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**WEST VIRGINIA CODE CHAPTER 21**  
**ARTICLE 5B**

WV Legislature

**§21-5B-1. Definitions.**

(1) "Employer" means any person, partnership, firm or corporation employing one or more employees, but does not include the state, or any municipal corporation or political subdivision of the state having in force a civil service system based on merit: Provided, That the term employer shall not include any individual, corporation, business trust, or similar unit whose operations are subject to any federal act relating to equal wages for equal work, regardless of sex.

(2) "Employee" means any individual who, otherwise than as a copartner of the employer or as an independent contractor, renders personal services wholly or partly in this state to an employer who pays or agrees to pay such individual at a fixed rate: Provided, however, That where services are rendered only partly in this state, an individual is not an employee unless his contract of employment has been entered into, or payments thereunder are ordinarily made or are to be made, within this state.

(3) "Wages" means all compensation for performance of service by an employee for an employer whether paid by the employer or another person, including cash value of all compensation paid in any medium other than cash.

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

(5) "Unpaid wages" means the difference between the wages actually paid to an employee and the wages required under section three of this article, to be paid to such employee.

**§21-5B-2. State commissioner of labor to enforce article.**

The state commissioner of labor shall have the power and it shall be his duty to carry out and enforce the provisions of this article.

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**§21-5B-3. Discrimination between sexes in payment of wages for work of comparable character prohibited.**

(1) No employer shall: (a) In any manner discriminate between the sexes in the payment of wages for work of comparable character, the performance of which requires comparable skills; (b) pay wages to any employee at a rate less than that at which he pays wages to his employees of the opposite sex for work of comparable character, the performance of which requires comparable skills.

(2) Subsection (1) of this section does not apply where: (a) Payment is made pursuant to a seniority or merit system which does not discriminate on the basis of sex, (b) a differential in wages between employees is based in good faith on factors other than sex. No employee shall be reduced in wages in order to eliminate an existing, past or future wage discrimination or to effectuate wage equalization.

(3) No employer shall in any manner discriminate in the payment of wages against any employee because the employee has filed a complaint in a proceeding under this article, or has testified, or is about to testify, or because the employer believes that the employee may testify, in any investigation or proceedings pursuant to this article or in a criminal action pursuant to this article.

**§21-5B-4. Employee's right of action against his employer.**

(1) Any employee whose compensation is at a rate that is in violation of section three of this article shall have a right of action against his employer for the recovery of (a) the amount of the unpaid wages to which the employee is entitled for the one- year period preceding the commencement of the action, and (b) an additional amount as liquidated damages equal to the amount referred to in paragraph (a) of this subsection.

(2) In addition to any judgment awarded to the plaintiff, the court shall allow reasonable attorney's fees to be taxed as costs in any judgment recovered.

(3) The action for the unpaid wages and liquidated damages may be maintained by one or more employees on behalf of themselves or other employees similarly situated.

(4) No agreement for compensation at a rate of less than the rate to which such employee is entitled under this article is a defense to any action under this article.

**§21-5B-5. Offenses; penalties.**

In addition to the civil damages recoverable under section four of this article, any employer who violates any of the provisions of this article shall, upon conviction thereof, be guilty of a misdemeanor and, shall be fined not less than \$25 nor more than \$100.

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**§21-5B-6. Provisions of article severable.**

If any provision of this article or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of this article which can be given effect without the invalid provisions or application, and to this end the provisions of this article are declared to be severable.

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