

105TH CONGRESS
1ST SESSION

H. R. 2023

To amend the Equal Pay Act, the Fair Labor Standards Act of 1938, and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 1997

Ms. DELAURO (for herself, Ms. NORTON, and Mr. GEPHARDT) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Equal Pay Act, the Fair Labor Standards Act of 1938, and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Paycheck Fairness
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Women have entered the workforce in
2 record numbers.

3 (2) Even in the 1990s, women earn signifi-
4 cantly lower pay than men for work on jobs that re-
5 quire equal skill, effort, and responsibility and that
6 are performed under similar working conditions.

7 (3) The existence of such pay disparities—

8 (A) depresses the wages of working fami-
9 lies who rely on the wages of all members of the
10 family to make ends meet;

11 (B) prevents the optimum utilization of
12 available labor resources;

13 (C) has been spread and perpetuated,
14 through commerce and the channels and instru-
15 mentalities of commerce, among the workers of
16 the several States;

17 (D) burdens commerce and the free flow of
18 goods in commerce;

19 (E) constitutes an unfair method of com-
20 petition in commerce;

21 (F) leads to labor disputes burdening and
22 obstructing commerce and the free flow of
23 goods in commerce; and

24 (G) interferes with the orderly and fair
25 marketing of goods in commerce.

1 (4)(A) Artificial barriers to the elimination of
2 discrimination in the payment of wages on the basis
3 of sex continue to exist more than 3 decades after
4 the enactment of the Fair Labor Standards Act of
5 1938 (29 U.S.C. 201 et seq.) and the Civil Rights
6 Act of 1964 (42 U.S.C. 2000a et seq.).

7 (B) Elimination of such barriers would have
8 positive effects, including—

9 (i) providing a solution to problems in the
10 economy created by unfair pay disparities;

11 (ii) substantially reducing the number of
12 working women earning unfairly low wages,
13 thereby reducing the dependence on public as-
14 sistance; and

15 (iii) promoting stable families by enabling
16 all family members to earn a fair rate of pay.

17 (5) Only with increased information about the
18 provisions added by the Equal Pay Act of 1963 and
19 generalized wage data, along with more effective
20 remedies, will women recognize and enforce their
21 rights to equal pay for work on jobs that require
22 equal skill, effort, and responsibility and that are
23 performed under similar working conditions.

24 (6) Certain employers have already made great
25 strides in eradicating unfair pay disparities in the

1 workplace and their achievements should be recog-
2 nized.

3 **SEC. 3. ENHANCED ENFORCEMENT OF EQUAL PAY RE-**
4 **QUIREMENTS.**

5 (a) NONRETALIATION PROVISION.—Section 15(a)(3)
6 of the Fair Labor Standards Act of 1938 (29 U.S.C.
7 215(a)(3)) is amended—

8 (1) by striking “or has” each place it appears
9 and inserting “has”; and

10 (2) by inserting before the semicolon the follow-
11 ing: “, or has inquired about, discussed, or otherwise
12 disclosed the wages of the employee or another em-
13 ployee”.

14 (b) ENHANCED PENALTIES.—Section 16(b) of such
15 Act (29 U.S.C. 216(b)) is amended—

16 (1) by inserting after the first sentence the fol-
17 lowing: “Any employer who violates section 6(d)
18 shall additionally be liable for such compensatory or
19 punitive damages as may be appropriate.”;

20 (2) in the sentence beginning “An action to”,
21 by striking “either of the preceding sentences” and
22 inserting “any of the preceding sentences of this
23 subsection”;

24 (3) in the sentence beginning “No employees
25 shall”, by striking “No employees” and inserting

1 “Except with respect to class actions brought to en-
2 force section 6(d), no employee”;

3 (4) by inserting after such sentence the follow-
4 ing: “Notwithstanding any other provision of Fed-
5 eral law, any action brought to enforce section 6(d)
6 may be maintained as a class action as provided by
7 the Federal Rules of Civil Procedure.”; and

8 (5) in the sentence beginning “The court in”—

9 (A) by striking “in such action” and in-
10 sserting “in any action brought to recover the li-
11 ability prescribed in any of the preceding sen-
12 tences of this subsection”; and

13 (B) by inserting before the period the fol-
14 lowing: “, including expert fees”.

15 (c) ACTION.—Section 16(c) of such Act (29 U.S.C.
16 216(c)) is amended—

17 (1) in the first sentence—

18 (A) by inserting “or, in the case of a viola-
19 tion of section 6(d), additional compensatory or
20 punitive damages,” before “and the agree-
21 ment”; and

22 (B) by inserting before the period the fol-
23 lowing: “, or such compensatory or punitive
24 damages, as appropriate”;

1 (2) in the second sentence, by inserting before
 2 the period the following: “and, in the case of a viola-
 3 tion of section 6(d), additional compensatory or pu-
 4 nitive damages”;

5 (3) in the third sentence, by striking “the first
 6 sentence” and inserting “the first or second sen-
 7 tence”; and

8 (4) in the last sentence, by inserting after “in
 9 the complaint” the following: “or becomes a party
 10 plaintiff in a class action brought to enforce section
 11 6(d)”.

12 **SEC. 4. COLLECTION OF PAY INFORMATION BY THE EQUAL**
 13 **EMPLOYMENT OPPORTUNITY COMMISSION.**

14 Section 705 of the Civil Rights Act of 1964 (42
 15 U.S.C. 2000e–4) is amended by adding at the end the fol-
 16 lowing new subsection:

17 “(1)(1) The Commission shall, by regulation, require
 18 each employer who has 100 or more employees for each
 19 working day in each of 20 or more calendar weeks in the
 20 current or preceding calendar year to maintain payroll
 21 records and to prepare and submit to the Commission re-
 22 ports containing information from the records. The re-
 23 ports shall contain pay information, analyzed by the race,
 24 sex, and national origin of the employees. The reports

1 shall not disclose the pay information of an employee in
2 a manner that permits the identification of the employee.

3 “(2) The third through fifth sentences of section
4 709(c) shall apply to employers, regulations, and records
5 described in paragraph (1) in the same manner and to
6 the same extent as the sentences apply to employers, regu-
7 lations, and records described in such section.”.

8 **SEC. 5. TRAINING.**

9 The Equal Employment Opportunity Commission
10 and the Office of Federal Contract Compliance Programs,
11 subject to the availability of funds appropriated under sec-
12 tion 8(b), shall provide training to Commission employees
13 and affected individuals and entities on matters involving
14 discrimination in the payment of wages.

15 **SEC. 6. RESEARCH, EDUCATION, AND OUTREACH.**

16 The Secretary of Labor shall conduct studies and
17 provide information to employers, labor organizations, and
18 the general public concerning the means available to elimi-
19 nate pay disparities between men and women, including—

20 (1) conducting and promoting research to de-
21 velop the means to correct expeditiously the condi-
22 tions leading to the pay disparities;

23 (2) publishing and otherwise making available
24 to employers, labor organizations, professional asso-
25 ciations, educational institutions, the media, and the

1 general public the findings resulting from studies
2 and other materials, relating to eliminating the pay
3 disparities;

4 (3) sponsoring and assisting State and commu-
5 nity informational and educational programs;

6 (4) providing information to employers, labor
7 organizations, professional associations, and other
8 interested persons on the means of eliminating the
9 pay disparities;

10 (5) recognizing and promoting the achievements
11 of employers, labor organizations, and professional
12 associations that have worked to eliminate the pay
13 disparities;

14 (6) convening a national summit to discuss, and
15 consider approaches for rectifying, the pay dispari-
16 ties; and

17 (7) issuing to employers voluntary pay guide-
18 lines for the relative pay ranges of a selection of
19 male- and female-dominated widely held occupations.

20 **SEC. 7. ESTABLISHMENT OF THE NATIONAL AWARD FOR**
21 **PAY EQUITY IN THE WORKPLACE.**

22 (a) IN GENERAL.—There is established the Robert
23 Reich National Award for Pay Equity in the Workplace,
24 which shall be evidenced by a medal bearing the inscrip-
25 tion “Robert Reich National Award for Pay Equity in the

1 Workplace”. The medal shall be of such design and mate-
2 rials, and bear such additional inscriptions, as the Sec-
3 retary may prescribe.

4 (b) CRITERIA FOR QUALIFICATION.—To qualify to
5 receive an award under this section a business shall—

6 (1) submit a written application to the Sec-
7 retary, at such time, in such manner, and containing
8 such information as the Secretary may require, in-
9 cluding at a minimum information that dem-
10 onstrates that the business has made substantial ef-
11 fort to eliminate pay disparities between men and
12 women, and deserves special recognition as a con-
13 sequence; and

14 (2) meet such additional requirements and
15 specifications as the Secretary determines to be ap-
16 propriate.

17 (c) MAKING AND PRESENTATION OF AWARD.—

18 (1) AWARD.—After receiving recommendations
19 from the Secretary, the President or the designated
20 representative of the President shall annually
21 present the award described in subsection (a) to
22 businesses that meet the qualifications described in
23 subsection (b).

24 (2) PRESENTATION.—The President or the des-
25 ignated representative of the President shall present

1 the award with such ceremonies as the President or
2 the designated representative of the President may
3 determine to be appropriate.

4 (3) PUBLICITY.—A business that receives an
5 award under this section may publicize the receipt of
6 the award and use the award in its advertising, if
7 the business agrees to help other United States busi-
8 nesses improve with respect to the elimination of pay
9 disparities between men and women.

10 (d) BUSINESS.—For the purposes of this section, the
11 term “business” includes—

12 (1)(A) a corporation, including a nonprofit cor-
13 poration;

14 (B) a partnership;

15 (C) a professional association;

16 (D) a labor organization; and

17 (E) a business entity similar to an entity de-
18 scribed in any of subparagraphs (A) through (D);

19 (2) an entity carrying out an education referral
20 program, a training program, such as an apprentice-
21 ship or management training program, or a similar
22 program; and

23 (3) an entity carrying out a joint program,
24 formed by a combination of any entities described in
25 paragraph (1) or (2).

1 **SEC. 8. INCREASED RESOURCES FOR ENFORCEMENT AND**
2 **EDUCATION.**

3 (a) GENERAL RESOURCES.—

4 (1) EQUAL EMPLOYMENT OPPORTUNITY COM-
5 MISSION.—There is authorized to be appropriated to
6 the Equal Employment Opportunity Commission, for
7 necessary expenses of the Commission in carrying
8 out title VII of the Civil Rights Act of 1964 (42
9 U.S.C. 2000e et seq.), title I of the Americans with
10 Disabilities Act of 1990 (42 U.S.C. 12111 et seq.),
11 the Age Discrimination in Employment Act of 1967
12 (29 U.S.C. 621 et seq.), and section 6(d) of the Fair
13 Labor Standards Act of 1938 (29 U.S.C. 206(d)),
14 \$36,000,000, in addition to sums otherwise appro-
15 priated for such expenses. Any amounts so appro-
16 priated shall remain available until expended.

17 (2) OFFICE OF FEDERAL CONTRACT COMPLI-
18 ANCE PROGRAMS.—There is authorized to be appro-
19 priated to the Office of Federal Contract Compliance
20 Programs for necessary expenses of the Office
21 \$10,000,000 in addition to sums otherwise appro-
22 priated for such expenses. Any amounts so appro-
23 priated shall remain available until expended.

24 (b) TARGETED RESOURCES.—

25 (1) EQUAL EMPLOYMENT OPPORTUNITY COM-
26 MISSION.—There is authorized to be appropriated to

1 the Equal Employment Opportunity Commission to
2 carry out section 5, \$500,000, in addition to sums
3 otherwise appropriated for providing training de-
4 scribed in such section. Any amounts so appro-
5 priated shall remain available until expended.

6 (2) OFFICE FEDERAL CONTRACT COMPLIANCE
7 PROGRAMS.—There is authorized to be appropriated
8 to the Office of Federal Contract Compliance Pro-
9 grams to carry out section 5, \$500,000, in addition
10 to sums otherwise appropriated for providing train-
11 ing described in such section. Any amounts so ap-
12 propriated shall remain available until expended.

13 (c) RESEARCH, EDUCATION, OUTREACH, AND NA-
14 TIONAL AWARD.—There is authorized to be appropriated
15 to the Secretary of Labor to carry out sections 6 and 7,
16 \$1,000,000. Any amounts so appropriated shall remain
17 available until expended.

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