

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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SENATE BILL 338

Short Title: Equal Pay Act.

(Public)

Sponsors: Senators Marcus, Salvador, and Garrett (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 22, 2023

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROHIBIT DISCRIMINATION IN THE PAYMENT OF WAGES ON THE  
3 BASIS OF THE GENDER OF THE EMPLOYEE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** This act shall be known and may be cited as the "North Carolina Equal  
6 Pay Act."

7 **SECTION 2.** Article 2A of Chapter 95 of the General Statutes is amended by adding  
8 a new section to read:

9 "**§ 95-25.6A. Discrimination in payment of wages on basis of gender of employee**  
10 **prohibited.**

11 (a) Definitions. – The following definitions apply in this section:

12 (1) Comparable work. – Work that is substantially similar in that it requires  
13 substantially similar skill, effort, and responsibility and is performed under  
14 similar working conditions; however, a job title or job description alone does  
15 not determine comparability.

16 (2) Working conditions. – The circumstances customarily taken into  
17 consideration in setting salary or wages, including reasonable shift  
18 differentials, physical surroundings, and hazards encountered in performing a  
19 job.

20 (b) Comparable Pay Required. – No employer shall discriminate in any way on the basis  
21 of gender in the payment of salary or wages, including benefits and other compensation, or pay  
22 any person salary or wage rates less than the rates paid to employees of a different gender for  
23 comparable work, except that the following variations in salary and wages, including benefits or  
24 other compensation, are not prohibited by this section if the variations are based upon:

25 (1) A bona fide system that rewards seniority with the employer, if time spent on  
26 leave due to a pregnancy-related condition and protected parental, family, and  
27 medical leave shall not reduce seniority.

28 (2) A bona fide merit system.

29 (3) A bona fide system that measures earnings by quantity or quality of  
30 production or sales.

31 (4) The geographic location in which a job is performed.

32 (5) Education, training, or experience to the extent such factors are reasonably  
33 related to the particular job in question and consistent with business necessity.

34 (6) Travel, if the travel is a regular and necessary condition of the particular job.

35 An employer who is paying a wage differential in violation of this section shall not reduce  
36 the pay of any employee in order to comply with this section.



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1       (c) Unlawful Practices. – It is an unlawful practice for an employer to do any of the  
2 following:

- 3           (1) Require, as a condition of employment, that an employee refrain from  
4 inquiring about, discussing, or disclosing information about either the  
5 employee's own wages, including benefits or other compensation, or about  
6 any other employee's wages.
- 7           (2) Screen job applicants based upon their wage, including benefits or other  
8 compensation, or salary histories, including by requiring that an applicant's  
9 prior wages, including benefits or other compensation or salary history, satisfy  
10 minimum or maximum criteria.
- 11          (3) Seek the salary history of any prospective employee from any current or  
12 former employer. A prospective employee may provide written authorization  
13 to a prospective employer to confirm prior wages only after any offer of  
14 employment with compensation has been made to the prospective employee.
- 15          (4) Discharge or in any manner retaliate against any employee because the  
16 employee (i) opposed any act or practice made unlawful by this section, (ii)  
17 made or is about to make a complaint or has caused or is about to cause to be  
18 instituted any proceeding under this section, (iii) testified or is about to testify,  
19 assist, or participate in any manner in an investigation or proceeding under  
20 this section, or (iv) disclosed the employee's wages, benefits, or other  
21 compensation or has inquired about or discussed the wages of any other  
22 employee.

23       (d) Violations. – Any employer who violates this section shall be liable to the employee  
24 affected in the amount of the employee's unpaid salary or wages, including benefits or other  
25 compensation. Any agreement between the employer and an employee to work for less than the  
26 wage to which the employee is entitled under this section shall be no defense to an action. An  
27 employee's previous wage or salary history shall not be a defense to an action. The court may, in  
28 addition to any judgment awarded to the plaintiff, allow a reasonable attorneys' fee and the costs  
29 of the action to be paid by the defendant.

30       Any action arising under this section shall be commenced within three years after the date of  
31 the alleged violation. For the purposes of this section, a violation occurs when (i) a discriminatory  
32 compensation decision is made or other practice is adopted, (ii) an employee becomes subject to  
33 a discriminatory compensation decision or other practice, or (iii) an employee is affected by  
34 application of a discriminatory compensation decision or practice, including each time wages,  
35 benefits, or other compensation are paid, resulting in whole or in part from such a decision or  
36 practice.

37       (e) Notices. – Employers shall post a notice in their workplaces notifying employees of  
38 their rights under this section. The notice shall be posted in a conspicuous place in at least one  
39 location where employees congregate."

40       **SECTION 3.** This act becomes effective January 1, 2024.