

Alabama Legislature Approves Equal Pay Law; Law Awaits Governor Signature

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Yesterday, Alabama's Governor, Kay Ivey, signed a new law that would prohibit employers from paying less for the same work on the basis of gender or race. After both the House and the Senate approved the bill, it was sent back with an executive amendment from Governor Ivey on May 30, 2019. Upon approval of that amendment by the Alabama House and Senate, the law just received the necessary executive signature for enactment. With the passage of this law, titled the Clarke-Figures Equal Pay Act, only Mississippi remains without any state equal pay legislation in place.

Employers should be aware that the new law allows for differences in pay for the same work when based on reasons such as seniority or a merit system. Further, such differences may be supported by any system that measures earnings by the quantity or quality of production or a differential that is "based on any factor other than sex or race."

Any employee filing a claim for unequal pay against his or her employer bears the burden of pleading with particularity that (1) the employee was paid less for the same work despite possessing equal skill, effort, education, experience and responsibility, and (2) the applicable wage schedule does not correlate to any conditions permissible under the Act.

The Clarke Figures Equal Pay Act also mandates that employers may not refuse to interview, hire, promote or employ any applicant or retaliate against any applicant because that applicant does not provide a wage history.

Any violations of either the unequal pay subsection or the mandate preventing actions based on a failure to provide a wage history would require the employer to pay the employee all monies owed, plus interest. Employees will have two years from the alleged act of discrimination to file a lawsuit.

The new law also requires employers to adopt the rules for record keeping established under the Fair Labor Standards Act. The Clarke-Figures Equal Pay Act will take effect September 1, 2019.

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