

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 167,
2 Page 3, Section 107.170, Line 63, by inserting after said section and line the following:

3
4 "290.400. 1. As used in sections 290.400 to ~~[290.450]~~ 290.440 the following words have
5 the meanings indicated unless the context clearly requires otherwise:

6 (1) "Commission", the labor and industrial relations commission of Missouri;

7 (2) "Employee", every woman or man in receipt of or entitled to compensation for labor
8 performed for any employer;

9 (3) "Employer", every person, firm, corporation, agent, manager, representative, contractor,
10 subcontractor, principal or other person having control or direction of any woman or man employed
11 at any labor, or responsible directly or indirectly for the wages of another;

12 (4) ~~["Female", a woman of eighteen years or over;~~

13 ~~———(5)] "Wage rates" or "wages", [any compensation for labor measured by time, piece, or~~
14 ~~otherwise] all compensation in any form that an employer provides to employees in payment for~~
15 ~~work done or services rendered including, but not limited to, base pay, overtime bonuses, stock~~
16 ~~options, awards, tips, or various forms of nonmonetary compensation if provided in lieu of or in~~
17 ~~addition to monetary compensation, provided that such compensation has economic value to an~~
18 ~~employee.~~

19 2. Nothing in sections 290.400 to 290.440 shall prevent an employee from exercising his or
20 her rights under any other provision of law.

21 290.410. 1. Notwithstanding any other provisions of the law, no employer shall [pay any
22 female in his employ at wage rates less than the wage rates paid to male employees in the same
23 establishment for the same quantity and quality of the same classification of work, provided that
24 nothing herein shall prohibit a variation of rates of pay for male and female employees engaged in
25 the same classification of work based upon a difference in seniority, length of service, ability, skill,
26 difference in duties or services performed, difference in the shift or time of day worked, hours of
27 work, or restrictions or prohibitions on lifting or moving objects in excess of specified weight, or
28 other reasonable differentiation, or factors other than sex, when exercised in good faith] discriminate
29 in providing compensation based on gender for equal work, the performance of which requires equal
30 skill, effort, and responsibility, and which is performed under similar working conditions.

31 2. Notwithstanding the provisions of subsection 1 of this section, it shall not be unlawful for
32 an employer to pay different wage rates to employees if such payments are made pursuant to:

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

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

35 (3) Any bona fide factor other than gender, provided that wage differentials based on
36 varying market rates for equal jobs shall not be considered differentials based on bona fide factors

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1 other than gender; or

2 (4) Bona fide regional economic differentials.

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

5 4. No employer shall discharge, take any adverse action, or otherwise retaliate in any
6 manner against any individual because such individual has:

7 (1) Opposed any act or practice made unlawful by this section; or

8 (2) Testified, assisted, or participated in any manner in an investigation, hearing, or other
9 proceeding to enforce this section.

10 5. No employer shall discharge, take any adverse action, or otherwise retaliate in any
11 manner against, coerce, intimidate, threaten, or interfere with any employee because such employee
12 either inquired about, compared, or otherwise discussed the employee's wages or the wages of
13 another employee; or exercised, enjoyed, aided, or encouraged any other person to exercise or enjoy
14 any right granted or protected by this section.

15 290.440. 1. Any employer who violates section 290.410 is liable to the [female] employee
16 affected in the amount of the wages of which the [female] employee is deprived by reason of the
17 violation and an additional amount in compensatory damages, such additional amount not to exceed
18 twice the wages awarded.

19 2. [Any female employee receiving less than the wage to which she is entitled under
20 sections 290.400 to 290.450 may recover in a civil action the balance of the wages, together with the
21 costs of suit, notwithstanding any agreement to work for a lesser wage.] Any employer who violates
22 subsection 4 or 5 of section 290.410 is liable to any individual affected in the amount of all wages
23 and benefits lost as a result of the violation and, if awarded, an additional amount of compensatory
24 damages in an amount to be determined by a judge or jury trial.

25 3. [The burden of proof shall be upon the person bringing the claim to establish that the
26 differentiation in rate of pay is based upon the factor of sex and not upon other differences or
27 factors.] In the event of a finding that an employer has violated section 290.410, a court may enjoin
28 such employer from future violations of section 290.410 and may order the employer to take such
29 additional steps as are necessary, including reclassification of affected workers to ensure an end to
30 the employer's gender-based pay practices or, if the employer has engaged in unlawful retaliation
31 prohibited by section 290.410, the court may order such relief as to make the employee whole,
32 including reinstatement.

33 4. Any employee prevailing in a civil action brought under sections 290.400 to 290.440, in
34 addition to the remedies set forth in this section, may also recover court costs and reasonable
35 attorney's fees, notwithstanding any agreement to work for a lesser wage. Any action brought under
36 sections 290.400 to 290.440 shall be commenced within two years after the alleged violation occurs
37 or the date of the reasonable discovery of such violation.

38 5. If an employee can show a deliberate pattern of violations of the provisions of sections
39 290.400 to 290.440, the court may order the employer to pay punitive damages to the employee in
40 addition to any other compensation or injunctive relief ordered.

41 [290.450. Any action based upon or arising under sections 290.400 to
42 290.450 shall be instituted in the circuit court within six months after the date of the
43 alleged violation, but in no event shall any employer be liable for any pay due under
44 sections 290.400 to 290.450 for more than thirty days prior to receipt by the
45 employer of written notice of claim thereof from the female employee.]"; and

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47 Further amend said bill by amending the title, enacting clause, and intersectional references
48 accordingly.