WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1965

ENROLLED

HOUSE BILL No. 657

(By Mr. Speaker, Mr. White)

PASSED March 17, 1965

In Effect thirty days from Passage
AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-b, relating to the abolishment of discriminatory wage rates based on sex, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five-b, to read as follows:

Article 5-b. Equal Pay for Equal Work.

Section 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 co-partner 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 individ-
ual is not an employee unless his contract of employment
has been entered into, or payments thereunder are ordi-
narily 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 quality 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.

Sec. 2. State Commissioner of Labor.—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.

Sec. 3. Payment of Wages for Work of Comparable Character; Exceptions.—(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.

Sec. 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 6-month 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.

Sec. 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 mis-
demeanor and shall be fined not less than twenty-five
dollars nor more than one hundred dollars.
Sec. 6. Severability.—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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 19th day of March, 1965.

Governor