

FIRST REGULAR SESSION

HOUSE BILL NO. 115

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HICKEY.

Pre-filed December 11, 2000, and 1000 copies ordered printed.

ANNE C. WALKER, Chief Clerk

0658L.011

AN ACT

To amend chapter 290, RSMo, relating to wages, hours and dismissal rights, by adding thereto five new sections relating to discriminatory wage practices, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 290, RSMo, is amended by adding thereto five new sections, to be
2 known as sections 290.610, 290.612, 290.614, 290.616 and 290.618, to read as follows:

**290.610. 1. Sections 290.610 to 290.618 may be cited as "The Missouri Equal Pay
2 Act".**

3 2. For purposes of sections 290.610 to 290.618, the following terms mean:

4 (1) "Employ", to suffer or permit to work;

**5 (2) "Employee", any person employed by an employer, including all of an
6 employer's employees, whether working full-time or part-time and any temporary
7 employee employed by an employer for a period of six months or more. Employee shall
8 not include any individual employed by his or her parents, spouse or child;**

**9 (3) "Employer", any person who employs six or more persons, including the state
10 and all political subdivisions of the state;**

**11 (4) "Labor organization", any organization that exists for the purpose, in whole or
12 in part, of collective bargaining, of dealing with employers concerning grievances, terms
13 or conditions of employment or of other mutual aid or protection in connection with
14 employment;**

**15 (5) "Person", one or more individuals, partnerships, associations, corporations,
16 limited liability companies, legal representatives, trustees, trustees in bankruptcy, receivers
17 and the state, including all political subdivisions and agencies of the state;**

18 (6) "Wages" and "wage rates", all compensation in any form that an employer

19 provides to employees in payment for work done or services rendered, including but not
20 limited to base pay, overtime bonuses, stock options, awards, tips or various forms of
21 nonmonetary compensation if provided in lieu of or in addition to monetary compensation,
22 provided that such compensation has economic value to an employee.

290.612. 1. It shall be an unlawful employment practice in violation of sections
2 290.610 to 290.618 for an employer to discriminate between employees on the basis of age,
3 sex, race, any disability or national origin by paying wages to employees at a rate less than
4 the rate paid to employees of different ages, of the opposite sex or of a different race or
5 national origin for equal work on jobs, the performance of which requires equal skill,
6 effort, and responsibility, and which are performed under similar working conditions.

7 2. Notwithstanding the provisions of subsection 1 of this section, it shall not be an
8 unlawful employment practice for an employer to pay different wage rates to employees,
9 where such payments are made pursuant to:

10 (1) A bona fide seniority or merit system;

11 (2) A system that measures earnings by quantity or quality of production;

12 (3) Any bona fide factor other than age, sex, race, any disability or national origin,
13 provided that wage differentials based on varying market rates for equal jobs shall not be
14 considered differentials based on bona fide factors other than age, sex, race or national
15 origin; or

16 (4) Bona fide regional economic differentials.

17 3. An employer who is paying wages in violation of this section shall not, in order
18 to comply with this section, reduce the wage of any employee.

19 4. No labor organization or its agents representing employees of an employer
20 having employees subject to any provision of sections 290.610 to 290.618 shall cause or
21 attempt to cause such an employer to discriminate against an employee in violation of
22 subsection 1 of this section.

290.614. It shall be an unlawful employment practice in violation of sections
2 290.610 to 290.618 for an employer to:

3 (1) Take adverse actions or otherwise discriminate against any individual because
4 such individual has:

5 (a) Opposed any act or practice made unlawful by sections 290.610 to 290.618; or

6 (b) Testified, assisted or participated in any manner in an investigation, hearing or
7 other proceeding to enforce sections 290.610 to 290.618; or

8 (2) Discharge or in any other manner discriminate against, coerce, intimidate,
9 threaten or interfere with any employee or any other person because the employee:

10 (a) Inquired about, compared or otherwise discussed the employee's wages or the

11 wages of any other employee; or

12 (b) Exercised, enjoyed, aided or encouraged any other person to exercise or enjoy
13 any right granted or protected by sections 290.610 to 290.618.

290.616. Every employer subject to sections 290.610 to 290.618 shall make and
2 preserve records that document the wages paid to employees, and shall preserve such
3 records for a period of two years.

290.618. 1. In any action in which a court or jury finds that an employer has
2 engaged in acts which violate any portion of sections 290.610 to 290.618, such court or jury
3 shall:

4 (1) Award to any affected employee or employees monetary relief, including back
5 wages in any amount equal to the difference between such employee's actual earnings and
6 what such employee would have earned but for the employer's unlawful practices, and an
7 additional amount in compensatory damages, such additional amount not to exceed twice
8 the wages awarded;

9 (2) Enjoin such employer from continuing to discriminate against affected
10 employees, and shall direct such employer to comply with the provisions of sections 290.610
11 to 290.618, and may order the employer to take such additional steps as are necessary,
12 including reinstatement or reclassification of affected workers to ensure an end to unlawful
13 discrimination;

14 (3) In addition to any judgment awarded to the plaintiffs, allow a reasonable
15 amount of attorney's fees and other costs of the action to be paid by the employer; and

16 (4) No punitive damages shall be awarded.

17 2. An action to recover the damages or other relief prescribed in subsection 1 of this
18 section may be maintained against any employer in any court of competent jurisdiction by
19 any one or more employees. Any party to such action may demand a trial by jury.

20 3. An action brought pursuant to sections 290.610 to 290.618 shall be brought
21 within two years after the date of the last event constituting the alleged violation for which
22 such action is brought. An employer's liability for back wages pursuant to subdivision (1)
23 of subsection 1 of this section shall extend only to the two years immediately prior to the
24 date that any such action is brought.

25 4. When a person files a petition the court may order the parties to the action to
26 participate in an alternative dispute resolution program pursuant to supreme court rule
27 to resolve any issues in dispute.

28 5. Any alternative dispute resolution program ordered by the court pursuant to this
29 section may be paid for by the parties in a proportion to be determined by the court, the
30 cost of which shall be reasonable and customary for the circuit in which the program is

31 **ordered, and shall:**

32 **(1) Not be binding on the parties;**

33 **(2) Not be ordered or used for contempt proceedings; and**

34 **(3) Not be used to modify a prior order of the court, except by agreement of the**
35 **parties.**