

117TH CONGRESS
1ST SESSION

H. R. 2242

To amend the Fair Labor Standards Act of 1938 to prohibit certain practices by employers relating to restrictions on discussion of employees' and prospective employees' salary and benefit history, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2021

Ms. NORTON introduced the following bill; which was referred to the
Committee on Education and Labor

A BILL

To amend the Fair Labor Standards Act of 1938 to prohibit certain practices by employers relating to restrictions on discussion of employees' and prospective employees' salary and benefit history, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pay Equity for All
5 Act of 2021”.

1 **SEC. 2. PROHIBITIONS RELATING TO PROSPECTIVE EM-**
2 **PLOYEES' SALARY AND BENEFIT HISTORY.**

3 (a) IN GENERAL.—The Fair Labor Standards Act of
4 1938 (29 U.S.C. 201 et seq.) is amended by inserting
5 after section 7 the following new section:

6 **“SEC. 8. REQUIREMENTS AND PROHIBITIONS RELATING TO**
7 **WAGE, SALARY, AND BENEFIT HISTORY.**

8 “(a) IN GENERAL.—It shall be an unlawful practice
9 for an employer to—

10 “(1) rely on the wage history of a prospective
11 employee in considering the prospective employee for
12 employment, including requiring that a prospective
13 employee’s prior wages satisfy minimum or max-
14 imum criteria as a condition of being considered for
15 employment;

16 “(2) rely on the wage history of a prospective
17 employee in determining the wages for such prospec-
18 tive employee, except that an employer may rely on
19 wage history if it is voluntarily provided by a pro-
20 spective employee, after the employer makes an offer
21 of employment with an offer of compensation to the
22 prospective employee, to support a wage higher than
23 the wage offered by the employer;

24 “(3) seek from a prospective employee or any
25 current or former employer the wage history of the
26 prospective employee, except that an employer may

1 seek to confirm prior wage information only after an
2 offer of employment with compensation has been
3 made to the prospective employee and the prospec-
4 tive employee responds to the offer by providing
5 prior wage information to support a wage higher
6 than that offered by the employer; or

7 “(4) discharge or in any other manner retaliate
8 against any employee or prospective employee be-
9 cause the employee or prospective employee—

10 “(A) opposed any act or practice made un-
11 lawful by this section; or

12 “(B) took an action for which discrimina-
13 tion is forbidden under section 15(a)(3).

14 “(b) DEFINITION.—In this section, the term ‘wage
15 history’ means the wages paid to the prospective employee
16 by the prospective employee’s current employer or previous
17 employer.”.

18 (b) PENALTIES.—Section 16 of such Act (29 U.S.C.
19 216) is amended by adding at the end the following new
20 subsection:

21 “(f)(1) Any person who violates the provisions of sec-
22 tion 8 shall—

23 “(A) be subject to a civil penalty of \$5,000 for
24 a first offense, increased by an additional \$1,000 for
25 each subsequent offense, not to exceed \$10,000; and

1 “(B) be liable to each employee or prospective
2 employee who was the subject of the violation for
3 special damages not to exceed \$10,000 plus attor-
4 neys’ fees, and shall be subject to such injunctive re-
5 lief as may be appropriate.

6 “(2) An action to recover the liability described in
7 paragraph (1)(B) may be maintained against any em-
8 ployer (including a public agency) in any Federal or State
9 court of competent jurisdiction by any one or more em-
10 ployees or prospective employees for and on behalf of—

11 “(A) the employees or prospective employees;
12 and

13 “(B) other employees or prospective employees
14 similarly situated.”.

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