

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 1729, 1621 & 1436, Page 6, Section
2 290.095, Line 15, by inserting immediately after said section and line the following:

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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]~~
29 discriminate in providing compensation based on gender for equal work, the performance of which
30 requires equal skill, effort, and responsibility, and which is performed under similar working
31 conditions.

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

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

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

36 (3) Any bona fide factor other than gender, provided that wage differentials based on

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1 varying market rates for equal jobs shall not be considered differentials based on bona fide factors
 2 other than gender; or

3 (4) Bona fide regional economic differentials.

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

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

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

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

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

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

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

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

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

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

42
 43 Further amend said bill, Page 22, Section 290.340, Line 7, by inserting immediately after said
 44 section and line the following:

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 46 "[290.450. Any action based upon or arising under sections 290.400 to 290.450 shall be
 47 instituted in the circuit court within six months after the date of the alleged violation, but in no event
 48 shall any employer be liable for any pay due under sections 290.400 to 290.450 for more than thirty

1 days prior to receipt by the employer of written notice of claim thereof from the female
2 employee.]" ; and

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