



General Assembly

January Session, 2019

**Committee Bill No. 765**

LCO No. 6187



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:  
(LAB)

***AN ACT ENSURING FAIR AND EQUAL PAY FOR EQUAL WORK.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-76 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) The Labor Commissioner shall carry out the provisions of section  
4 31-75, as amended by this act, either upon complaint or upon the  
5 commissioner's own motion. For this purpose, the commissioner, or  
6 the commissioner's authorized representative, may enter places of  
7 employment, inspect payrolls, investigate work and operations on  
8 which employees are engaged, question employees and take such  
9 action as is reasonably necessary to determine compliance with section  
10 31-75, as amended by this act. At the request of any employee who has  
11 received less than the wage to which the employee is entitled under  
12 section 31-75, as amended by this act, the commissioner may take an  
13 assignment of such wage claim in trust and may bring any legal action  
14 necessary to collect such claim. In any action brought by the  
15 commissioner, the employer who violates the provisions of section 31-  
16 75, as amended by this act, may be found liable to the employee or the

17 employees affected for the difference between the amount of wages  
18 paid and the maximum wage paid any other employee for equal work,  
19 compensatory damages and, if the violation is found to be intentional  
20 or committed with reckless indifference to the employee's or  
21 employees' rights under section 31-75, as amended by this act, punitive  
22 damages. Any agreement to work for less than the wage to which such  
23 employee is entitled under section 31-75, as amended by this act, shall  
24 not be a defense to such action.

25 (b) Unless and except to the extent that a wage claim has been  
26 assigned to the commissioner pursuant to subsection (a) of this section,  
27 an action to redress a violation of section 31-75, as amended by this act,  
28 may be maintained in any court of competent jurisdiction by any one  
29 or more employees. Any agreement to work for less than the wage to  
30 which such employee is entitled under section 31-75, as amended by  
31 this act, shall not be a defense to such action. An employer who  
32 violates section 31-75, as amended by this act, may be found liable for  
33 the difference between the amount of wages paid and the maximum  
34 wage paid any other employee for equal work, compensatory  
35 damages, attorney's fees and costs, punitive damages if the violation is  
36 found to be intentional or committed with reckless indifference to the  
37 employee's or employees' rights under section 31-75, as amended by  
38 this act, and such legal and equitable relief as the court deems just and  
39 proper.

40 (c) An employer may file a motion in any court of competent  
41 jurisdiction to disallow an award of compensatory and punitive  
42 damages. The court shall grant the motion if the employer  
43 demonstrates, by a preponderance of the evidence, that the employer  
44 (1) completed, within three years before the date that the employee  
45 filed such action, an equal pay analysis of the employer's pay practices  
46 in good faith that was reasonable in detail and scope in light of the size  
47 of the employer; and (2) eliminated the wage differentials for the  
48 plaintiff. If the court grants the motion, the court may award back pay  
49 only for the two-year period immediately preceding the filing of the

50 action and may award costs and reasonable attorney's fees, but may  
51 not award compensatory or punitive damages. Evidence of an equal  
52 pay analysis undertaken in accordance with this subsection shall be  
53 inadmissible in any other proceeding.

54 [(c)] (d) For purposes of this section, discrimination in compensation  
55 under section 31-75, as amended by this act, occurs when a  
56 discriminatory compensation decision or practice is adopted, when an  
57 individual is subject to a discriminatory compensation decision or  
58 practice, or when an individual is affected by application of a  
59 discriminatory compensation decision or practice, and shall be deemed  
60 to be a continuing violation each time wages, benefits or other  
61 compensation is paid, resulting in whole or in part from such a  
62 decision or practice.

63 [(d)] (e) No action shall be brought or any prosecution instituted for  
64 any violation of section 31-75, as amended by this act, except within  
65 two years after such violation or any act described in subsection [(c)]  
66 (d) of this section, or within three years if such violation is intentional  
67 or committed with reckless indifference.

68 Sec. 2. Subsection (b) of section 31-75 of the general statutes is  
69 repealed and the following is substituted in lieu thereof (*Effective*  
70 *October 1, 2019*):

71 (b) If an employee can demonstrate that his or her employer  
72 discriminates on the basis of sex by paying wages to employees at the  
73 employer's business at a rate less than the rate at which the employer  
74 pays wages to employees of the opposite sex at such business for equal  
75 work on a job, the performance of which requires equal skill, effort and  
76 responsibility, and which are performed under similar working  
77 conditions, such employer must demonstrate that such differential in  
78 pay is made pursuant to (1) a seniority system, provided time spent on  
79 leave due to a pregnancy-related condition or protected family and  
80 medical leave shall not reduce seniority; (2) a merit system; (3) a  
81 system which measures earnings by quantity or quality of production;

82 or (4) a differential system based upon a bona fide factor other than  
83 sex, such as education, training or experience. Said bona fide factor  
84 defense shall apply only if the employer demonstrates that such factor  
85 (A) is not based upon or derived from a sex-based differential in  
86 compensation, and (B) is job-related and consistent with business  
87 necessity. Such defense shall not exist where the employee  
88 demonstrates that an alternative employment practice exists that  
89 would serve the same business purpose without producing such  
90 differential and that the employer has refused to adopt such  
91 alternative practice.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	31-76
Sec. 2	<i>October 1, 2019</i>	31-75(b)

**LAB**      *Joint Favorable*