

ASSEMBLY BILL

No. 2054

Introduced by Assembly Member Jackson

February 15, 2002

An act to amend Section 1197.5 of the Labor Code, relating to wages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2054, as introduced, Jackson. Wages: discrimination.

Existing law prohibits employers from discriminating based on gender when paying wages to their employees, and provides various specified remedies for employees who have been discriminated against in the payment of wages.

This bill would make technical, nonsubstantive changes to existing law.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1197.5 of the Labor Code is amended to
2 read:
3 1197.5. (a) ~~No employer shall~~ *An employer may not* pay any
4 individual in the employer's employ at wage rates less than the
5 rates paid to employees of the opposite sex in the same
6 establishment for equal work on jobs the performance of which
7 requires equal skill, effort, and responsibility, and which are
8 performed under similar working conditions, except where the
9 payment is made pursuant to a seniority system, a merit system, a
10 system which measures earnings by quantity or quality of



1 production, or a differential based on any bona fide factor other
2 than sex.

3 (b) Any employer who violates subdivision (a) is liable to the
4 employee affected in the amount of the wages, and interest
5 thereon, of which the employee is deprived by reason of the
6 violation, and in an additional equal amount as liquidated
7 damages.

8 (c) The provisions of this section shall be administered and
9 enforced by the Division of Labor Standards Enforcement. If the
10 division finds that an employer has violated this section, it may
11 supervise the payment of wages and interest found to be due and
12 unpaid to employees under subdivision (a). Acceptance of
13 payment in full made by an employer and approved by the division
14 ~~shall constitute~~ *constitutes* a waiver on the part of the employee of
15 the employee's cause of action under subdivision (g).

16 (d) Every employer shall maintain records of the wages and
17 wage rates, job classifications, and other terms and conditions of
18 employment of the persons employed by the employer. All of the
19 records shall be kept on file for a period of two years.

20 (e) Any employee may file a complaint with the division that
21 the wages paid are less than the wages to which the employee is
22 entitled under subdivision (a). These complaints shall be
23 investigated as provided in subdivision (b) of Section 98.7. The
24 name of any employee who submits to the division a complaint
25 regarding an alleged violation of subdivision (a) shall be kept
26 confidential by the division until validity of the complaint is
27 established by the division, or unless the confidentiality must be
28 abridged by the division in order to investigate the complaint. The
29 name of the complaining employee shall remain confidential if the
30 complaint is withdrawn before the confidentiality is abridged by
31 the division. The division shall take all proceedings necessary to
32 enforce the payment of any sums found to be due and unpaid to
33 these employees.

34 (f) The department or division may commence and prosecute,
35 unless otherwise requested by the employee or affected group of
36 employees, a civil action on behalf of the employee and on behalf
37 of a similarly affected group of employees to recover unpaid
38 wages and liquidated damages under subdivision (a), and, in
39 addition ~~shall be~~, *is* entitled to recover costs of suit. The consent
40 of any employee to the bringing of any action ~~shall constitute~~



1 *constitutes* a waiver on the part of the employee of the employee's
2 cause of action under subdivision (g) unless the action is dismissed
3 without prejudice by the department or the division, except that the
4 employee may intervene in the suit or may initiate independent
5 action if the suit has not been determined within 180 days from the
6 date of the filing of the complaint.

7 (g) Any employee receiving less than the wage to which the
8 employee is entitled under this section may recover in a civil action
9 the balance of the wages, including interest thereon, and an equal
10 amount as liquidated damages, together with the costs of the suit
11 and reasonable attorney's fees, notwithstanding any agreement to
12 work for a lesser wage.

13 (h) A civil action to recover wages under subdivision (a) may
14 be commenced no later than two years after the cause of action
15 occurs, except that a cause of action arising out of a willful
16 violation may be commenced no later than three years after the
17 cause of action occurs.

18 (i) If an employee recovers amounts due the employee under
19 subdivision (b), and also files a complaint or brings an action under
20 subdivision (d) of Section 206 of Title 29 of the United States Code
21 which results in an additional recovery under federal law for the
22 same violation, the employee shall return to the employer the
23 amounts recovered under subdivision (b), or the amounts
24 recovered under federal law, whichever is less.

