

HB331 INTRODUCED



1 JOUONY-1
2 By Representatives Clarke, Whitt
3 RFD: Commerce and Small Business
4 First Read: 18-Apr-23
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SYNOPSIS:

Under existing law, an employer may not refuse to interview, hire, promote, or employ an applicant for employment, or retaliate against an applicant for employment because the applicant does not provide wage history.

This bill would prohibit an employer from requesting the wage history of a prospective employee except under certain circumstances.

A BILL
TO BE ENTITLED
AN ACT

Relating to employment, to amend Section 25-1-30, Code of Alabama 1975, to prohibit an employer from requesting the wage history of a prospective employee except under certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 25-1-30, Code of Alabama 1975, is amended to read as follows:

"§25-1-30

(a) This section shall be known as the Clarke-Figures Equal Pay Act.



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29 (b) An employer, including the state or any of its
30 political subdivisions, including public bodies, may not pay
31 any of its employees at wage rates less than the rates paid to
32 employees of another sex or race for equal work within the
33 same establishment on jobs the performance of which requires
34 equal skill, effort, education, experience, and
35 responsibility, and performance under similar working
36 conditions, except where the payment is made pursuant to any
37 of the following:

38 (1) A seniority system.

39 (2) A merit system.

40 (3) A system that measures earnings by quantity or
41 quality of production.

42 (4) A differential based on any factor other than sex
43 or race.

44 (c) ~~(1) An No~~ employer shall ~~not refuse to interview,~~
45 ~~hire, promote, or employ an applicant for employment, or~~
46 ~~retaliate against an applicant for employment because the~~
47 ~~applicant does not provide wage history~~do any of the
48 following:

49 a. Seek the wage history of a prospective employee.

50 b. Rely on the wage history of a prospective employee
51 in considering the prospective employee for employment.

52 c. Rely on the wage history of a prospective employee
53 in determining the wages the prospective employee is to be
54 paid upon hire, except as provided in subdivision (2).

55 d. Refuse to interview, hire, employ, or promote a
56 prospective employee or otherwise retaliate against a



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57 prospective employee for not providing wage history.

58 (2) a. Nothing in this subsection shall be construed to
59 prevent a prospective employee from voluntarily disclosing
60 wage history to an employer, including for the purpose of
61 negotiating wages after an initial offer of employment from
62 the employer with an offer of compensation.

63 b. If wage history is voluntarily provided by a
64 prospective employee without prompting from the employer, the
65 employer may do either of the following:

66 1. Rely on wage history to support a wage higher than
67 the employer's initial offer of compensation only to the
68 extent that the higher wage does not create an unlawful pay
69 differential in violation of subdivision (b) or federal law.

70 2. Seek to confirm the wage history of the prospective
71 employee to support a wage higher than the wage offered by the
72 employer.

73 (3) Wage history means the wages paid to an applicant
74 for employment by the applicant's current or former employer.

75 (d) Any employer who violates subsection (b) or (c) is
76 liable to the employee affected in an amount equal to the
77 wages, and interest thereon, of which the employee is deprived
78 by reason of the violation.

79 (e) An employer shall adopt the rules for record
80 keeping established by the United States Department of Labor
81 for the Fair Labor Standards Act, 29 C.F.R. Part 516.

82 (f) An employee who files a claim against his or her
83 employer for a violation of subsection (b) must plead with
84 particularity in demonstrating both of the following:



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85 (1) The employee was paid less than someone for equal
86 work despite possessing equal skill, effort, education,
87 experience, and responsibility.

88 (2) The applicable wage schedule at issue was or is not
89 correlated to any conditions permissible under subsection (b).

90 (g) If an employee recovers an amount under subsection
91 (d), and also files a complaint or brings an action pursuant
92 to federal law which results in an additional recovery under
93 federal law for the same violation, the employee shall return
94 to the employer the amount recovered under subsection (d), or
95 the amount recovered under federal law, whichever is less.

96 (h) A civil action brought pursuant to subsection (d)
97 may be commenced no later than two years after the act of
98 discrimination giving rise to a cause of action."

99 Section 2. This act shall become effective on the first
100 day of the third month following its passage and approval by
101 the Governor, or its otherwise becoming law.