

Appendix A

State Activity on Equal Pay Laws

State	Status	Description/New Features
California	<p><u>Enacted</u> S. 358, 2015-2016 Reg. Sess. (Cal. 2015) (amending Cal. Lab. Code § 1197.5)</p>	<p>1. Prohibits employers from retaliating against employees for discussing their own and others' wages.</p> <p>2. Eliminates the "same establishment" requirement in the law's prohibition on sex based pay discrimination. Equal pay for "substantially similar work" rather than "equal work."</p> <p>3. Tightens employer defenses to pay discrimination claims by requiring stated justifications be applied reasonably and account for the entire wage differential, and by narrowing the "bona fide factor other than sex" defense.</p>
	<p><u>Enacted</u> A.B. 1676, 2015-2016 Reg. Sess. (Cal. 2016) (to amend Cal. Lab. Code § 1197.5)</p>	<p>1. Provides that "[p]rior salary shall not, by itself, justify any disparity in compensation."</p>
	<p><u>Enacted</u> S.B. 1063, 2015-2016 Reg. Sess. (Cal. 2016) (to amend Cal. Lab. Code § 1197.5)</p>	<p>1. Prohibits an employer from paying any of its employees at wage rates less than the rates paid to employees of another race or ethnicity for substantially similar work</p>
	<p><u>Vetoed</u> A.B. 1017, 2015-2016 Reg. Sess. (Cal. 2015)</p>	<p>1. Prohibited employers from seeking salary history information from employees.</p>

Connecticut	<u>Enacted</u> H.B. 6850, 2015 Gen. Assemb. (Conn. 2015)	1. Allows employees to discuss wages. Prohibits employers from requiring employees to sign waivers or other documents that deny them to right to discuss wages. Prohibits employers from retaliating against employees for discussing wages.
Delaware	<u>Enacted</u> H.B. 3, 148th Gen. Assemb. (Del. 2015) (amending Del. Code tit. 29, § 6962 (2015))	1. As a condition of public works contracting, employers must not discriminate against any applicant or employee, including by engaging in sex-based pay discrimination. Requires contractors to ensure that employees receive equal pay for equal work, without regard to sex.
Florida	<u>Failed</u> S.B. 0098, 2015 Reg. Sess. (Fla. 2015)	1. Would have empowered the state’s Department of Economic Opportunity and the Commission on Human Relations with the authority to take more of a proactive role in enforcing equal pay in the state—such as ensuring that state contractors are in compliance with antidiscrimination and affirmative action requirements; proactively investigating and prosecuting equal pay violations; collecting and disseminating information about women’s pay and rights in the workplace.
Illinois	<u>Enacted</u> H.B. 3619, 99th Gen. Assemb. (Ill. 2015) (amending 820 Ill. Comp. Stat. 112)	1. Expands the state’s previous Equal Pay Act’s coverage from employers with four or more employees to all employers in the state. 2. Increases civil penalties that employers may incur for violations under the law.

<p>Indiana</p>	<p><u>Proposed</u> H.B. 1172, 119th Gen. Assemb. 1st Reg. Sess. (Ind. 2015)</p> <p><u>Proposed</u> S.B. 44, 119th Gen. Assemb., 1st Reg. Sess. (Ind. 2015)</p>	<p>1. Would establish an equal pay certification for businesses contracting with state agencies and would establish a Women and High Wage, High Demand, Nontraditional Occupation grant program.</p> <p>1. Includes provisions to strengthen the state’s existing equal pay law and establish that the state’s Civil Rights Commission has jurisdiction over equal pay complaints.</p>
<p>Louisiana</p>	<p><u>Proposed</u> S.B. 219, 2015 Reg. Sess. (La. 2015)</p>	<p>1. Would expand equal pay protections from covering just state employers to all public and private employers who employ a certain number of individuals.</p> <p>2. Would prohibit sex-based pay discrimination in jobs with the same or substantially similar work that require equal “or comparable skill, effort, and responsibility, and involve the same or comparable working conditions.” Would require that the “bona fide factor other than sex” defense to pay discrimination claims be consistent with business necessity.</p>
<p>Maryland</p>	<p><u>Enacted</u> S.B. 481, 2016 Reg. Sess. (Md. 2016) (cross-filed with H.B. 1003)</p>	<p>1. Altering a specified provision of law concerning equal pay for equal work to prohibit discrimination on the basis of gender identity.</p> <p>2. Prohibiting an employer from discriminating between employees in any occupation by providing less favorable employment opportunities based on sex or gender identity.</p> <p>3. Prohibiting an employer from forbidding employee from inquiring about, discussing, or disclosing wages of specified employees or requesting that the employer provide a reason why the employee's wages are a condition of employment.</p>

	<p><u>Enacted</u> H.B. 1004, 2016 Reg. Sess. (Md. 2016)</p> <p><u>Withdrawn</u> S.B. 424, 2015 Reg. Sess. (Md. 2015) (cross-filed with H.B. 1051)</p>	<ol style="list-style-type: none"> 1. Establishing the Equal Pay Commission in the Division of Labor and Industry. 2. Requiring the Commission to submit an annual report to the Governor and specified committees of the General Assembly. <ol style="list-style-type: none"> 1. Would have prohibited employers from providing less favorable employment opportunities based on sex or gender identity. 2. Would have tightened the “bona fide factor other than sex” employer defense by requiring the factor be job related, consistent with business necessity, and not based on or derived from a gender-based differential in compensation. 3. Would have prohibited employers from taking any adverse employment actions against employees for inquiring about, disclosing, or discussing wages, or asking the employer for a reason for the employee’s wages, with limited exceptions.
Massachusetts	<p><u>Enacted</u> S. 2107, 189th Gen. Court, Reg. Sess. (Mass. 2016)</p>	<ol style="list-style-type: none"> 1. Clarifies that jobs are comparable for purposes of the pay discrimination prohibition based solely on substantially similar skill, effort, responsibility, and similar working conditions. 2. Prohibits employers from taking actions against employees who discuss, wages, and requires employers to post notices to this effect to increase employees’ awareness of their rights. 3. Encourages employers to conduct self-evaluations of their pay practices. 4. Prohibits employers from seeking salary history information about a potential employee to screen job applicants or as a condition

		of being interviewed or continuing to be considered for an offer of employment.
Michigan	<u>Proposed</u> H.B. 4485, 2015-2016 Reg. Sess. (Mich. 2015); H.B. 4488, 2015-2016 Reg. Sess. (Mich. 2015); H.B. 4489, 2015-2016 Reg. Sess. (Mich. 2015)	<ol style="list-style-type: none"> 1. Would create an award for equal pay in the workplace. 2. Would require companies contracting with the state to submit an equal pay certificate to certify their compliance with equal pay laws, where their contract is for more than \$500,000 and the company employs 40 or more employees; require employers with 50 or more employees to post information in a conspicuous place at a work site about workers' rights under the equal pay laws.
Minnesota	<u>Enacted</u> Minn Stat. Ann. § 363A.44 (2014)	1. Requires prospective contractors executing a contract for more than \$500,000 who have 40 or more employees to certify with state and metropolitan agencies in Minnesota that: (a) they are in compliance with the state and federal equal pay laws; (b) the average compensation for its female employees is not consistently below the average compensation for its male employees; (c) they do not restrict employees of one sex to certain job classifications; (d) they make retention and promotion decisions without regard to sex; and (e) wage and benefit disparities are corrected when identified to ensure compliance with the laws.
Montana	Exec. Order No. 12-2016 (2016)	1. Directing Department of Administration to incorporate criteria into the state procurement process governing requests for proposal to incentivize contractors to engage in best practices to promote wage transparency.
New Hampshire	<u>Enacted</u> N.H. Rev. Stat. Ann. § 275:41-b (2015)	1. Prohibiting retaliation for pay discussions. Prohibits employers from requiring employees to sign waivers or other documents that deny them to right to discuss wages.

New York	<p><u>Enacted</u> S. 1, 2015-2016 Gen. Assemb. (N.Y. 2015) (amending N.Y. Lab. L. §§ 194, 198 (Consol. 2015))</p>	<p>1. Prohibits employers from taking action against employees for discussing wages. Employers are, however, allowed to institute reasonable workplace and workday limitations on wage discussions. Employees who have access to wage information as a part of their essential job functions (e.g. HR professionals), are not covered by the law’s protections unless their disclosure is in response to a complaint or charge, investigation, proceeding, hearing or action.</p> <p>2. Expands the definition of “same establishment” to include all of an employer’s workplaces located in a geographical region no larger than a county, to ensure that employers are held responsible for pay discrimination that takes place across worksites.</p> <p>3. Requires that a “factor other than sex” relied on by an employer: (i) not be derived from a sex-based differential in compensation, and (ii) be job-related with respect to the position in question and consistent with business necessity.</p>
New Jersey	<p><u>Pending</u> S. 2524, 217th Leg., 2016-2017 Reg. Sess. (N.J. 2016)</p> <p><u>Pending</u> A. 4119, 217th Leg., 2016-2017 Reg. Sess. (N.J. 2016) and S. 2636, 217th Leg., 2016-2017 Reg. Sess. (N.J. 2016)</p>	<p>1. Would require bidders on public state contracts to disclose and Department of Treasury to publish certain gender wage information.</p> <p>1. Would prohibit employer from seeking the wage or salary history of a prospective employee, or require, as a condition of employment, that an employee disclose information about either the employee’s own wages, including benefits or other compensation, or about any other employee’s wages. Also would prohibit any employer from requiring that a prospective employee’s prior wage or salary history meet any minimum or maximum criteria as a condition of being interviewed, or as a condition of continuing to be considered for an offer of employment. Includes an anti-retaliation provision.</p>

North Dakota	<p><u>Enacted</u> H.B. 1257, 64th Leg. Assemb., 2015 Reg. Sess. (N.D. 2015) (amending N.DCent. Code §§ 34-06.1-03, 34-06.1-05- 34-06.1-07 (2015))</p>	<p>1. Requires employers to maintain records of wage rate, job classifications, and other terms and conditions of employment. Requires the employer to preserve these records for the length of individual’s employment plus two years. Employers must also report on these records whenever the state inquires.</p>
Ohio	<p><u>Proposed</u> H.B. 330, 131st Gen. Assemb. Reg. Sess. (Ohio 2015)</p>	<p>1. Would require state and local governments to evaluate employee pay for comparable work across job categories and eliminate occupational segregation in companies under public contracts.</p>
Oregon	<p><u>Enacted</u> H.B. 2007, 78th Leg., 2015 Reg. Sess. (Or. 2015) on the website: https://olis.leg.state.or.us/liz/2015R1/Masures/Overview/HB2007</p> <p><u>Enacted</u> S.B. 491, 76th Leg.Assemb., 2015 Reg. Sess. (Or. 2011) (amending Or. Rev. Stat. §§ 86.745, 86.755, 90.300, 105.124, 105.126 (2011))</p>	<p>1. Makes it unlawful for employers to discriminate or retaliate against employees for engaging in pay discussions. This includes employee’s right to have wage discussions. These protections do not apply to employees with access to wage information as a part of their job functions unless part of a disclosure in response to a charge, complaint, etc.</p> <p>1. Requires prospective state contractors to certify that they understand the state’s anti-discrimination laws, including laws that prohibit discrimination in compensation or wage payments.</p>
Pennsylvania	<p><u>Pending</u> H.B. 1160, 2015-2016 Reg. Sess. (Pa. 2015) (amending Pub. L. No. 1913, No. 694)</p> <p><u>Pending</u> H.B. 2536, 2015-2016 Reg. Sess. (Pa. 2015) (amending Pub. L. No. 1913, No.</p>	<p>1. Would only allowing an employer to invoke the “bona fide actor other than sex” defense if the factor is not based upon or derived from a sex-based differential in compensation, is job-related, and is consistent with business necessity.</p> <p>1. Would provide definition of “comparable work” to prohibit pay discrimination for substantially similar work on jobs that require “equal skill, effort, education, and responsibility” that are</p>

	694)	<p>“performed under similar working conditions” and expand available defenses to include exceptions for geographic location, education, training, experience, and travel.</p> <p>2. Would make it unlawful for employers to discriminate or retaliate against employees for engaging in pay discussions.</p> <p>3. Would prohibit employers from screening job applicants based on prior compensation.</p>
Rhode Island	<p><u>Enacted</u> Raimondo Launches Pay Equity Tip Line, Website, RI.gov (Feb. 10, 2015), http://www.ri.gov/press/view/24002</p>	<p>1. Rhode Island launched the RI Pay Equity Tip Line, “a telephone line allowing women and men to report employers who violate the Rhode Island law that bans gender-based wage discrimination.” Operated by the state Department of Labor and Training. Employees can file a complaint on the Department’s website.</p>
South Carolina	<p><u>Proposed</u> H. 3253, 121st Gen. Assemb., 2015-2016 Reg. Sess. (S.C. 2015)</p>	<p>1. Would prohibit pay discrimination for substantially similar work on jobs that require “equal skill, effort, education, and responsibility and that are performed under similar working conditions, including time worked in the position.”</p>
Washington	<p><u>Proposed</u> H.B. 1646, 2015 3d Spec. Sess. (Wash. 2015); reintroduced 2016 1st Spec. Sess.</p>	<p>1. Would tackle occupational segregation by prohibiting discrimination in employment opportunities, defined in the bill as “assigning or directing the employee into a less favorable career track or position based on gender,” and lists several factors to be considered when making this determination.</p> <p>2. Would tighten the employer defenses to pay discrimination by removing the “factor other than sex” defense altogether, and replace it with “a bona fide job-related factor or factors, including education, training or experience, that is not based on gender.”</p> <p>3. Would protect workers from retaliation who inquire about, disclose, compare, or discuss their pay, with the exception that an</p>

		employer may prohibit a human resources manager from disclosing the wages of other employees unless doing so is required by law, and grants employees a cause of action if they have been wronged under this provision.
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