

REFERENCE TITLE: **employment and labor omnibus**

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1548

Introduced by
Senator Quezada

AMENDING TITLE 23, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 23-207 AND 23-208; AMENDING SECTIONS 23-340 AND 23-341, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 2, ARTICLE 6.1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 23-342, 23-343 AND 23-344; AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8.2; AMENDING TITLE 41, CHAPTER 23, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2535.01; RELATING TO LABOR.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 2, article 1, Arizona Revised
3 Statutes, is amended by adding sections 23-207 and 23-208, to read:

4 23-207. Wage disclosure; protection; prohibitions; civil
5 action

6 A. AN EMPLOYER MAY NOT:

7 1. REQUIRE NONDISCLOSURE BY AN EMPLOYEE REGARDING THE EMPLOYEE'S
8 WAGE INFORMATION AS A CONDITION OF EMPLOYMENT.

9 2. REQUIRE AN EMPLOYEE TO SIGN A WAIVER OR OTHER DOCUMENT THAT
10 DENIES THE EMPLOYEE THE RIGHT TO DISCLOSE THE EMPLOYEE'S WAGE INFORMATION.

11 3. TAKE ANY ADVERSE EMPLOYMENT ACTION AGAINST AN EMPLOYEE FOR
12 DISCLOSING THE EMPLOYEE'S WAGES OR DISCUSSING ANOTHER EMPLOYEE'S WAGES IF
13 THE DISCUSSION WAS VOLUNTARY.

14 4. RETALIATE AGAINST AN EMPLOYEE FOR ASSERTING THE EMPLOYEE'S
15 RIGHTS AND REMEDIES UNDER THIS SECTION.

16 B. THIS SECTION DOES NOT:

17 1. CREATE AN OBLIGATION FOR AN EMPLOYER OR EMPLOYEE TO DISCLOSE
18 WAGE INFORMATION.

19 2. ALLOW AN EMPLOYEE, WITHOUT THE WRITTEN CONSENT OF THE EMPLOYER,
20 TO DISCLOSE PROPRIETARY INFORMATION, TRADE SECRET INFORMATION OR OTHER
21 INFORMATION THAT IS OTHERWISE SUBJECT TO LEGAL PRIVILEGE OR PROTECTED BY
22 LAW.

23 3. DIMINISH ANY EXISTING RIGHTS UNDER THE NATIONAL LABOR RELATIONS
24 ACT (49 STAT. 449; 29 UNITED STATES CODE SECTIONS 151 THROUGH 169).

25 4. ALLOW AN EMPLOYEE TO DISCLOSE WAGE INFORMATION OF OTHER
26 EMPLOYEES TO A COMPETITOR OF THE EMPLOYER.

27 5. ALLOW AN EMPLOYEE WHO HAS ACCESS TO THE WAGE INFORMATION OF
28 OTHER EMPLOYEES AS A PART OF THAT EMPLOYEE'S ESSENTIAL JOB FUNCTIONS TO
29 DISCLOSE THE WAGES OF OTHER EMPLOYEES TO INDIVIDUALS WHO DO NOT OTHERWISE
30 HAVE ACCESS TO THAT INFORMATION UNLESS THE DISCLOSURE IS IN RESPONSE TO A
31 COMPLAINT OR CHARGE OR IN FURTHERANCE OF AN INVESTIGATION, HEARING OR
32 OTHER ACTION, INCLUDING AN INVESTIGATION CONDUCTED BY THE EMPLOYER. THIS
33 PARAGRAPH DOES NOT LIMIT THE RIGHTS OF AN EMPLOYEE PROVIDED UNDER ANY
34 OTHER LAW.

35 C. AN EMPLOYER THAT PROVIDES AN EMPLOYEE HANDBOOK TO ITS EMPLOYEES
36 SHALL INCLUDE IN THE EMPLOYEE HANDBOOK NOTICE OF THE EMPLOYEE'S RIGHTS AND
37 REMEDIES UNDER THIS SECTION.

38 D. IF AN EMPLOYER VIOLATES SUBSECTION A OF THIS SECTION, THE
39 EMPLOYEE MAY FILE A CIVIL ACTION AGAINST THE EMPLOYER. THE COURT MAY
40 ORDER REINSTATEMENT, RECOVERY OF UNPAID WAGES, RESTORATION OF LOST SERVICE
41 CREDITS, IF APPROPRIATE, AND EXPUNGEMENT OF ANY RELATED ADVERSE RECORDS
42 RELATING TO THE EMPLOYEE WHO WAS THE SUBJECT OF THE VIOLATION.

1 23-208. Wage history; civil penalty; civil action; definition

2 A. AN EMPLOYER MAY NOT DO ANY OF THE FOLLOWING:

3 1. RELY ON THE WAGE HISTORY OF A PROSPECTIVE EMPLOYEE IN
4 CONSIDERING THE PROSPECTIVE EMPLOYEE FOR EMPLOYMENT, INCLUDING REQUIRING
5 THAT A PROSPECTIVE EMPLOYEE'S PRIOR WAGES SATISFY MINIMUM OR MAXIMUM
6 CRITERIA AS A CONDITION OF BEING CONSIDERED FOR EMPLOYMENT.

7 2. RELY ON THE WAGE HISTORY OF A PROSPECTIVE EMPLOYEE IN
8 DETERMINING THE WAGES FOR THE PROSPECTIVE EMPLOYEE, EXCEPT THAT AN
9 EMPLOYER MAY RELY ON WAGE HISTORY IF IT IS VOLUNTARILY PROVIDED BY A
10 PROSPECTIVE EMPLOYEE, AFTER THE EMPLOYER MAKES AN OFFER OF EMPLOYMENT WITH
11 AN OFFER OF COMPENSATION TO THE PROSPECTIVE EMPLOYEE, TO SUPPORT A WAGE
12 HIGHER THAN THE WAGE OFFERED BY THE EMPLOYER.

13 3. SEEK FROM A PROSPECTIVE EMPLOYEE OR ANY CURRENT OR FORMER
14 EMPLOYER THE WAGE HISTORY OF THE PROSPECTIVE EMPLOYEE, EXCEPT THAT AN
15 EMPLOYER MAY SEEK TO CONFIRM PRIOR WAGE INFORMATION ONLY AFTER AN OFFER OF
16 EMPLOYMENT WITH COMPENSATION HAS BEEN MADE TO THE PROSPECTIVE EMPLOYEE AND
17 THE PROSPECTIVE EMPLOYEE RESPONDS TO THE OFFER BY PROVIDING PRIOR WAGE
18 INFORMATION TO SUPPORT A WAGE HIGHER THAN THAT OFFERED BY THE EMPLOYER.

19 4. DISCHARGE OR IN ANY OTHER MANNER RETALIATE AGAINST ANY EMPLOYEE
20 OR PROSPECTIVE EMPLOYEE BECAUSE THE EMPLOYEE OR PROSPECTIVE EMPLOYEE
21 EITHER:

22 (a) OPPOSED OR IS ABOUT TO MAKE A COMPLAINT RELATING TO ANY ACT OR
23 PRACTICE THAT IS PROHIBITED BY THIS SECTION.

24 (b) TESTIFIED OR IS ABOUT TO TESTIFY, ASSIST OR PARTICIPATE IN ANY
25 MANNER IN AN INVESTIGATION OR PROCEEDING RELATING TO ANY ACT OR PRACTICE
26 THAT IS PROHIBITED BY THIS SECTION.

27 B. ANY PERSON THAT VIOLATES THIS SECTION IS SUBJECT TO A CIVIL
28 PENALTY OF \$5,000 FOR A FIRST OFFENSE AND AN ADDITIONAL \$1,000 FOR EACH
29 SUBSEQUENT OFFENSE, NOT TO EXCEED \$10,000.

30 C. ANY PERSON THAT VIOLATES THIS SECTION IS LIABLE TO EACH EMPLOYEE
31 OR PROSPECTIVE EMPLOYEE WHO WAS THE SUBJECT OF THE VIOLATION FOR SPECIAL
32 DAMAGES NOT TO EXCEED \$10,000 PLUS ATTORNEY FEES AND IS SUBJECT TO
33 INJUNCTIVE RELIEF AS MAY BE APPROPRIATE.

34 D. AN ACTION TO RECOVER THE DAMAGES DESCRIBED IN SUBSECTION C OF
35 THIS SECTION MAY BE MAINTAINED AGAINST ANY EMPLOYER IN ANY COURT OF
36 COMPETENT JURISDICTION BY ANY ONE OR MORE EMPLOYEES FOR AND ON BEHALF OF
37 THE EMPLOYEE OR EMPLOYEES AND OTHER EMPLOYEES SIMILARLY SITUATED.

38 E. FOR THE PURPOSES OF THIS SECTION, "WAGE HISTORY" MEANS THE WAGES
39 PAID TO THE PROSPECTIVE EMPLOYEE BY THE PROSPECTIVE EMPLOYEE'S CURRENT
40 EMPLOYER OR PREVIOUS EMPLOYER.

1 Sec. 2. Section 23-340, Arizona Revised Statutes, is amended to
2 read:

3 23-340. Definitions

4 In this article, unless the context otherwise requires:

5 1. "BUSINESS NECESSITY" MEANS AN OVERRIDING LEGITIMATE BUSINESS
6 PURPOSE SUCH THAT THE FACTOR RELIED ON EFFECTIVELY FULFILLS THE BUSINESS
7 PURPOSE THE FACTOR IS SUPPOSED TO SERVE.

8 ~~1.~~ 2. "Commission" means the industrial commission of Arizona.

9 ~~2.~~ 3. "Employee" means every woman or man in receipt of or
10 entitled to compensation for labor performed for any employer.

11 ~~3.~~ 4. "Employer" means this state and any political subdivision of
12 this state ~~which~~ THAT receives state tax monies and every person, firm,
13 corporation, agent, manager, representative, contractor, subcontractor,
14 principal or other person having control or direction of any woman or man
15 employed at any labor, or responsible directly or indirectly for the wages
16 of another.

17 ~~4.~~ 5. "Wage" or "wages" means any compensation for labor measured
18 by time, piece, ~~or~~ or otherwise.

19 Sec. 3. Section 23-341, Arizona Revised Statutes, is amended to
20 read:

21 23-341. Equal wage rates; variations; penalties;
22 recordkeeping; enforcement

23 A. Notwithstanding the other provisions of this chapter, ~~no~~ AN
24 employer ~~shall~~ MAY NOT pay any person in ~~his~~ THE EMPLOYER'S employ at wage
25 rates less than the rates paid to employees of the opposite sex in the
26 same establishment for ~~the same quantity and quality of the same~~
27 ~~classification of work, provided, that nothing herein shall prohibit a~~
28 ~~variation of rates of pay for male and female employees engaged in the~~
29 ~~same classification of work based upon a difference in seniority, length~~
30 ~~of service, ability, skill, difference in duties or services performed,~~
31 ~~whether regularly or occasionally, difference in the shift or time of day~~
32 ~~worked, hours of work, or restrictions or prohibitions on lifting or~~
33 ~~moving objects in excess of specified weight, or other reasonable~~
34 ~~differentiation, factor or factors other than sex, when exercised in good~~
35 ~~faith.~~ SUBSTANTIALLY SIMILAR WORK, WHEN VIEWED AS A COMPOSITE OF SKILL,
36 EFFORT AND RESPONSIBILITY AND PERFORMED UNDER SIMILAR WORKING CONDITIONS,
37 UNLESS THE EMPLOYER CAN DEMONSTRATE:

38 1. THE WAGE RATE DIFFERENTIAL IS BASED ON ONE OR MORE OF THE
39 FOLLOWING FACTORS:

40 (a) A SENIORITY SYSTEM.

41 (b) A MERIT SYSTEM.

42 (c) A SYSTEM THAT MEASURES EARNINGS BY QUANTITY OR QUALITY OF
43 PRODUCTION.

44 (d) A BONA FIDE FACTOR OTHER THAN SEX, SUCH AS EDUCATION, TRAINING
45 OR EXPERIENCE. THIS FACTOR APPLIES ONLY IF THE EMPLOYER DEMONSTRATES THAT

1 THE FACTOR IS NOT BASED ON OR DERIVED FROM A SEX-BASED DIFFERENTIAL IN
2 WAGE RATES, IS RELATED TO THE EMPLOYMENT POSITION IN QUESTION, IS
3 CONSISTENT WITH A BUSINESS NECESSITY AND ACCOUNTS FOR THE ENTIRE
4 DIFFERENTIAL IN COMPENSATION AT ISSUE. THIS FACTOR DOES NOT APPLY IF THE
5 EMPLOYEE DEMONSTRATES THAT AN ALTERNATIVE BUSINESS PRACTICE EXISTS THAT
6 WOULD SERVE THE SAME BUSINESS NECESSITY WITHOUT PRODUCING THE WAGE RATE
7 DIFFERENTIAL AND THAT THE EMPLOYER HAS REFUSED TO ADOPT THE ALTERNATIVE
8 BUSINESS PRACTICE.

9 2. EACH FACTOR RELIED ON IS APPLIED REASONABLY.

10 3. THE FACTOR OR FACTORS RELIED ON ACCOUNT FOR THE ENTIRE WAGE RATE
11 DIFFERENTIAL.

12 B. FOR THE PURPOSES OF SUBSECTION A OF THIS SECTION, EMPLOYEES ARE
13 DEEMED TO WORK IN THE SAME ESTABLISHMENT IF THE EMPLOYEES WORK FOR THE
14 SAME EMPLOYER AT WORKPLACES LOCATED IN THE SAME COUNTY OR SIMILAR
15 POLITICAL SUBDIVISION OF THIS STATE. THIS SUBSECTION DOES NOT LIMIT
16 BROADER APPLICATIONS OF THE TERM ESTABLISHMENT CONSISTENT WITH RULES
17 PRESCRIBED OR GUIDANCE ISSUED BY THE COMMISSION OR THE UNITED STATES EQUAL
18 EMPLOYMENT OPPORTUNITY COMMISSION.

19 ~~B.~~ C. Any employer ~~who~~ THAT violates subsection A of this section
20 is liable to the employee affected in the amount of the wages of which
21 ~~such~~ THE employee is deprived by reason of ~~such~~ THE violation, INCLUDING
22 INTEREST, AND AN ADDITIONAL EQUAL AMOUNT AS LIQUIDATED DAMAGES.

23 ~~C.~~ D. Any affected employee may register with the commission a
24 complaint that the wages paid to ~~such~~ THE employee are less than the wages
25 to which ~~such~~ THE employee is entitled under this section.

26 ~~D.~~ E. The commission shall take all proceedings necessary to
27 enforce the payment of any sums found to be due and unpaid to ~~such~~
28 AFFECTED employees.

29 F. AN EMPLOYER SHALL DO ALL OF THE FOLLOWING TO MONITOR COMPLIANCE
30 WITH THE REQUIREMENTS OF THIS SECTION:

31 1. MAINTAIN RECORDS OF THE WAGES AND WAGE RATES, JOB
32 CLASSIFICATIONS AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT OF THE
33 EMPLOYER'S EMPLOYEES.

34 2. KEEP THE RECORDS FOR A PERIOD OF THREE YEARS.

35 3. ALLOW THE COMMISSION ACCESS TO THESE RECORDS, WITH APPROPRIATE
36 NOTICE AND AT A MUTUALLY AGREEABLE TIME.

37 ~~E.~~ G. Any employee receiving less than the wage to which ~~such~~ THE
38 employee is entitled under this section may recover in a civil action the
39 balance of such wages, INCLUDING INTEREST, AND AN EQUAL AMOUNT AS
40 LIQUIDATED DAMAGES, together with the costs of suit AND REASONABLE
41 ATTORNEY FEES, notwithstanding any agreement to work for a lesser wage.

42 ~~F.~~ H. Any action based ~~upon~~ ON or arising under this section shall
43 be instituted ~~within six months~~ NOT LATER THAN TWO YEARS after the date of
44 the alleged violation, ~~but in no event shall any employer be liable for~~
45 ~~any pay due under this section for more than thirty days prior to receipt~~

1 ~~by the employer of written notice of claim thereof from the employee~~ OR
2 THREE YEARS AFTER THE ALLEGED VIOLATION IN THE CASE OF A WILFUL VIOLATION.

3 ~~G.~~ I. The burden of proof ~~shall be upon~~ IS ON the person bringing
4 the claim to establish that the ~~differentiation in rate of pay~~ WAGE RATE
5 DIFFERENTIAL is based ~~upon~~ ON the factor of sex and not ~~upon~~ ON other
6 differences, factor or factors.

7 J. AN EMPLOYER MAY NOT DISCHARGE OR IN ANY MANNER DISCRIMINATE OR
8 RETALIATE AGAINST AN EMPLOYEE FOR TAKING ANY ACTION TO ENFORCE OR ASSIST
9 IN ENFORCING THIS SECTION. AN EMPLOYEE WHO IS DISCHARGED OR DISCRIMINATED
10 OR RETALIATED AGAINST IN THE TERMS AND CONDITIONS OF THE EMPLOYEE'S
11 EMPLOYMENT BECAUSE THE EMPLOYEE ENGAGED IN ANY ACTION TO ENFORCE OR ASSIST
12 IN ENFORCING THIS SECTION MAY RECOVER IN A CIVIL ACTION REINSTATEMENT AND
13 REIMBURSEMENT FOR LOST WAGES AND WORK BENEFITS CAUSED BY THE EMPLOYER,
14 INCLUDING INTEREST, AS WELL AS OTHER APPROPRIATE EQUITABLE RELIEF.

15 K. SUBJECT TO THE AVAILABILITY OF MONIES, THE COMMISSION SHALL
16 PROVIDE TRAINING TO COMMISSION EMPLOYEES AND OTHER AFFECTED INDIVIDUALS
17 AND ENTITIES ON MATTERS INVOLVING DISCRIMINATION IN THE PAYMENT OF WAGES.

18 Sec. 4. Title 23, chapter 2, article 6.1, Arizona Revised Statutes,
19 is amended by adding sections 23-342, 23-343 and 23-344, to read:

20 23-342. Equal pay certification; application; criteria;
21 denial; suspension and revocation; audit;
22 confidentiality; report; definitions

23 A. THE COMMISSION SHALL ISSUE AN EQUAL PAY CERTIFICATE TO A
24 BUSINESS THAT HAS AT LEAST FORTY FULL-TIME EMPLOYEES IN THIS STATE OR THE
25 STATE WHERE THE BUSINESS'S PRIMARY PLACE OF BUSINESS IS LOCATED AND THAT
26 SUBMITS TO THE COMMISSION AN APPLICATION, A STATEMENT SIGNED BY THE
27 CHAIRPERSON OF THE BOARD OF DIRECTORS OR CHIEF EXECUTIVE OFFICER OF THE
28 BUSINESS AND SUPPORTING DOCUMENTATION THAT STATES:

29 1. THAT THE BUSINESS COMPLIES WITH TITLE VII OF THE CIVIL RIGHTS
30 ACT OF 1964 (P.L. 88-352; 78 STAT. 241; 42 UNITED STATES CODE SECTIONS
31 2000e THROUGH 2000e-17), THE EQUAL PAY ACT OF 1963 (P.L. 88-38; 77 STAT.
32 56; 29 UNITED STATES CODE SECTION 206) AND THIS ARTICLE.

33 2. THAT THE AVERAGE COMPENSATION FOR FEMALE EMPLOYEES IS NOT
34 CONSISTENTLY BELOW THE AVERAGE COMPENSATION FOR MALE EMPLOYEES WITHIN EACH
35 JOB CATEGORY FOR WHICH AN EMPLOYEE IS EXPECTED TO PERFORM WORK UNDER A
36 CONTRACT, TAKING INTO CONSIDERATION LENGTH OF SERVICE, REQUIREMENTS OF
37 SPECIFIC JOBS, EXPERIENCE, SKILL, EFFORT, RESPONSIBILITY, WORKING
38 CONDITIONS ON THE JOB OR OTHER MITIGATING FACTORS.

39 3. THAT THE BUSINESS DOES NOT RESTRICT EMPLOYEES OF ONE SEX TO
40 CERTAIN JOB CLASSIFICATIONS AND MAKES RETENTION AND PROMOTION DECISIONS
41 WITHOUT REGARD TO SEX.

42 4. THAT WAGE AND BENEFIT DISPARITIES ARE CORRECTED IF IDENTIFIED TO
43 ENSURE COMPLIANCE WITH THE LAWS PURSUANT TO PARAGRAPH 1 OF THIS
44 SUBSECTION.

1 5. HOW OFTEN WAGES AND BENEFITS ARE EVALUATED TO ENSURE COMPLIANCE
2 WITH THE LAWS PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION.

3 6. WHETHER THE BUSINESS SETS COMPENSATION AND BENEFITS BASED ON A
4 MARKET PRICING APPROACH, THE STATE PREVAILING WAGE OR LABOR ORGANIZATION
5 REQUIREMENTS, A PERFORMANCE PAY SYSTEM, AN INTERNAL ANALYSIS OR AN
6 ALTERNATIVE APPROACH. IF THE BUSINESS USES AN ALTERNATIVE APPROACH, THE
7 BUSINESS SHALL PROVIDE A DESCRIPTION OF THE ALTERNATIVE APPROACH USED TO
8 SET COMPENSATION AND BENEFITS.

9 B. THE COMMISSION MAY ESTABLISH AN APPLICATION AND APPLICATION FEE
10 BY RULE FOR ISSUING EQUAL PAY CERTIFICATES AND FOR EQUAL PAY CERTIFICATE
11 RENEWAL.

12 C. AN EQUAL PAY CERTIFICATE ISSUED PURSUANT TO THIS SECTION IS
13 VALID FOR A PERIOD OF FOUR YEARS.

14 D. THE COMMISSION SHALL REVIEW EACH BUSINESS'S APPLICATION,
15 STATEMENT AND SUPPORTING DOCUMENTATION SUBMITTED WITHIN FIFTEEN DAYS AFTER
16 RECEIPT. IF THE COMMISSION DETERMINES THAT THE BUSINESS IS NOT IN
17 COMPLIANCE WITH SUBSECTION A OF THIS SECTION, THE COMMISSION MAY DENY THE
18 BUSINESS THE EQUAL PAY CERTIFICATE.

19 E. THE COMMISSION MAY SUSPEND OR REVOKE AN EQUAL PAY CERTIFICATE IF
20 THE BUSINESS FAILS TO MAKE A GOOD FAITH EFFORT TO COMPLY WITH OR HAS
21 MULTIPLE VIOLATIONS OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964
22 (P.L. 88-352; 78 STAT. 241; 42 UNITED STATES CODE SECTIONS 2000e THROUGH
23 2000e-17), THE EQUAL PAY ACT OF 1963 (P.L. 88-38; 77 STAT. 56; 29 UNITED
24 STATES CODE SECTION 206) AND THIS ARTICLE. THE COMMISSION SHALL PROVIDE
25 NOTICE TO THE BUSINESS BEFORE SUSPENDING OR REVOKING THE BUSINESS'S EQUAL
26 PAY CERTIFICATE AND ALLOW THE BUSINESS AN OPPORTUNITY TO COMPLY WITH TITLE
27 VII OF THE CIVIL RIGHTS ACT OF 1964 (P.L. 88-352; 78 STAT. 241; 42 UNITED
28 STATES CODE SECTIONS 2000e THROUGH 2000e-17), THE EQUAL PAY ACT OF 1963
29 (P.L. 88-38; 77 STAT. 56; 29 UNITED STATES CODE SECTION 206) AND THIS
30 ARTICLE.

31 F. THE COMMISSION MAY AUDIT A BUSINESS TO VERIFY COMPLIANCE WITH
32 THIS SECTION. ON REQUEST, THE BUSINESS SHALL PROVIDE THE FOLLOWING
33 INFORMATION TO THE COMMISSION WITH RESPECT TO THE EMPLOYEES EXPECTED TO
34 PERFORM WORK UNDER THE CONTRACT IN EACH JOB CATEGORY:

35 1. THE NUMBER OF MALE EMPLOYEES.

36 2. THE NUMBER OF FEMALE EMPLOYEES.

37 3. THE AVERAGE ANNUALIZED SALARIES PAID TO MALE EMPLOYEES AND TO
38 FEMALE EMPLOYEES, IN A MANNER CONSISTENT WITH THE BUSINESS'S COMPENSATION
39 SYSTEM, WITHIN EACH JOB CATEGORY.

40 4. INFORMATION ON PERFORMANCE PAYMENTS, BENEFITS OR OTHER ELEMENTS
41 OF COMPENSATION, IN A MANNER CONSISTENT WITH THE BUSINESS'S COMPENSATION
42 SYSTEM.

43 5. THE AVERAGE LENGTH OF SERVICE FOR MALE AND FEMALE EMPLOYEES IN
44 EACH JOB CATEGORY.

1 6. OTHER INFORMATION IDENTIFIED BY THE BUSINESS OR THE COMMISSION
2 NECESSARY TO DETERMINE COMPLIANCE WITH THE CRITERIA PROVIDED IN SUBSECTION
3 A OF THIS SECTION.

4 G. ALL INFORMATION THAT IS RELATED TO A BUSINESS'S EMPLOYEES AND
5 THAT IS SUBMITTED TO THE COMMISSION RELATED TO AN EQUAL PAY CERTIFICATE IS
6 CONFIDENTIAL AND IS NOT SUBJECT TO INSPECTION BY THE PUBLIC. THE
7 COMMISSION'S DECISION TO ISSUE, DENY, REVOKE OR SUSPEND AN EQUAL PAY
8 CERTIFICATE IS NOT CONFIDENTIAL.

9 H. THE COMMISSION SHALL SUBMIT A REPORT TO THE GOVERNOR, THE
10 CHAIRPERSON AND RANKING MINORITY MEMBER OF THE SENATE COMMITTEE ON
11 GOVERNMENT, OR ITS SUCCESSOR COMMITTEE, AND THE CHAIRPERSON AND RANKING
12 MINORITY MEMBER OF THE HOUSE OF REPRESENTATIVES COMMITTEE ON GOVERNMENT,
13 OR ITS SUCCESSOR COMMITTEE, ON OR BEFORE JANUARY 31 OF EVERY ODD-NUMBERED
14 YEAR, BEGINNING JANUARY 31, 2023. THE REPORT SHALL INCLUDE THE NUMBER OF
15 EQUAL PAY CERTIFICATES ISSUED, THE NUMBER OF AUDITS CONDUCTED AND
16 INFORMATION REGARDING THE PROCESSES USED BY BUSINESSES TO ENSURE
17 COMPLIANCE WITH SUBSECTION A OF THIS SECTION.

18 I. FOR THE PURPOSES OF THIS SECTION:

19 1. "BUSINESS" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-2503.

20 2. "CONTRACT" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-2503.

21 3. "JOB CATEGORY" MEANS THE MAJOR JOB CATEGORIES PROVIDED IN THE
22 MOST RECENT EMPLOYER INFORMATION REPORT ISSUED BY THE UNITED STATES EQUAL
23 EMPLOYMENT OPPORTUNITY COMMISSION OR ITS SUCCESSOR AGENCY.

24 23-343. Negotiation skills training grant program; fund;
25 rules; report; definition

26 A. THE DIRECTOR OF THE COMMISSION MAY ESTABLISH AND CARRY OUT A
27 NEGOTIATION SKILLS TRAINING GRANT PROGRAM. IN CARRYING OUT THE PROGRAM,
28 THE COMMISSION MAY ISSUE GRANTS FROM THE NEGOTIATION SKILLS TRAINING GRANT
29 PROGRAM FUND ESTABLISHED BY SUBSECTION E OF THIS SECTION ON A COMPETITIVE
30 BASIS TO ELIGIBLE ENTITIES TO OFFER NEGOTIATION SKILLS TRAINING FOR THE
31 PURPOSES OF ADDRESSING PAY DISPARITIES, INCLUDING THROUGH OUTREACH TO
32 WOMEN AND GIRLS.

33 B. TO RECEIVE A GRANT UNDER THIS SECTION, AN ELIGIBLE ENTITY SHALL
34 APPLY TO THE COMMISSION IN A MANNER PRESCRIBED BY THE COMMISSION.

35 C. AN ELIGIBLE ENTITY THAT RECEIVES A GRANT UNDER THIS SECTION
36 SHALL USE GRANT MONIES TO OFFER EFFECTIVE NEGOTIATION SKILLS TRAINING FOR
37 THE PURPOSES DESCRIBED IN SUBSECTION A OF THIS SECTION.

38 D. THE DIRECTOR OF THE COMMISSION SHALL ISSUE RULES OR POLICY
39 GUIDANCE THAT PROVIDES FOR INTEGRATING THE NEGOTIATION SKILLS TRAINING, TO
40 THE EXTENT PRACTICABLE, INTO EXISTING PROGRAMS AUTHORIZED UNDER STATE OR
41 FEDERAL LAW.

42 E. THE NEGOTIATION SKILLS TRAINING GRANT PROGRAM FUND IS
43 ESTABLISHED CONSISTING OF _____. THE DIRECTOR OF THE COMMISSION SHALL
44 ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE
45 APPROPRIATION. MONIES IN THE FUND MAY BE USED ONLY TO PROVIDE GRANTS TO

1 ELIGIBLE ENTITIES FOR THE PURPOSES PRESCRIBED IN SUBSECTION A OF THIS
2 SECTION.

3 F. THE COMMISSION MAY ADOPT RULES TO CARRY OUT THE PURPOSES OF THIS
4 SECTION.

5 G. IF THE DIRECTOR OF THE COMMISSION ESTABLISHES A PROGRAM PURSUANT
6 TO THIS SECTION, ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DIRECTOR SHALL
7 SUBMIT A REPORT THAT DETAILS THE PROGRAM'S ACTIVITIES AND THE
8 EFFECTIVENESS OF THE PROGRAM IN ACHIEVING THE PURPOSES OF THIS SECTION TO
9 THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
10 REPRESENTATIVES AND SHALL PROVIDE A COPY TO THE SECRETARY OF STATE.

11 H. FOR THE PURPOSES OF THIS SECTION, "ELIGIBLE ENTITY" MEANS AN
12 AGENCY OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE, A NONPROFIT
13 ORGANIZATION OR A COMMUNITY-BASED ORGANIZATION.

14 23-344. Pay equity in the workplace grant program; fund;
15 rules; report; program termination

16 A. THE PAY EQUITY IN THE WORKPLACE GRANT PROGRAM IS ESTABLISHED.
17 THE DIRECTOR OF THE COMMISSION SHALL ADMINISTER THE PROGRAM.

18 B. THE DIRECTOR OF THE COMMISSION SHALL ISSUE ONE GRANT ANNUALLY
19 FROM THE PAY EQUITY IN THE WORKPLACE GRANT PROGRAM FUND ESTABLISHED BY
20 SUBSECTION D OF THIS SECTION TO AN EMPLOYER THAT DEMONSTRATES ALL OF THE
21 FOLLOWING TO THE COMMISSION'S SATISFACTION:

22 1. THAT THE EMPLOYER HAS MADE SUBSTANTIAL EFFORTS TO ELIMINATE PAY
23 DISPARITIES BETWEEN MEN AND WOMEN IN ACCORDANCE WITH THIS ARTICLE.

24 2. THAT THE EMPLOYER IS COMMITTED TO MAKING CONTINUOUS EFFORTS TO
25 ELIMINATE PAY DISPARITIES BETWEEN MEN AND WOMEN.

26 3. THAT THE GRANT MONIES WOULD ASSIST THE EMPLOYER IN ITS EFFORTS
27 TO ELIMINATE PAY DISPARITIES BETWEEN MEN AND WOMEN.

28 C. TO RECEIVE A GRANT UNDER THIS SECTION, AN EMPLOYER SHALL APPLY
29 TO THE COMMISSION IN A MANNER PRESCRIBED BY THE COMMISSION.

30 D. THE PAY EQUITY IN THE WORKPLACE GRANT PROGRAM FUND IS
31 ESTABLISHED CONSISTING OF _____. THE DIRECTOR OF THE COMMISSION
32 SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE
33 APPROPRIATION. MONIES IN THE FUND MAY BE USED ONLY TO PROVIDE GRANTS FOR
34 THE PURPOSES PRESCRIBED IN THIS SECTION.

35 E. THE COMMISSION SHALL ADOPT RULES TO CARRY OUT THE PURPOSES OF
36 THIS SECTION.

37 F. ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DIRECTOR SHALL SUBMIT A
38 REPORT THAT DETAILS THE PROGRAM'S ACTIVITIES AND THE EFFECTIVENESS OF THE
39 PROGRAM IN ACHIEVING THE PURPOSES OF THIS SECTION TO THE GOVERNOR, THE
40 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
41 AND SHALL PROVIDE A COPY TO THE SECRETARY OF STATE.

1 Sec. 5. Title 23, chapter 2, Arizona Revised Statutes, is amended
2 by adding article 8.2, to read:

3 ARTICLE 8.2. FLEXIBLE SCHEDULING

4 23-385. Definitions

5 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

6 1. "BONA FIDE BUSINESS REASON" MEANS:

7 (a) THE IDENTIFIABLE BURDEN OF ADDITIONAL COSTS TO AN EMPLOYER,
8 INCLUDING THE COST OF PRODUCTIVITY LOSS, RETRAINING OR HIRING EMPLOYEES OR
9 TRANSFERRING EMPLOYEES FROM ONE FACILITY TO ANOTHER FACILITY.

10 (b) A SIGNIFICANT DETRIMENTAL EFFECT ON THE EMPLOYER'S ABILITY TO
11 MEET ORGANIZATIONAL NEEDS OR CUSTOMER DEMAND.

12 (c) A SIGNIFICANT INABILITY OF THE EMPLOYER, DESPITE BEST EFFORTS,
13 TO REORGANIZE WORK AMONG EXISTING STAFF.

14 (d) A SIGNIFICANT DETRIMENTAL EFFECT ON BUSINESS PERFORMANCE.

15 (e) INSUFFICIENCY OF WORK DURING THE PERIODS AN EMPLOYEE PROPOSES
16 TO WORK.

17 (f) THE NEED TO BALANCE COMPETING SCHEDULING REQUESTS WHEN IT IS
18 NOT POSSIBLE TO GRANT ALL SCHEDULING REQUESTS WITHOUT A SIGNIFICANT
19 DETRIMENTAL EFFECT ON THE EMPLOYER'S ABILITY TO MEET ORGANIZATIONAL NEEDS.

20 (g) ANOTHER REASON PRESCRIBED BY THE COMMISSION IN RULE.

21 2. "CAREER-RELATED EDUCATIONAL OR TRAINING PROGRAM" MEANS AN
22 EDUCATIONAL OR TRAINING PROGRAM OFFERED BY A CAREER AND TECHNICAL
23 EDUCATION SCHOOL, AN INSTITUTION OF HIGHER EDUCATION OR ANOTHER ENTITY
24 THAT PROVIDES EDUCATION, CAREER AND TECHNICAL EDUCATION OR TRAINING THAT
25 LEADS TO A POSTSECONDARY DEGREE.

26 3. "CAREGIVER" MEANS AN INDIVIDUAL WHO IS A SIGNIFICANT PROVIDER
27 OF:

28 (a) ONGOING CARE OR EDUCATION FOR A CHILD, INCLUDING AN INDIVIDUAL
29 WHO IS RESPONSIBLE FOR SECURING ONGOING CARE OR EDUCATION FOR A CHILD.

30 (b) ONGOING CARE FOR A FAMILY MEMBER, INCLUDING AN INDIVIDUAL WHO
31 IS RESPONSIBLE FOR SECURING ONGOING CARE FOR A FAMILY MEMBER.

32 4. "COMMISSION" MEANS THE INDUSTRIAL COMMISSION OF ARIZONA.

33 5. "EMPLOYEE":

34 (a) MEANS ANY PERSON WHO IS EMPLOYED BY AN EMPLOYER FOR MORE THAN
35 EIGHTY HOURS IN A CALENDAR YEAR.

36 (b) DOES NOT INCLUDE AN INDIVIDUAL WHO IS EMPLOYED BY THIS STATE, A
37 POLITICAL SUBDIVISION OF THIS STATE OR THE UNITED STATES OR WHO IS COVERED
38 BY A VALID COLLECTIVE BARGAINING AGREEMENT THAT EXPRESSLY GOVERNS WORK
39 SCHEDULING PRACTICES IN CLEAR AND UNAMBIGUOUS TERMS.

40 6. "EMPLOYER":

41 (a) INCLUDES ANY CORPORATION, PROPRIETORSHIP, PARTNERSHIP, JOINT
42 VENTURE, LIMITED LIABILITY COMPANY, TRUST, ASSOCIATION, INDIVIDUAL OR
43 OTHER ENTITY ACTING DIRECTLY OR INDIRECTLY IN THE INTEREST OF AN EMPLOYER
44 IN RELATION TO AN EMPLOYEE.

1 (b) DOES NOT INCLUDE THIS STATE, A POLITICAL SUBDIVISION OF THIS
2 STATE OR THE UNITED STATES.

3 7. "FAMILY MEMBER" MEANS:

4 (a) A BIOLOGICAL, ADOPTED OR FOSTER CHILD, A STEPCHILD OR LEGAL
5 WARD, A CHILD OF A DOMESTIC PARTNER OR A CHILD FOR WHOM THE EMPLOYEE
6 SERVES AS A TEMPORARY GUARDIAN.

7 (b) A BIOLOGICAL, FOSTER OR ADOPTIVE PARENT OR LEGAL GUARDIAN OF
8 THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER, A STEPPARENT OF
9 THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER OR AN INDIVIDUAL
10 WHO WAS A TEMPORARY GUARDIAN OF THE EMPLOYEE WHEN THE EMPLOYEE WAS A
11 MINOR.

12 (c) THE SPOUSE OR DOMESTIC PARTNER OF THE EMPLOYEE.

13 (d) A GRANDPARENT OR A SPOUSE OR DOMESTIC PARTNER OF A GRANDPARENT.

14 (e) A BIOLOGICAL, FOSTER OR ADOPTED SIBLING OR A SPOUSE OR DOMESTIC
15 PARTNER OF A BIOLOGICAL, FOSTER OR ADOPTED SIBLING.

16 (f) A GRANDCHILD.

17 (g) ANY OTHER INDIVIDUAL WHO IS RELATED BY BLOOD OR AFFINITY WHOSE
18 CLOSE ASSOCIATION WITH THE EMPLOYEE IS THE EQUIVALENT OF A FAMILY
19 RELATIONSHIP.

20 8. "RETALIATION" MEANS ANY THREAT, DISCHARGE, SUSPENSION, DEMOTION
21 OR REDUCTION OF HOURS BY AN EMPLOYER OF AN EMPLOYEE OR OTHER ADVERSE
22 ACTION THAT AN EMPLOYER TAKES AGAINST AN EMPLOYEE AND INCLUDES ANY
23 SANCTIONS AGAINST A RECIPIENT OF PUBLIC BENEFITS OR INTERFERENCE WITH OR
24 PUNISHMENT FOR PARTICIPATING IN AN INVESTIGATION, PROCEEDING OR HEARING
25 UNDER THIS ARTICLE.

26 9. "SPLIT SHIFT":

27 (a) MEANS A SCHEDULE OF DAILY HOURS IN WHICH THE HOURS WORKED ARE
28 NOT CONSECUTIVE.

29 (b) DOES NOT INCLUDE A SCHEDULE IN WHICH THE TOTAL TIME OUT FOR
30 MEALS IS NOT MORE THAN ONE HOUR.

31 23-385.01. Request for change in the terms and conditions of
32 employment

33 A. AN EMPLOYEE MAY REQUEST A CHANGE IN THE TERMS AND CONDITIONS OF
34 EMPLOYMENT RELATED TO:

35 1. THE NUMBER OF HOURS THE EMPLOYEE IS REQUIRED TO WORK OR BE ON
36 CALL FOR WORK.

37 2. THE TIMES WHEN THE EMPLOYEE IS REQUIRED TO WORK OR BE ON CALL
38 FOR WORK.

39 3. THE LOCATION WHERE THE EMPLOYEE IS REQUIRED TO WORK.

40 4. THE AMOUNT OF ADVANCE NOTIFICATION THE EMPLOYEE RECEIVES OF WORK
41 SCHEDULE ASSIGNMENTS.

42 5. MINIMIZING FLUCTUATIONS IN THE NUMBER OF HOURS THE EMPLOYEE IS
43 SCHEDULED TO WORK ON A DAILY, WEEKLY OR MONTHLY BASIS.

44 B. IF AN EMPLOYEE REQUESTS A CHANGE IN THE TERMS AND CONDITIONS OF
45 EMPLOYMENT AS PRESCRIBED BY SUBSECTION A OF THIS SECTION, THE EMPLOYER

1 SHALL ENGAGE IN A TIMELY, GOOD FAITH INTERACTIVE PROCESS WITH THE
2 EMPLOYEE, INCLUDING DISCUSSING POTENTIAL SCHEDULE CHANGES THAT WOULD MEET
3 THE EMPLOYEE'S NEEDS. IF THE EMPLOYER DENIES THE PROPOSED CHANGE IN THE
4 TERMS AND CONDITIONS OF EMPLOYMENT REQUESTED BY THE EMPLOYEE, THE EMPLOYER
5 SHALL CONSIDER ALTERNATIVES TO THE PROPOSED CHANGE THAT MAY MEET THE
6 EMPLOYEE'S NEEDS. IF THE EMPLOYER DENIES THE ALTERNATIVE CHANGE, THE
7 EMPLOYER SHALL STATE THE REASON FOR THE DENIAL.

8 C. IF THE EMPLOYER REQUIRES CLARIFICATION OF THE INFORMATION
9 PROVIDED BY THE EMPLOYEE IN THE REQUEST TO CHANGE THE TERMS AND CONDITIONS
10 OF EMPLOYMENT, THE EMPLOYER SHALL EXPLAIN WHAT ADDITIONAL INFORMATION IS
11 NEEDED AND PROVIDE THE EMPLOYEE REASONABLE TIME TO PRODUCE THE
12 INFORMATION.

13 D. IF AN EMPLOYEE REQUESTS A CHANGE IN THE TERMS AND CONDITIONS OF
14 EMPLOYMENT AS PRESCRIBED IN SUBSECTION A OF THIS SECTION BECAUSE OF A
15 SERIOUS HEALTH CONDITION OF THE EMPLOYEE, THE EMPLOYEE'S RESPONSIBILITIES
16 AS A CAREGIVER FOR A FAMILY MEMBER OR THE EMPLOYEE'S ENROLLMENT IN A
17 CAREER-RELATED EDUCATIONAL OR TRAINING PROGRAM, OR IF THE EMPLOYEE IS A
18 PART-TIME EMPLOYEE AND THE REQUEST IS RELATED TO A SECOND JOB, THE
19 EMPLOYER SHALL GRANT THE REQUEST, UNLESS THE EMPLOYER HAS A BONA FIDE
20 BUSINESS REASON FOR DENYING THE REQUEST.

21 E. IF AN EMPLOYEE REQUESTS A CHANGE IN THE TERMS AND CONDITIONS OF
22 EMPLOYMENT AS PRESCRIBED IN SUBSECTION A OF THIS SECTION FOR A REASON
23 OTHER THAN THE REASONS PROVIDED IN SUBSECTION D OF THIS SECTION, THE
24 EMPLOYER MAY DENY THE REQUEST FOR ANY LAWFUL REASON. IF THE EMPLOYER
25 DENIES THE REQUEST, THE EMPLOYER SHALL PROVIDE THE EMPLOYEE WITH THE
26 REASON FOR THE DENIAL, INCLUDING WHETHER THE REASON IS A BONA FIDE
27 BUSINESS REASON.

28 23-385.02. Pay and schedule notice requirements for retail,
29 food service or cleaning employees; definition

30 A. AN EMPLOYER SHALL PAY AN EMPLOYEE AS FOLLOWS:

31 1. FOR AT LEAST FOUR HOURS AT THE EMPLOYEE'S REGULAR RATE OF PAY
32 FOR EACH DAY ON WHICH THE EMPLOYEE REPORTS FOR WORK UNDER SPECIFIC
33 INSTRUCTIONS BUT IS GIVEN LESS THAN FOUR HOURS OF WORK, EXCEPT THAT IF THE
34 EMPLOYEE'S SCHEDULED HOURS ARE LESS THAN FOUR HOURS, THE EMPLOYEE SHALL BE
35 PAID FOR THE EMPLOYEE'S SCHEDULED HOURS FOR THAT DAY IF GIVEN LESS THAN
36 THE SCHEDULED HOURS OF WORK.

37 2. FOR AT LEAST ONE HOUR AT THE EMPLOYEE'S REGULAR RATE OF PAY FOR
38 EACH DAY THE EMPLOYEE IS GIVEN SPECIFIC INSTRUCTIONS TO CONTACT THE
39 EMPLOYER, OR WAIT TO BE CONTACTED BY THE EMPLOYER, LESS THAN TWENTY-FOUR
40 HOURS IN ADVANCE OF THE START OF THE POTENTIAL WORK SHIFT TO DETERMINE IF
41 THE EMPLOYEE MUST REPORT TO WORK FOR THE SHIFT.

42 3. FOR ONE ADDITIONAL HOUR AT THE EMPLOYEE'S REGULAR RATE OF PAY
43 FOR EACH DAY DURING WHICH THE EMPLOYEE WORKS A SPLIT SHIFT.

1 B. AN EMPLOYER SHALL:
2 1. ON OR BEFORE A NEW EMPLOYEE'S FIRST DAY OF WORK, INFORM THE
3 EMPLOYEE IN WRITING OF THE EMPLOYEE'S WORK SCHEDULE AND THE MINIMUM NUMBER
4 OF EXPECTED WORK HOURS THE EMPLOYEE WILL BE ASSIGNED TO WORK PER MONTH.
5 2. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, IF THE
6 EMPLOYEE'S WORK SCHEDULE CHANGES FROM THE WORK SCHEDULE OF WHICH THE
7 EMPLOYEE WAS INFORMED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION, PROVIDE
8 A NEW WORK SCHEDULE TO THE EMPLOYEE AT LEAST FOURTEEN DAYS BEFORE THE
9 FIRST DAY OF THE NEW WORK SCHEDULE. IF THE EXPECTED MINIMUM NUMBER OF
10 WORK HOURS AN EMPLOYEE IS ASSIGNED CHANGES, THE EMPLOYER SHALL NOTIFY THE
11 EMPLOYEE OF THE CHANGE OF WORK HOURS AT LEAST FOURTEEN DAYS BEFORE THE
12 CHANGE GOES INTO EFFECT. THIS PARAGRAPH DOES NOT PROHIBIT AN EMPLOYER
13 FROM PROVIDING GREATER ADVANCE NOTICE TO AN EMPLOYEE THAN IS REQUIRED
14 UNDER THIS PARAGRAPH.
15 3. POST THE WORK SCHEDULE IN A CONSPICUOUS PLACE IN EVERY
16 ESTABLISHMENT WHERE AN EMPLOYEE IS EMPLOYED. AVAILABILITY OF THE WORK
17 SCHEDULE BY ELECTRONIC MEANS ACCESSIBLE BY ALL EMPLOYEES IS CONSIDERED TO
18 BE IN COMPLIANCE WITH THIS PARAGRAPH.
19 C. AN EMPLOYER MAY CHANGE THE WORK SCHEDULE AS NEEDED, INCLUDING
20 OFFERING ADDITIONAL HOURS OF WORK TO EMPLOYEES BEYOND THE HOURS PREVIOUSLY
21 SCHEDULED. AN EMPLOYER SHALL PROVIDE ONE EXTRA HOUR OF PAY AT THE
22 EMPLOYEE'S REGULAR RATE FOR EACH SHIFT THAT IS CHANGED WITH LESS THAN
23 TWENTY-FOUR HOURS' NOTICE, UNLESS THE NEED TO SCHEDULE THE EMPLOYEE IS DUE
24 TO THE UNFORESEEN UNAVAILABILITY OF THE EMPLOYEE PREVIOUSLY SCHEDULED TO
25 WORK THAT SHIFT.
26 D. THE NOTIFICATIONS REQUIRED UNDER SUBSECTION B OF THIS SECTION
27 SHALL BE IN WRITING. AN EMPLOYER MAY USE ADDITIONAL MEANS OF NOTIFYING AN
28 EMPLOYEE OF THE EMPLOYEE'S WORK SCHEDULE.
29 E. THIS SECTION DOES NOT:
30 1. PREVENT AN EMPLOYER FROM ALLOWING AN EMPLOYEE TO WORK IN PLACE
31 OF ANOTHER EMPLOYEE WHO HAS BEEN SCHEDULED TO WORK A PARTICULAR SHIFT IF
32 THE CHANGE IN SCHEDULE IS MUTUALLY AGREED ON BY THE EMPLOYEES. AN
33 EMPLOYER IS NOT SUBJECT TO THE REQUIREMENTS OF SUBSECTION B, PARAGRAPH 2
34 OR SUBSECTION C OF THIS SECTION FOR VOLUNTARY SHIFT TRADES.
35 2. APPLY DURING PERIODS WHEN REGULAR OPERATIONS OF THE EMPLOYER ARE
36 SUSPENDED DUE TO EVENTS BEYOND THE EMPLOYER'S CONTROL.
37 F. FOR THE PURPOSES OF THIS SECTION, "EMPLOYEE" MEANS ANY
38 PERSON WHO IS EMPLOYED IN A RETAIL SALES OCCUPATION,
39 FOOD-PREPARATION-AND-SERVICE-RELATED OCCUPATION OR BUILDING CLEANING
40 OCCUPATION.
41 23-385.03. Protection of rights; retaliation prohibition
42 A. IT IS UNLAWFUL FOR AN EMPLOYER OR ANY OTHER PERSON TO INTERFERE
43 WITH, RESTRAIN OR DENY THE EXERCISE OF, OR THE ATTEMPT TO EXERCISE, ANY
44 RIGHT THAT IS PROVIDED UNDER THIS ARTICLE.

1 B. AN EMPLOYER MAY NOT ENGAGE IN RETALIATION OR DISCRIMINATION
2 AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS EXERCISED, OR ATTEMPTED TO
3 EXERCISE, ANY RIGHT THAT IS PROVIDED UNDER THIS ARTICLE.

4 23-385.04. Notice and posting

5 A. AN EMPLOYER SHALL GIVE NOTICE TO AN EMPLOYEE AT THE COMMENCEMENT
6 OF EMPLOYMENT OR BY JANUARY 1, 2023, WHICHEVER IS LATER, OF THE FOLLOWING:

7 1. EMPLOYEES ARE ENTITLED TO REQUEST A CHANGE IN THE TERMS AND
8 CONDITIONS OF EMPLOYMENT PURSUANT TO SECTION 23-385.01.

9 2. RETALIATION AGAINST EMPLOYEES WHO REQUEST A CHANGE IN THE TERMS
10 AND CONDITIONS OF EMPLOYMENT PURSUANT TO SECTION 23-385.01 IS PROHIBITED.

11 3. EACH EMPLOYEE MAY FILE A COMPLAINT OR BRING A CIVIL ACTION IF
12 THE EMPLOYER VIOLATES THIS ARTICLE OR THE EMPLOYEE IS RETALIATED AGAINST
13 FOR REQUESTING A CHANGE IN THE TERMS AND CONDITIONS OF EMPLOYMENT.

14 B. TO COMPLY WITH THIS SECTION, AN EMPLOYER SHALL:

15 1. SUPPLY EACH EMPLOYEE WITH A NOTICE THAT CONTAINS IN ENGLISH,
16 SPANISH AND ANY LANGUAGE THAT IS THE FIRST LANGUAGE SPOKEN BY AT LEAST TEN
17 PERCENT OF THE EMPLOYER'S WORKFORCE THE INFORMATION THAT IS REQUIRED IN
18 SUBSECTION A OF THIS SECTION.

19 2. DISPLAY A POSTER IN A CONSPICUOUS AND ACCESSIBLE PLACE IN EACH
20 ESTABLISHMENT WHERE EMPLOYEES ARE EMPLOYED THAT CONTAINS IN ENGLISH,
21 SPANISH AND ANY LANGUAGE THAT IS THE FIRST LANGUAGE SPOKEN BY AT LEAST TEN
22 PERCENT OF THE EMPLOYER'S WORKFORCE THE INFORMATION THAT IS REQUIRED IN
23 SUBSECTION A OF THIS SECTION.

24 C. THE COMMISSION SHALL CREATE AND MAKE AVAILABLE TO EMPLOYERS
25 NOTICES AND POSTERS THAT CONTAIN IN ENGLISH, SPANISH AND ANY LANGUAGE
26 DEEMED APPROPRIATE BY THE COMMISSION THE INFORMATION THAT IS REQUIRED
27 UNDER SUBSECTION A OF THIS SECTION FOR THE EMPLOYERS' USE IN COMPLYING
28 WITH THIS SECTION.

29 23-385.05. Employer records

30 AN EMPLOYER SHALL RETAIN RECORDS THAT DOCUMENT COMPLIANCE WITH THIS
31 ARTICLE FOR A PERIOD OF AT LEAST THREE YEARS AND SHALL ALLOW THE
32 COMMISSION ACCESS TO THESE RECORDS, WITH APPROPRIATE NOTICE AND AT A
33 MUTUALLY AGREEABLE TIME, TO MONITOR COMPLIANCE WITH THE REQUIREMENTS OF
34 THIS ARTICLE.

35 23-385.06. Enforcement; civil penalties

36 A. THE COMMISSION SHALL:

37 1. IMPLEMENT AND ENFORCE THIS ARTICLE AND ADOPT RULES FOR THESE
38 PURPOSES.

39 2. DEVELOP AND IMPLEMENT AN OUTREACH AND EDUCATION PROGRAM TO
40 INFORM EMPLOYEES OF THEIR RIGHTS UNDER THIS ARTICLE THAT INCLUDES THE
41 DISTRIBUTION OF NOTICES AND OTHER WRITTEN MATERIALS TO EMPLOYERS AND LABOR
42 ORGANIZATIONS.

43 B. AN EMPLOYEE OR OTHER PERSON MAY REPORT TO THE COMMISSION ANY
44 SUSPECTED VIOLATION OF THIS ARTICLE. THE COMMISSION SHALL KEEP
45 CONFIDENTIAL THE NAME AND OTHER IDENTIFYING INFORMATION OF THE EMPLOYEE OR

1 PERSON THAT REPORTS THE VIOLATION, EXCEPT THAT THE COMMISSION MAY DISCLOSE
2 THIS INFORMATION AS AUTHORIZED BY THE EMPLOYEE OR OTHER PERSON AS
3 NECESSARY TO ENFORCE THIS SECTION OR FOR OTHER APPROPRIATE PURPOSES.

4 C. ANY PERSON THAT IS INJURED BY A VIOLATION OF THIS ARTICLE MAY
5 MAINTAIN A CIVIL ACTION TO ENFORCE THIS ARTICLE IN A COURT OF COMPETENT
6 JURISDICTION AND MAY BE AWARDED REASONABLE ATTORNEY FEES AND COSTS.

7 D. ANY EMPLOYER THAT VIOLATES RECORDKEEPING, POSTING OR OTHER
8 REQUIREMENTS THAT THE COMMISSION ESTABLISHES UNDER THIS ARTICLE IS SUBJECT
9 TO A CIVIL PENALTY OF NOT MORE THAN \$100 FOR EACH SEPARATE VIOLATION.

10 E. ANY EMPLOYER THAT WILFULLY VIOLATES THIS ARTICLE IS SUBJECT TO A
11 CIVIL PENALTY OF NOT MORE THAN \$100 FOR EACH VIOLATION AND SHALL PAY THE
12 EMPLOYEE AN AMOUNT SET BY THE COMMISSION OR A COURT THAT IS SUFFICIENT TO
13 COMPENSATE THE EMPLOYEE AND DETER FUTURE VIOLATIONS.

14 F. ANY EMPLOYER THAT RETALIATES AGAINST AN EMPLOYEE FOR EXERCISING,
15 OR ATTEMPTING TO EXERCISE, ANY RIGHT PROVIDED BY THIS ARTICLE IS SUBJECT
16 TO A CIVIL PENALTY OF NOT MORE THAN \$1,100 AND SHALL PAY THE EMPLOYEE AN
17 AMOUNT SET BY THE COMMISSION OR A COURT THAT IS SUFFICIENT TO COMPENSATE
18 THE EMPLOYEE AND DETER FUTURE VIOLATIONS.

19 G. A CIVIL ACTION TO ENFORCE THIS ARTICLE MAY BE COMMENCED NOT
20 LATER THAN TWO YEARS AFTER THE DATE THE EMPLOYEE KNEW OR SHOULD HAVE KNOWN
21 OF THE VIOLATION, OR THREE YEARS AFTER THE DATE THE EMPLOYEE KNEW OR
22 SHOULD HAVE KNOWN OF THE VIOLATION IN THE CASE OF A WILFUL VIOLATION.

23 Sec. 6. Title 41, chapter 23, article 3, Arizona Revised Statutes,
24 is amended by adding section 41-2535.01, to read:

25 41-2535.01. Equal pay certificate required; waiver; voiding
26 of contract; hearing

27 A. BEGINNING JANUARY 1, 2023, A BUSINESS THAT HAS AT LEAST FORTY
28 FULL-TIME EMPLOYEES IN THIS STATE OR THE STATE WHERE THE BUSINESS'S
29 PRIMARY PLACE OF BUSINESS IS LOCATED MUST HAVE AN EQUAL PAY CERTIFICATE
30 ISSUED BY THE INDUSTRIAL COMMISSION OF ARIZONA OR AN EQUAL PAY CERTIFICATE
31 WAIVER ISSUED BY THE PROCUREMENT OFFICER TO BE ELIGIBLE TO CONTRACT WITH
32 ANY PURCHASING AGENCY IN THIS STATE FOR A PROCUREMENT THAT EXCEEDS AN
33 AGGREGATE AMOUNT OF \$500,000.

34 B. THE PROCUREMENT OFFICER MAY ISSUE AN EQUAL PAY CERTIFICATE
35 WAIVER TO A BUSINESS FOR A SPECIFIC CONTRACT IF THE PROCUREMENT OFFICER
36 DETERMINES THAT APPLICATION OF THIS SECTION WOULD CAUSE UNDUE HARDSHIP TO
37 THE PURCHASING AGENCY.

38 C. THE PROCUREMENT OFFICER MAY VOID A CONTRACT ON BEHALF OF THIS
39 STATE IF THE CONTRACT IS AWARDED TO A BUSINESS THAT DOES NOT HAVE AN EQUAL
40 PAY CERTIFICATE OR AN EQUAL PAY CERTIFICATE WAIVER OR WHOSE EQUAL PAY
41 CERTIFICATE HAS BEEN SUSPENDED OR REVOKED PURSUANT TO SECTION 23-342. THE
42 PROCUREMENT OFFICER SHALL NOTIFY ALL PARTIES TO THE CONTRACT BEFORE TAKING
43 ACTION TO VOID THE CONTRACT.

1 D. A BUSINESS MAY REQUEST A HEARING TO APPEAL THE PROCUREMENT
2 OFFICER'S ACTION TO VOID THE CONTRACT PURSUANT TO CHAPTER 6, ARTICLE 10 OF
3 THIS TITLE.

4 Sec. 7. Industrial commission of Arizona; study on
5 eliminating pay disparities; study on pay gap in
6 teenage labor force; report; delayed repeal

7 A. On or before January 1, 2024, the director of the industrial
8 commission of Arizona shall conduct both of the following:

9 1. A study concerning the means available to eliminate pay
10 disparities between men and women. In conducting the study, the director
11 of the commission shall:

12 (a) Conduct and promote research to develop the means to correct
13 expeditiously the conditions leading to the pay disparities, with specific
14 attention paid to women and girls from historically underrepresented and
15 minority groups.

16 (b) Recognize and promote the achievements of employers, labor
17 organizations and professional associations that have worked to eliminate
18 the pay disparities.

19 (c) Sponsor and assist state, local and community informational and
20 educational programs.

21 2. A study on the gender pay gap in the teenage labor force. In
22 conducting the study, the director of the commission shall:

23 (a) Examine all of the following:

24 (i) The teenage gender pay gap, including a comparison of the
25 average amount earned by males and females, respectively, in informal
26 jobs, such as babysitting and other freelance jobs, as well as formal
27 jobs, such as retail, restaurant and customer service.

28 (ii) The trends and potential solutions relating to the teenage
29 gender pay gap.

30 (iii) How the teenage gender pay gap potentially translates into
31 greater wage gaps in the overall labor force.

32 (iv) Overall lifetime earnings and losses for informal and formal
33 jobs for women, including women of color.

34 (b) Compare the following:

35 (i) The types of tasks typically performed by women from the
36 teenage years through adulthood within certain informal jobs, such as
37 babysitting and other freelance jobs, and formal jobs, such as retail,
38 restaurant and customer service.

39 (ii) The types of tasks performed by younger males in such
40 positions.

41 (c) Interview and survey workers and employers relating to early
42 gender-based pay discrepancies.

43 B. The director of the industrial commission of Arizona shall:

44 1. Publish and otherwise make available to employers, labor
45 organizations, professional associations, educational institutions, the

1 media and the general public the findings resulting from the studies
2 conducted pursuant to subsection A of this section and other materials
3 relating to eliminating the pay disparities.

4 2. Post the report conducted pursuant to subsection C of this
5 section on the commission's website.

6 C. On or before July 1, 2024, the director of the commission shall
7 submit a report that includes all of the following to the governor, the
8 president of the senate and the speaker of the house of representatives
9 and shall provide a copy of this report to the secretary of state:

10 1. The findings of both studies conducted pursuant to subsection A
11 of this section.

12 2. Recommendations for all of the following:

13 (a) Addressing pay inequality for women, including women of color,
14 from the teenage years through adulthood.

15 (b) Addressing any disadvantages experienced by young women with
16 respect to work experience and professional development.

17 (c) Developing standards and best practices for workers and
18 employees to ensure better pay for young women and the prevention of early
19 inequalities in the workplace.

20 (d) Expanding awareness for teenage girls on pay rates and
21 employment rights to reduce greater inequalities in the overall labor
22 force.

23 D. This section is repealed from and after December 31, 2024.

24 Sec. 8. Short title

25 This act may be cited as the "Arizona Equal Pay Act".