

By: Representatives Cockerham, Gunn, Miles, Karriem, Arnold, Gibbs (72nd), Bailey, McGee, Stamps, Mickens, Paden, Harness, Foster, Byrd

To: Judiciary A

HOUSE BILL NO. 770
(As Sent to Governor)

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.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

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 pursuant to the
72 Mississippi Rules of Civil Procedure.

73 (b) If an employer is found to have violated the
74 provisions of subsection (1) of this section, the employee shall
75 be awarded reasonable attorney's fees, prejudgment interest, back
76 pay and costs of the action.

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) (a) For any action under this act, published precedents
96 of 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 (b) If any section, paragraph, sentence, clause, phrase
106 or any part of this act passed is declared to be unconstitutional
107 or void, or if for any reason is declared to be invalid or of no
108 effect, the remaining sections, paragraphs, sentences, clauses,
109 phrases or parts thereof shall be in no manner affected thereby
110 but shall remain in full force and effect.

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

