

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 41

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO WAGES; PROHIBITING WAGE DISCRIMINATION BASED UPON
GENDER; PROVIDING FOR ENFORCEMENT OF THE PROHIBITION; PROVIDING
PUBLIC AND PRIVATE REMEDIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. PROHIBITION AGAINST WAGE DISCRIMINATION BASED
UPON GENDER. --

A. An employer shall not pay an employee a wage
rate that is lower than the wage rate paid to an employee of
the opposite gender in the same establishment for equal work on
the same job that requires equal skill, effort and
responsibility, and that is performed under similar working
conditions except where the payment is made pursuant to the
following:

- (1) a seniority system;

. 145186. 1

underscored material = new
[bracketed material] = delete

- 1 (2) a merit system;
- 2 (3) a system that measures earnings by
- 3 quantity or quality of production; or
- 4 (4) a differential based on a factor other
- 5 than gender.

6 B. Notwithstanding an agreement to work for a lower
7 wage, an employee receiving less than the wage to which the
8 employee is entitled may recover in a civil action from the
9 employer who violates Subsection A of this section back wages
10 and costs, including attorney fees.

11 C. A civil action to recover wages pursuant to this
12 section shall not be commenced later than two years after the
13 cause of action accrues.

14 D. If an employee recovers amounts due the employee
15 pursuant to this section and also files a complaint or brings
16 an action pursuant to 29 U.S.C. 206(d) that results in an
17 additional recovery under federal law for the same violation,
18 the employee shall return to the employer the amount recovered
19 pursuant to this section or the amount recovered under federal
20 law, whichever is less.

21 Section 2. EFFECTIVE DATE. --The effective date of the
22 provisions of this act is July 1, 2003.

underscoring material = new
[bracketed material] = delete