

JAN 19 2018

A BILL FOR AN ACT

RELATING TO FAIR TREATMENT IN THE WORKPLACE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 387-12, Hawaii Revised Statutes, is
2 amended by amending subsections (b) and (c) to read as follows:

3 "(b) Liability to employee. Any employer who violates any
4 provision of sections 387-2 and 387-3 shall be liable to the
5 employee or employees affected in the amount of their unpaid
6 minimum wages or unpaid overtime compensation, and in case of
7 wilful violation in an additional equal amount as liquidated
8 damages. Any employer who discriminates in the payment of wages
9 under section 387-4 shall be liable to the employee affected in
10 the amount of the difference in wages, and in the case of
11 discrimination as between the sexes in triple the difference in
12 wages.

13 (c) Collection suits; attorney's fee; assignments; relief
14 from costs. Action to recover such liability may be maintained
15 in any court of competent jurisdiction by any one or more
16 employees for and in behalf of oneself or themselves and other
17 employees similarly situated, or the employee or employees may



1 designate an agent or representative to maintain action for and
2 in behalf of all employees similarly situated. The court in
3 such action shall, in addition to any judgment awarded to the
4 plaintiff or plaintiffs, in the event the plaintiff or
5 plaintiffs prevail, allow a reasonable attorney's fee to be paid
6 by the defendant and costs of the action. At the request of any
7 person paid less than the amount to which the person is entitled
8 under this chapter, the director may take an assignment in trust
9 for the assigning employee of the full amount to which the
10 employee is entitled under this subsection and may bring any
11 legal action necessary to collect the claim, and the employer
12 shall be required to pay the costs and such reasonable
13 attorney's fees as may be allowed by the court in the event the
14 director prevails. The director shall not be required to pay
15 the filing fee or other costs in connection with such action,
16 including the opposing party's attorney's fees and costs. The
17 director, in case of suit, may join various claimants against
18 the same employer in one cause of action. The right provided by
19 this subsection to bring an action by or on behalf of any
20 employee, and the right of any employee to become a party
21 plaintiff to any such action, shall terminate upon the filing of



1 a complaint by the director in an action in which restraint is
2 sought of any further delay in the payment of unpaid minimum
3 wages, ~~[or]~~ the amount of unpaid overtime compensation, or the
4 difference in discriminatory wages owing to the employee under
5 section 387-2 ~~[or]~~, 387-3, or 387-4 by an employer liable
6 therefor under this section."

7 SECTION 2. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon its approval.

13

INTRODUCED BY:



Assembly Member

Breaux Harris



Karl Rhoads

Pam F. Bell



S.B. NO. 2102

Report Title:

Employment; Fair Wages; Sex Discrimination; Civil Remedy

Description:

Establishes a civil cause of action against employers for employees who have been subject to wage discrimination, and allows employees who have been subject to wage discrimination on the basis of sex to seek treble damages.

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