.”.

23 (d) ENHANCED PENALTIES.—Section 16(b) of the
24 Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)) is
25 amended—

1 (1) by inserting after the first sentence the fol-
2 lowing: “Any employer who violates section 6(d), or
3 who violates the provisions of section 15(a)(3) in re-
4 lation to section 6(d), shall additionally be liable for
5 such compensatory damages, or, where the employee
6 demonstrates that the employer acted with malice or
7 reckless indifference, punitive damages as may be
8 appropriate, except that the United States shall not
9 be liable for punitive damages.”;

10 (2) in the sentence beginning “An action to”,
11 by striking “the preceding sentences” and inserting
12 “any of the preceding sentences of this subsection”;

13 (3) in the sentence beginning “No employees
14 shall”, by striking “No employees” and inserting
15 “Except with respect to class actions brought to en-
16 force section 6(d), no employee”;

17 (4) by inserting after the sentence referred to
18 in paragraph (3), the following: “Notwithstanding
19 any other provision of Federal law, any action
20 brought to enforce section 6(d) may be maintained
21 as a class action as provided by the Federal Rules
22 of Civil Procedure.”; and

23 (5) in the sentence beginning “The court in”—

24 (A) by striking “in such action” and in-
25 serting “in any action brought to recover the li-

1 ability prescribed in any of the preceding sen-
 2 tences of this subsection”; and

3 (B) by inserting before the period the fol-
 4 lowing: “, including expert fees”.

5 (e) ACTION BY THE SECRETARY.—Section 16(c) of
 6 the Fair Labor Standards Act of 1938 (29 U.S.C. 216(c))
 7 is amended—

8 (1) in the first sentence—

9 (A) by inserting “or, in the case of a viola-
 10 tion of section 6(d), additional compensatory or
 11 punitive damages, as described in subsection
 12 (b),” before “and the agreement”; and

13 (B) by inserting before the period the fol-
 14 lowing: “, or such compensatory or punitive
 15 damages, as appropriate”;

16 (2) in the second sentence, by inserting before
 17 the period the following: “and, in the case of a viola-
 18 tion of section 6(d), additional compensatory or pu-
 19 nitive damages, as described in subsection (b)”;

20 (3) in the third sentence, by striking “the first
 21 sentence” and inserting “the first or second sen-
 22 tence”.

23 (f) ENFORCEMENT AUTHORITY.—

24 (1) IN GENERAL.—The Equal Opportunity Em-
 25 ployment Commission shall carry out the functions

1 and authorities described in section 1 of Reorganiza-
2 tion Plan No. 1 of 1978 (92 Stat. 3781; 5 U.S.C.
3 App.) to enforce and administer the provisions of
4 section 6(d) of the Fair Labor Standards Act of
5 1938 (29 U.S.C. 206(d)), except that the Secretary
6 of Labor, through the Office of Federal Contract
7 Compliance Programs, may also enforce this provi-
8 sion with respect to Federal contractors, Federal
9 subcontractors, and federally assisted construction
10 contractors, within the jurisdiction of the Office of
11 Federal Contract Compliance Programs under Exec-
12 utive Order No. 11246 (42 U.S.C. 2000e note; relat-
13 ing to equal employment opportunity) or a successor
14 Executive order.

15 (2) COORDINATION.—The Equal Opportunity
16 Employment Commission shall issue such regula-
17 tions as may be necessary to explain and implement
18 the standards of such section 6(d). The Secretary of
19 Labor may issue regulations to govern procedures
20 for enforcement of section 6(d) by the Office of Fed-
21 eral Contract Compliance Programs. The Secretary
22 of Labor and the Equal Employment Opportunity
23 Commission shall establish other coordinating mech-
24 anisms as may be necessary.

1 **SEC. 3. TRAINING.**

2 The Equal Employment Opportunity Commission
3 and the Secretary of Labor, acting through the Office of
4 Federal Contract Compliance Programs, subject to the
5 availability of funds appropriated under section 11, shall
6 provide training to employees of the Commission and the
7 Office of Federal Contract Compliance Programs and to
8 affected individuals and entities on matters involving dis-
9 crimination in the payment of wages.

10 **SEC. 4. NEGOTIATION SKILLS TRAINING.**

11 (a) NEGOTIATION BIAS TRAINING.—

12 (1) IN GENERAL.—The Secretary of Labor shall
13 establish a program to award contracts and grants
14 for the purpose of training employers about the role
15 that salary negotiation and other inconsistent wage
16 setting practices can have on allowing bias to enter
17 compensation.

18 (2) TRAINING TOPICS.—Each training program
19 established using funds under section (a) shall in-
20 clude an overview of how structural issues may
21 cause inequitable earning and advancement opportu-
22 nities for women and people of color and assist em-
23 ployers in examining the impact of a range of prac-
24 tices on such opportunities, including—

1 (A) self-auditing to identify structural
2 issues that allow bias and inequity to enter
3 compensation;

4 (B) recruitment of candidates to ensure di-
5 verse pools of applicants;

6 (C) salary negotiations that result in simi-
7 larly qualified workers entering at different
8 rates of pay;

9 (D) internal equity among workers with
10 similar skills, effort, responsibility and working
11 conditions;

12 (E) consistent use of market rates and in-
13 centives driven by industry competitiveness;

14 (F) evaluation of the rate of employee
15 progress and advancement to higher paid posi-
16 tions;

17 (G) work assignments that result in great-
18 er opportunity for advancement;

19 (H) training, development and promotion
20 opportunities;

21 (I) impact of mid-level or senior level hir-
22 ing in comparison to wage rates of incumbent
23 workers;

24 (J) opportunities to win commissions and
25 bonuses;

1 (K) performance reviews and raises;

2 (L) processes for adjusting pay to address
3 inconsistency and inequity in compensation; and

4 (M) other topics that research identifies as
5 a common area for assumptions, bias and in-
6 equity to impact compensation.

7 (b) PROGRAM AUTHORIZED.—

8 (1) IN GENERAL.—The Secretary of Labor,
9 after consultation with the Secretary of Education,
10 is authorized to establish and carry out a grant pro-
11 gram.

12 (2) GRANTS.—In carrying out the program, the
13 Secretary of Labor may make grants on a competi-
14 tive basis to eligible entities to carry out negotiation
15 skills training programs for the purposes of address-
16 ing pay disparities, including through outreach to
17 women and girls.

18 (3) ELIGIBLE ENTITIES.—To be eligible to re-
19 ceive a grant under this subsection, an entity shall
20 be a public agency, such as a State, a local govern-
21 ment in a metropolitan statistical area (as defined
22 by the Office of Management and Budget), a State
23 educational agency, or a local educational agency, a
24 private nonprofit organization, or a community-
25 based organization.

1 (4) APPLICATION.—To be eligible to receive a
2 grant under this subsection, an entity shall submit
3 an application to the Secretary of Labor at such
4 time, in such manner, and containing such informa-
5 tion as the Secretary of Labor may require.

6 (5) USE OF FUNDS.—An entity that receives a
7 grant under this subsection shall use the funds made
8 available through the grant to carry out an effective
9 negotiation skills training program for the purposes
10 described in paragraph (2).

11 (c) INCORPORATING TRAINING INTO EXISTING PRO-
12 GRAMS.—The Secretary of Labor and the Secretary of
13 Education shall issue regulations or policy guidance that
14 provides for integrating the negotiation skills training, to
15 the extent practicable, into programs authorized under—

16 (1) in the case of the Secretary of Education,
17 the Elementary and Secondary Education Act of
18 1965 (20 U.S.C. 6301 et seq.), the Carl D. Perkins
19 Career and Technical Education Act of 2006 (20
20 U.S.C. 2301 et seq.), the Higher Education Act of
21 1965 (20 U.S.C. 1001 et seq.), and other programs
22 carried out by the Department of Education that the
23 Secretary of Education determines to be appro-
24 priate; and

1 (2) in the case of the Secretary of Labor, the
2 Workforce Innovation and Opportunity Act (29
3 U.S.C. 3101 et seq.), and other programs carried
4 out by the Department of Labor that the Secretary
5 of Labor determines to be appropriate.

6 (d) REPORT.—Not later than 18 months after the
7 date of enactment of this Act, and annually thereafter,
8 the Secretary of Labor, in consultation with the Secretary
9 of Education, shall prepare and submit to Congress a re-
10 port describing the activities conducted under this section
11 and evaluating the effectiveness of such activities in
12 achieving the purposes of this section.

13 **SEC. 5. RESEARCH, EDUCATION, AND OUTREACH.**

14 (a) IN GENERAL.—Not later than 18 months after
15 the date of enactment of this Act, and periodically there-
16 after, the Secretary of Labor shall conduct studies and
17 provide information to employers, labor organizations, and
18 the general public concerning the means available to elimi-
19 nate pay disparities between men and women (including
20 women who are Asian American, Black or African Amer-
21 ican, Hispanic American or Latino, Native American or
22 Alaska Native, Native Hawaiian or Pacific Islander, and
23 White American), including—

24 (1) conducting and promoting research to de-
25 velop the means to correct expeditiously the condi-

1 tions leading to the pay disparities, with specific at-
2 tention paid to women and girls from historically
3 underrepresented and minority groups;

4 (2) publishing and otherwise making available
5 to employers, labor organizations, professional asso-
6 ciations, educational institutions, the media, and the
7 general public the findings resulting from studies
8 and other materials, relating to eliminating the pay
9 disparities;

10 (3) sponsoring and assisting State, local, and
11 community informational and educational programs;

12 (4) providing information to employers, labor
13 organizations, professional associations, and other
14 interested persons on the means of eliminating the
15 pay disparities; and

16 (5) recognizing and promoting the achievements
17 of employers, labor organizations, and professional
18 associations that have worked to eliminate the pay
19 disparities.

20 (b) RESEARCH ON GENDER PAY GAP IN TEENAGE
21 LABOR FORCE.—

22 (1) RESEARCH REVIEW.—Not later than 12
23 months after the date of the enactment of this Act,
24 the Secretary of Labor, acting through the Director
25 of the Women’s Bureau, shall conduct a review and

1 develop a synthesis of research on the gender wage
2 gap among younger workers existing as of the date
3 of enactment of this Act, and shall make such review
4 and synthesis available on a publicly accessible
5 website of the Department of Labor.

6 (2) **AUTHORITY TO COMMISSION STUDIES.**—Not
7 later than 36 months after the date of the enact-
8 ment of this Act, the Secretary of Labor, acting
9 through the Director of the Women’s Bureau, shall
10 request proposals and commission studies that can
11 advance knowledge on the gender wage gap among
12 younger workers, and shall make such studies avail-
13 able on a publicly accessible website of the Depart-
14 ment of Labor.

15 **SEC. 6. ESTABLISHMENT OF THE NATIONAL AWARD FOR**
16 **PAY EQUITY IN THE WORKPLACE.**

17 (a) **IN GENERAL.**—There is established the National
18 Award for Pay Equity in the Workplace, which shall be
19 awarded by the Secretary of Labor in consultation with
20 the Equal Employment Opportunity Commission, on an
21 annual basis, to an employer to encourage proactive ef-
22 forts to comply with section 6(d) of the Fair Labor Stand-
23 ards Act of 1938 (29 U.S.C. 206(d)), as amended by this
24 Act.

1 (b) CRITERIA FOR QUALIFICATION.—The Secretary
2 of Labor, in consultation with the Equal Employment Op-
3 portunity Commission, shall—

4 (1) set criteria for receipt of the award, includ-
5 ing a requirement that an employer has made sub-
6 stantial effort to eliminate pay disparities between
7 men and women and deserves special recognition as
8 a consequence of such effort; and

9 (2) establish procedures for the application and
10 presentation of the award.

11 (c) BUSINESS.—In this section, the term “employer”
12 includes—

13 (1)(A) a corporation, including a nonprofit cor-
14 poration;

15 (B) a partnership;

16 (C) a professional association;

17 (D) a labor organization; and

18 (E) a business entity similar to an entity de-
19 scribed in any of subparagraphs (A) through (D);

20 (2) an entity carrying out an education referral
21 program, a training program, such as an apprentice-
22 ship or management training program, or a similar
23 program; and

1 (3) an entity carrying out a joint program,
2 formed by a combination of any entities described in
3 paragraph (1) or (2).

4 **SEC. 7. COLLECTION OF PAY INFORMATION BY THE EQUAL**
5 **EMPLOYMENT OPPORTUNITY COMMISSION.**

6 Section 709 of the Civil Rights Act of 1964 (42
7 U.S.C. 2000e–8) is amended by adding at the end the fol-
8 lowing:

9 “(f)(1) Not later than 24 months after the date of
10 enactment of this subsection, the Commission shall pro-
11 vide for the annual collection from employers of compensa-
12 tion data disaggregated by the sex, race, and national ori-
13 gin of employees. The Commission may also require em-
14 ployers to submit other employment-related data (includ-
15 ing hiring, termination, and promotion data) so
16 disaggregated.

17 “(2) In carrying out paragraph (1), the Commission
18 shall have as its primary consideration the most effective
19 and efficient means for enhancing the enforcement of Fed-
20 eral laws prohibiting pay discrimination. The Commission
21 shall also consider factors including the imposition of bur-
22 dens on employers, the frequency of required reports (in-
23 cluding the size of employers required to prepare reports),
24 appropriate protections for maintaining data confiden-
25 tiality, and the most effective format to report such data.

1 “(3)(A) For each 12-month reporting period for an
2 employer, the data collected under paragraph (1) shall in-
3 clude compensation data disaggregated by the categories
4 described in subparagraph (E).

5 “(B) For the purposes of collecting the disaggregated
6 compensation data described in subparagraph (A), the
7 Commission may use compensation ranges reporting—

8 “(i) the number of employees of the employer
9 who earn compensation in an amount that falls with-
10 in such compensation range; and

11 “(ii) the total number of hours worked by such
12 employees.

13 “(C) If the Commission uses compensation ranges to
14 collect the pay data described in subparagraph (A), the
15 Commission may adjust such compensation ranges—

16 “(i) if the Commission determines that such ad-
17 justment is necessary to enhance enforcement of
18 Federal laws prohibiting pay discrimination; or

19 “(ii) for inflation, in consultation with the Bu-
20 reau of Labor Statistics.

21 “(D) In collecting data described in subparagraph
22 (A)(ii), the Commission may provide that, with respect to
23 an employee who the employer is not required to com-
24 pensate for overtime employment under section 7 of the

1 Fair Labor Standards Act of 1938 (29 U.S.C. 207), an
2 employer may report—

3 “(i) in the case of a full-time employee, that
4 such employee works 40 hours per week, and in the
5 case of a part-time employee, that such employee
6 works 20 hours per week; or

7 “(ii) the actual number of hours worked by
8 such employee.

9 “(E) The categories described in this subparagraph
10 shall be determined by the Commission and shall in-
11 clude—

12 “(i) race;

13 “(ii) national origin;

14 “(iii) sex; and

15 “(iv) job categories, including the job categories
16 described in the instructions for the Equal Employ-
17 ment Opportunity Employer Information Report
18 EEO-1, as in effect on the date of the enactment
19 of this subsection.

20 “(F) The Commission shall use the compensation
21 data collected under paragraph (1)—

22 “(i) to enhance—

23 “(I) the investigation of charges filed
24 under section 706 or section 6(d) of the Fair

1 Labor Standards Act of 1938 (29 U.S.C.
2 206(d)); and

3 “(II) the allocation of resources to inves-
4 tigate such charges; and

5 “(ii) for any other purpose that the Commission
6 determines appropriate.

7 “(G) The Commission shall at 18-month intervals
8 make publicly available aggregate compensation data col-
9 lected under paragraph (1) for the categories described in
10 subparagraph (E), disaggregated by industry, occupation,
11 and core based statistical area (as defined by the Office
12 of Management and Budget).

13 “(4) The compensation data under paragraph (1)
14 shall be collected from each employer that—

15 “(A) is a private employer that has 100 or
16 more employees, including such an employer that is
17 a contractor with the Federal Government, or a sub-
18 contractor at any tier thereof; or

19 “(B) the Commission determines appropriate.”.

20 **SEC. 8. REINSTATEMENT OF PAY EQUITY PROGRAMS AND**
21 **PAY EQUITY DATA COLLECTION.**

22 (a) BUREAU OF LABOR STATISTICS DATA COLLEC-
23 TION.—The Commissioner of Labor Statistics shall con-
24 tinue to collect data on women workers in the Current
25 Employment Statistics survey.

1 (b) OFFICE OF FEDERAL CONTRACT COMPLIANCE
2 PROGRAMS INITIATIVES.—The Director of the Office of
3 Federal Contract Compliance Programs shall collect com-
4 pensation data and other employment-related data (in-
5 cluding, hiring, termination, and promotion data) by de-
6 mographics and designate not less than half of all non-
7 construction contractors each year to prepare and file such
8 data, and shall review and utilize the responses to such
9 data to identify contractors for further evaluation and for
10 other enforcement purposes as appropriate.

11 (c) DEPARTMENT OF LABOR DISTRIBUTION OF
12 WAGE DISCRIMINATION INFORMATION.—The Secretary of
13 Labor shall make readily available (in print, on the De-
14 partment of Labor website, and through any other forum
15 that the Department may use to distribute compensation
16 discrimination information), accurate information on com-
17 pensation discrimination, including statistics, explanations
18 of employee rights, historical analyses of such discrimina-
19 tion, instructions for employers on compliance, and any
20 other information that will assist the public in under-
21 standing and addressing such discrimination.

1 **SEC. 9. PROHIBITIONS RELATING TO PROSPECTIVE EM-**
2 **PLOYEES' SALARY AND BENEFIT HISTORY.**

3 (a) IN GENERAL.—The Fair Labor Standards Act of
4 1938 (29 U.S.C. 201 et seq.) is amended by inserting
5 after section 7 the following new section:

6 **“SEC. 8. REQUIREMENTS AND PROHIBITIONS RELATING TO**
7 **WAGE, SALARY, AND BENEFIT HISTORY.**

8 “(a) IN GENERAL.—It shall be an unlawful practice
9 for an employer to—

10 “(1) rely on the wage history of a prospective
11 employee in considering the prospective employee for
12 employment, including requiring that a prospective
13 employee’s prior wages satisfy minimum or max-
14 imum criteria as a condition of being considered for
15 employment;

16 “(2) rely on the wage history of a prospective
17 employee in determining the wages for such prospec-
18 tive employee, except that an employer may rely on
19 wage history if it is voluntarily provided by a pro-
20 spective employee, after the employer makes an offer
21 of employment with an offer of compensation to the
22 prospective employee, to support a wage higher than
23 the wage offered by the employer;

24 “(3) seek from a prospective employee or any
25 current or former employer the wage history of the
26 prospective employee, except that an employer may

1 seek to confirm prior wage information only after an
2 offer of employment with compensation has been
3 made to the prospective employee and the prospec-
4 tive employee responds to the offer by providing
5 prior wage information to support a wage higher
6 than that offered by the employer; or

7 “(4) discharge or in any other manner retaliate
8 against any employee or prospective employee be-
9 cause the employee or prospective employee—

10 “(A) opposed any act or practice made un-
11 lawful by this section; or

12 “(B) took an action for which discrimina-
13 tion is forbidden under section 15(a)(3).

14 “(b) DEFINITION.—In this section, the term ‘wage
15 history’ means the wages paid to the prospective employee
16 by the prospective employee’s current employer or previous
17 employer.”.

18 (b) PENALTIES.—Section 16 of such Act (29 U.S.C.
19 216) is amended by adding at the end the following new
20 subsection:

21 “(f)(1) Any person who violates the provisions of sec-
22 tion 8 shall—

23 “(A) be subject to a civil penalty of \$5,000 for
24 a first offense, increased by an additional \$1,000 for
25 each subsequent offense, not to exceed \$10,000; and

1 “(B) be liable to each employee or prospective
2 employee who was the subject of the violation for
3 special damages not to exceed \$10,000 plus attor-
4 neys’ fees, and shall be subject to such injunctive re-
5 lief as may be appropriate.

6 “(2) An action to recover the liability described in
7 paragraph (1)(B) may be maintained against any em-
8 ployer (including a public agency) in any Federal or State
9 court of competent jurisdiction by any one or more em-
10 ployees or prospective employees for and on behalf of—

11 “(A) the employees or prospective employees;
12 and

13 “(B) other employees or prospective employees
14 similarly situated.”.

15 **SEC. 10. NATIONAL EQUAL PAY ENFORCEMENT TASK**
16 **FORCE.**

17 (a) IN GENERAL.—There is established the National
18 Equal Pay Enforcement Task Force, consisting of rep-
19 resentatives from the Equal Employment Opportunity
20 Commission, the Department of Justice, the Department
21 of Labor, and the Office of Personnel Management.

22 (b) MISSION.—In order to improve compliance, public
23 education, and enforcement of equal pay laws, the Na-
24 tional Equal Pay Enforcement Task Force will ensure that

1 the agencies in subsection (a) are coordinating efforts and
2 limiting potential gaps in enforcement.

3 (c) DUTIES.—The National Equal Pay Enforcement
4 Task Force shall investigate challenges related to pay in-
5 equity pursuant to its mission in subsection (b), advance
6 recommendations to address those challenges, and create
7 action plans to implement the recommendations.

8 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

9 (a) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as may be
11 necessary to carry out this Act.

12 (b) PROHIBITION ON EARMARKS.—None of the funds
13 appropriated pursuant to subsection (a) for purposes of
14 the grant program in section 5 of this Act may be used
15 for a congressional earmark as defined in clause 9(e) of
16 rule XXI of the Rules of the House of Representatives.

17 **SEC. 12. SMALL BUSINESS ASSISTANCE.**

18 (a) EFFECTIVE DATE.—This Act and the amend-
19 ments made by this Act shall take effect on the date that
20 is 6 months after the date of enactment of this Act.

21 (b) TECHNICAL ASSISTANCE MATERIALS.—The Sec-
22 retary of Labor and the Commissioner of the Equal Em-
23 ployment Opportunity Commission shall jointly develop
24 technical assistance material to assist small enterprises in

1 complying with the requirements of this Act and the
2 amendments made by this Act.

3 (c) SMALL BUSINESSES.—A small enterprise shall be
4 exempt from the provisions of this Act, and the amend-
5 ments made by this Act, to the same extent that such en-
6 terprise is exempt from the requirements of the Fair
7 Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) pur-
8 suant to clauses (i) and (ii) of section 3(s)(1)(A) of such
9 Act (29 U.S.C. 203(s)(1)(A)).

10 **SEC. 13. NOTICE REQUIREMENTS.**

11 (a) IN GENERAL.—Each employer shall post and
12 keep posted, in conspicuous places on the premises of the
13 employer where notices to employees are customarily post-
14 ed, a notice, to be prepared or approved by the Equal Em-
15 ployment Opportunity Commission and the Secretary of
16 Labor, of the requirements described in this Act (or the
17 amendments made by such Act).

18 (b) RELATION TO EXISTING NOTICES.—The notice
19 under subsection (a) may be incorporated into notices re-
20 quired of the employer as of the date of enactment of this
21 Act.

22 (c) DIGITAL NOTICE.—With respect to the notice
23 under subsection (a), each employer shall—

24 (1) post electronic copies of the notice on an in-
25 ternal website to which employees have access; and

1 (2) notify employees on such internal website of
2 the location of the place on the premises where the
3 notice is posted.

4 **SEC. 14. RULE OF CONSTRUCTION.**

5 Nothing in this Act, or in any amendments made by
6 this Act, shall affect the obligation of employers and em-
7 ployees to fully comply with all applicable immigration
8 laws, including being subject to any penalties, fines, or
9 other sanctions.

10 **SEC. 15. SEVERABILITY.**

11 If any provision of this Act, an amendment made by
12 this Act, or the application of that provision or amend-
13 ment to particular persons or circumstances is held invalid
14 or found to be unconstitutional, the remainder of this Act,
15 the amendments made by this Act, or the application of
16 that provision to other persons or circumstances shall not
17 be affected.

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