The subject of wage inequality between the sexes remains a contentious topic, although it has been more than 50 years since the Equal Pay Act (1963) and the Civil Rights Act (1964) were passed. According to the Bureau of Labor Statistics, the median salary for women is about 24 percent less than that of the median male salary—women earn 76 percent of what men earn. Although this wage disparity has decreased since the late 1970s—when it was 62 percent—it reflects the long road to realizing fully equal pay in the workplace. The disparity is even greater for black and Hispanic women. Black women earn 64 cents and Hispanic women earn 56 cents to the $1 earned by white, non-Hispanic men.

**Federal Action**

In 1963, Congress passed the Equal Pay Act, which made it illegal for employers to pay women lower wages than men for equal work on jobs requiring the same skill, effort and responsibility. The act provides a cause of action for an employee to directly sue for damages.

Congress passed the Civil Rights Act the next year. It includes Title VII, which protects discrimination in employment based on protected class status, such as age, race or gender. This act prohibits discrimination in employment based on sex, and is also used in wage discrimination claims.

If an employee wishes to pursue a claim under Title VII, she first must file a complaint with the Equal Employment Opportunity Commission (EEOC), which investigates the claim and determines if there is sufficient merit to bring suit. The EEOC also has jurisdiction over complaints made under the Equal Pay Act. However, the Equal Pay Act’s statute of limitations did not freeze during an EEOC investigation, causing many claims to expire before the right-to-sue letter was issued.

The Supreme Court ruled in *Ledbetter v. Goodyear Tire and Rubber Co.* that the 180-day statute of limitations for a wage discrimination claim under Title VII started to run at the first violation, or as soon as the employer made the decision to pay an employee less. Under this scenario, women who learned of their unequal pay after receiving paychecks for 180 days’ work would have had no claim under Title VII.

The Lilly Ledbetter Fair Pay Act of 2009 was passed to address the situation and reversed the decision of the Court. It provides that the statute of limitations for wage discrimination claims restarts every time an unequal paycheck is issued. Now, the statute of limitations does not run out before women discover they are being paid less than their male counterparts.
The Paycheck Fairness Act is a proposed amendment to the Equal Pay Act. It would revise the remedies, enforcement and exceptions to the prohibition against wage discrimination because of sex. It has failed three times, most recently in 2014.

State Action
Most states have laws prohibiting wage discrimination based on sex. The language in the laws usually is similar to the federal Equal Pay Act and contains the same exceptions. Alabama and Mississippi have no equal pay laws. Louisiana, North Carolina, South Carolina, Texas, Utah, Wisconsin and the District of Columbia have pay-related provisions in their employment discrimination laws. Wisconsin and Louisiana specifically prohibit sex-based wage discrimination in their general employment discrimination laws. South Carolina, Texas, Utah and the District of Columbia prohibit wage discrimination based on protected class status in their general employment discrimination laws.

No entirely new equal pay legislation was proposed in the 2015 legislative sessions. However, a number of states with existing equal pay laws proposed bills ranging from enacting holidays to recognize equal pay to modifying required conditions of employment. Legislators in New York proposed expanding the state’s law to protect against race and national origin wage discrimination for those employed in state service.

Currently, eight states have exceptions for small businesses, typically exempting employers that have a specified number of employees. Legislators in Illinois passed a bill to eliminate the exemption for small businesses; at press time, it was awaiting the governor’s veto or signature.

Lawmakers in California proposed changing the applicability requirements of the law by requiring employers to demonstrate that a wage differential is reasonably based on factors other than sex, and increasing the employer’s burden of proof. The bill would protect employees from retaliation and ban employers from prohibiting employees to communicate about wages and wage discrimination.

Washington legislators proposed a bill that would enhance enforcement of its law by increasing the amount of damages a plaintiff may recover. It also would include providing an employee with “less favorable employment opportunities” as a form of wage discrimination, ban employers from prohibiting employees from disclosing their earnings, and outline the administrative enforcement process and remedies. At least 30 other bills that would amend equal pay laws are pending in state legislatures.

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Additional Resources