

**Adopted  
AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 770**

**BY: Representative Cockerham**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

11        **SECTION 1.** The provisions of this act shall be known and may  
12 be cited as the "Mississippi Equal Pay for Equal Work Act".

13        **SECTION 2.** For the purposes of this act, the following words  
14 and phrases shall have the meanings as defined in this section  
15 unless the context clearly indicates otherwise:

16               (a) "Employee" means any individual who is employed to  
17 work forty (40) or more hours a week and who is employed by an  
18 employer, including individuals employed by the state or any of  
19 its political subdivisions or instrumentalities of subdivisions.



20 (b) "Employer" means any person who employs five (5) or  
21 more employees.

22 (c) "Wage" means and includes all compensation paid by  
23 an employer or his or her agent for the performance of service by  
24 an employee, including the cash value of all compensation paid in  
25 any medium other than cash.

26 (d) "Rate" with reference to wages means the basis of  
27 compensation for services by an employee for an employer and  
28 includes compensation based on time spent in the performance of  
29 such services, on the number of operations accomplished, or on the  
30 quality produced or handled.

31 (e) "Unpaid wages" means the difference between the  
32 wages actually paid to an employee and the wages required to be  
33 paid to an employee as provided in this act.

34 (f) "Skill" means and shall be measured by factors such  
35 as experience, ability, education and training that are required  
36 to perform a job.

37 (g) "Effort" means the amount of physical or mental  
38 exertion needed to perform a job.

39 (h) "Responsibility" means the degree of accountability  
40 required to perform the job.

41 (i) "Working Conditions" means and includes the  
42 following two (2) factors:

43 (i) The physical surroundings of a job including,  
44 but not limited to, temperature, fumes and ventilation; and



45 (ii) The hazards of the job.

46 **SECTION 3.** (1) No employer may pay an employee a wage at a  
47 rate less than the rate at which an employee of the opposite sex  
48 in the same establishment is paid for equal work on a job, the  
49 performance of which requires equal skill, education, effort and  
50 responsibility, and which is performed under similar working  
51 conditions, except where payment is made pursuant to differential  
52 based on:

53 (a) A seniority system;

54 (b) A merit system;

55 (c) A system which measures earnings by quantity or  
56 quality of production; or

57 (d) Any other factor other than sex. "Any other factor  
58 other than sex" shall include, but not be limited to, the  
59 following factors:

60 (i) The salary history or continuity of employment  
61 history demonstrated by the employee as compared to employees of  
62 the opposite sex in the same establishment;

63 (ii) The extent to which there was competition  
64 with other employers for the employee's services as compared to  
65 employees of the opposite sex in the same establishment; and

66 (iii) The extent to which the employee attempted  
67 to negotiate for higher wages as compared to employees of the  
68 opposite sex in the same establishment.



69           (2)   (a)   The provisions of this act may be enforced by  
70 private action in a civil suit in the circuit court in the county  
71 in Mississippi where the cause of action occurred.

72           (b)   If an employer is found to have violated the  
73 provisions of subsection (1) of this section, the employee shall  
74 be awarded reasonable remedies, which may include attorney's fees,  
75 prejudgment interest, back pay, liquidated damages and one hundred  
76 percent (100%) of the difference of unpaid wages.

77           (3)   An employer who is paying a wage differential in  
78 violation of this act shall not, in order to comply with this act,  
79 reduce the wage rate of any employee.

80           (4)   No employer may discharge, discriminate or in any way  
81 retaliate against any employee by reason of any action taken by  
82 the employee to invoke or assist in any manner the enforcement of  
83 this act.

84           **SECTION 4.** (1) A civil action brought under this act may be  
85 commenced no later than two (2) years from the day the employee  
86 knew or should have known his or her employer was in violation of  
87 this act.

88           (2)   If an employee brings a claim under the Equal Pay Act of  
89 1963, a separate action may not be maintained under this act. If  
90 an employee brings a claim under this act, then later initiates a  
91 claim under the Equal Pay Act of 1963, the action brought under  
92 this act shall be dismissed with prejudice. An employee who seeks



93 relief under this act must first waive any right to relief under  
94 the Equal Pay Act of 1963.

95 (3) For any action under this act, published precedents of  
96 the United States Supreme Court, the United States Court of  
97 Appeals for the Fifth Circuit and federal district courts  
98 embracing the circuit court in which any action under this act is  
99 pending, deciding cases under the Equal Pay Act of 1963, after  
100 which this act is patterned, shall be considered mandatory  
101 authority and shall be followed by the circuit court in which the  
102 action is pending, until there is a contrary ruling interpreting  
103 this act by the Mississippi Supreme Court or the Mississippi Court  
104 of Appeals.

105 **SECTION 5.** This act shall take effect and be in force from  
106 and after July 1, 2022.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE MISSISSIPPI EQUAL PAY ACT; TO PROVIDE  
2 DEFINITIONS FOR "EMPLOYEE", "EMPLOYER", "WAGE", "RATE", AND  
3 "UNPAID WAGES"; TO PROVIDE THAT NO EMPLOYER SHALL PAY AN EMPLOYEE  
4 A WAGE AT A RATE LESS THAN THE RATE AT WHICH AN EMPLOYEE OF THE  
5 OPPOSITE SEX IN THE SAME ESTABLISHMENT IS PAID FOR EQUAL WORK ON A  
6 JOB, THE PERFORMANCE OF WHICH REQUIRES EQUAL SKILL, EFFORT AND  
7 RESPONSIBILITY, AND WHICH IS PERFORMED UNDER SIMILAR WORKING  
8 CONDITIONS; TO PROVIDE REMEDIES; TO PROVIDE THE TIME IN WHICH A  
9 CIVIL ACTION MUST BE FILED; AND FOR RELATED PURPOSES.

