

REFERENCE TITLE: wage disclosure; employee rights

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2129

Introduced by
Representatives Salman: De Los Santos, Ortiz, Stahl Hamilton

AN ACT

AMENDING TITLE 23, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 23-207; AMENDING SECTION 23-341, ARIZONA REVISED STATUTES;
AMENDING TITLE 41, CHAPTER 9, ARTICLE 4, ARIZONA REVISED STATUTES, BY
ADDING SECTION 41-1469; RELATING TO EMPLOYMENT PRACTICES.

(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 section 23-207, 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 IS VOLUNTARY.

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

16 5. INQUIRE ABOUT A PROSPECTIVE EMPLOYEE'S WAGE OR SALARY HISTORY
17 BEFORE NEGOTIATING WITH AND MAKING TO THE PROSPECTIVE EMPLOYEE AN OFFER OF
18 EMPLOYMENT WITH COMPENSATION, UNLESS THE PROSPECTIVE EMPLOYEE VOLUNTARILY
19 DISCLOSES THIS INFORMATION.

20 B. THIS SECTION DOES NOT:

21 1. CREATE AN OBLIGATION FOR AN EMPLOYER OR EMPLOYEE TO DISCLOSE
22 WAGE INFORMATION.

23 2. ALLOW AN EMPLOYEE, WITHOUT THE WRITTEN CONSENT OF THE EMPLOYER,
24 TO DISCLOSE PROPRIETARY INFORMATION, TRADE SECRET INFORMATION OR OTHER
25 INFORMATION THAT IS OTHERWISE SUBJECT TO LEGAL PRIVILEGE OR PROTECTED BY
26 LAW.

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

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

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

34 D. IF AN EMPLOYER VIOLATES SUBSECTION A OF THIS SECTION, THE
35 EMPLOYEE MAY FILE A CIVIL ACTION AGAINST THE EMPLOYER. THE COURT MAY
36 ORDER REINSTATEMENT, RECOVERY OF UNPAID WAGES, RESTORATION OF LOST SERVICE
37 CREDITS, IF APPROPRIATE, AND EXPUNGEMENT OF ANY RELATED ADVERSE RECORD
38 RELATING TO THE EMPLOYEE WHO IS THE SUBJECT OF THE VIOLATION.

39 Sec. 2. Section 23-341, Arizona Revised Statutes, is amended to
40 read:

41 23-341. Equal wage rates; variations; penalties; enforcement

42 A. Notwithstanding the other provisions of this chapter, ~~no~~ AN
43 employer ~~shall~~ MAY NOT pay any person in ~~his~~ THE EMPLOYER'S employ at wage
44 rates THAT ARE less than the rates paid to employees of the opposite sex
45 in the same establishment for the same quantity and quality of the same

1 classification of work. ~~, provided, that nothing herein shall~~ THIS SECTION
2 DOES NOT prohibit a variation of rates of pay for male and female
3 employees WHO ARE engaged in the same classification of work based ~~upon~~ ON
4 a difference in seniority, length of service, ability, skill, difference
5 in duties or services performed, whether regularly or occasionally,
6 difference in the shift or time of day worked, hours of work, or
7 restrictions or prohibitions on lifting or moving objects in excess of A
8 specified weight, or ANY other reasonable differentiation, ~~OR~~ factor ~~or~~
9 ~~factors~~ other than sex, ~~when~~ IF exercised in good faith.

10 B. Any employer who violates subsection A of this section is liable
11 to the employee affected in the amount of the wages of which ~~such~~ THE
12 employee is deprived by reason of ~~such~~ THE violation.

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

16 D. The commission shall take all proceedings necessary to enforce
17 the payment of any sums found to be due and unpaid to such employees.

18 E. Any employee receiving less than the wage to which ~~such~~ THE
19 employee is entitled under this section may recover in a civil action the
20 balance of such wages, together with the costs of suit, notwithstanding
21 any agreement to work for a lesser wage.

22 F. Any action based ~~upon~~ ON or arising under this section shall be
23 instituted within ~~six months~~ ONE YEAR after the date ~~of~~ THAT the EMPLOYEE
24 KNOWS OR SHOULD HAVE KNOWN OF THE alleged violation, but ~~in no event shall~~
25 ~~any~~ AN employer ~~be~~ IS NOT liable for any pay due under this section for
26 more than thirty days ~~prior to~~ BEFORE receipt by the employer of A written
27 notice of claim ~~thereof~~ OF VIOLATION from the employee.

28 G. The burden of proof ~~shall be upon~~ IS ON the person bringing the
29 claim to establish that the differentiation in rate of pay is based ~~upon~~
30 ON the factor of sex and not ~~upon~~ ON ANY other ~~differences,~~ DIFFERENCE OR
31 factor ~~or factors~~.

32 H. IN ANY ACTION ALLEGING A VIOLATION OF THIS SECTION, AN EMPLOYER
33 MAY NOT USE AN EMPLOYEE'S PRIOR WAGE OR SALARY HISTORY AS A DEFENSE TO THE
34 ACTION.

35 Sec. 3. Title 41, chapter 9, article 4, Arizona Revised Statutes,
36 is amended by adding section 41-1469, to read:

37 41-1469. Wage or salary discrimination; use of history
38 prohibited

39 IN ANY ACTION ALLEGING WAGE OR SALARY DISCRIMINATION IN VIOLATION OF
40 THIS ARTICLE, AN EMPLOYER MAY NOT USE AN EMPLOYEE'S PRIOR WAGE AND SALARY
41 HISTORY AS A DEFENSE TO THE ACTION.

42 Sec. 4. Short title

43 This act may be cited as the "Wage Antidiscrimination Act".