

# SENATE BILL No. 503

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-1-1-8; IC 22-9-7.

**Synopsis:** Wage discrimination. Provides that an employer may not discriminate against an employee on the basis of sex, race, or national origin by paying wages at a rate less than to other employees of another sex, race, or national origin. Requires the department of labor to adopt rules to implement the chapter, including specifying the criteria for determining whether a job is dominated by employees of one sex, a particular race, or a particular national origin. Requires an employer to keep records of wages paid to employees and to document wages paid to employees and support the method, system, calculations, and bases used to establish, adjust, and determine the wage rates paid to its employees. Requires an employer to provide to the employee upon  
(Continued next page)

**Effective:** Upon passage.

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**Simpson, Landske**

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January 19, 1999, read first time and referred to Committee on Judiciary.

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Digest Continued

commencement of employment and at least annually thereafter, a statement of the job title, wage rate, and how the wage is calculated. Allows an individual claiming discrimination to file a complaint with the civil rights commission. Allows an individual to file a civil action for violation of the requirement to be furnished an annual statement of wages. Allows the department of labor to file a civil action against an employer for a violation of the record keeping requirements.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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## SENATE BILL No. 503



A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1           SECTION 1. IC 22-1-1-8 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE UPON PASSAGE]: Sec. 8. The commissioner of labor  
3 may do the following:  
4           (1) Make or cause to be made all necessary inspections to see that  
5           all of the laws and rules enacted or adopted for that purpose and  
6           that the department is required to enforce are promptly and  
7           effectively administered and executed.  
8           (2) Collect, collate, and publish statistical and other information  
9           relating to working conditions in this state and to the enforcement  
10          of this chapter **and IC 22-9-7** and such rules as may be necessary  
11          to the advancement of the purposes of this chapter, but no  
12          publicity of any information involving the name or identity of any  
13          employer, employee, or other person, firm, limited liability  
14          company, or corporation shall be given. It shall be unlawful for  
15          the commissioner or any person to divulge, or to make known in



1 any way not provided by law, to any person the operation, style of  
 2 work, or apparatus of any employer, or the amount or sources of  
 3 income, profits, losses, expenditures, or any part thereof obtained  
 4 by him in the discharge of his official duties.

5 (3) Except as otherwise provided by law, employ, promote, and  
 6 remove clerks, inspectors, and other employees as needed or as  
 7 the service of the department of labor may require, and with the  
 8 approval of the governor, within the appropriation therefor, fix  
 9 their compensation and to assign to them their duties. Employees  
 10 of the department are covered by IC 4-15-2.

11 (4) Promote the voluntary arbitration, mediation, and conciliation  
 12 of disputes between employers and employees, for the purpose of  
 13 avoiding strikes, lockouts, boycotts, blacklists, discrimination,  
 14 and legal proceedings in matters of employment. The  
 15 commissioner may appoint temporary boards of arbitration,  
 16 provide for the payment of the necessary expenses of the boards,  
 17 order reasonable compensation paid to each member engaged in  
 18 arbitration, prescribe and adopt rules of procedure for arbitration  
 19 boards, conduct investigations and hearings, publish reports and  
 20 advertisements, and do all other things convenient and necessary  
 21 to accomplish the purpose of this chapter. The commissioner may  
 22 designate an employee of the department to act as chief mediator  
 23 and may detail other employees, from time to time, to act as his  
 24 assistants for the purpose of executing this chapter. Any employee  
 25 of the department who may act on a temporary board shall serve  
 26 without extra compensation.

27 SECTION 2. IC 22-9-7 IS ADDED TO THE INDIANA CODE AS  
 28 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
 29 PASSAGE]:

30 **Chapter 7. Wage Discrimination**

31 **Sec. 1. The general assembly finds that despite federal and state**  
 32 **laws banning discrimination in employment and pay in public and**  
 33 **private employment, wage differentials persist between women and**  
 34 **men and between minorities and nonminorities in the same jobs**  
 35 **and in equivalent jobs.**

36 **Sec. 2. As used in this chapter, "department" means the**  
 37 **department of labor.**

38 **Sec. 3. As used in this chapter, the term "employee" means an**  
 39 **individual employed by an employer. The term does not include an**  
 40 **employee employed by an employer for a period of less than three**  
 41 **(3) months.**

42 **Sec. 4. As used in this chapter, "employer" means a person**

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1 employing six (6) or more persons within the state. The term does  
2 not include:

- 3 (1) a nonprofit corporation or association organized  
4 exclusively for fraternal or religious purposes;  
5 (2) a school, educational, or charitable religious institution  
6 owned or conducted by or affiliated with a church or religious  
7 institution; or  
8 (3) an exclusively social club, corporation, or association that  
9 is not organized for profit.

10 Sec. 5. As used in this chapter, "equivalent jobs" means jobs or  
11 occupations that are equal within the meaning of the Equal Pay  
12 Act of 1963, (29 U.S.C. 206 (d)) or jobs or occupations that are  
13 dissimilar but whose requirements are equivalent, when viewed as  
14 a composite of skills, effort, responsibility, and working conditions.

15 Sec. 6. As used in this chapter, "market rates" means the rates  
16 that employers within a prescribed geographic area actually pay  
17 or are reported to pay for specific jobs, as determined by formal or  
18 informal surveys, wage studies, or other means.

19 Sec. 7. As used in this chapter, "person" means one (1) or more  
20 individuals, partnerships, associations, organizations, limited  
21 liability companies, corporations, labor organizations,  
22 cooperatives, legal representatives, trustees, trustees in  
23 bankruptcy, receivers, other organized groups of persons, and the  
24 state and all political subdivisions and agencies.

25 Sec. 8. As used in this chapter, "wages" and "wage rates" mean  
26 compensation in any form that an employer provides to an  
27 employee in return for work performed or services rendered,  
28 including base pay, bonuses, commission, awards, tips, or  
29 nonmonetary compensation if provided instead of or in addition to  
30 monetary compensation and that has economic value to an  
31 employee.

32 Sec. 9. An employer may not discriminate between employees on  
33 the basis of sex, race, or national origin by:

- 34 (1) paying wages to employees at a rate less than the rate paid  
35 to employees of the opposite sex, a different race, or dissimilar  
36 national origin for work in equivalent jobs; or  
37 (2) paying wages to employees in a job that is dominated by  
38 employees of one (1) sex, a particular race, or national origin  
39 at a rate less than the rate at which the employer pays to  
40 employees in an equivalent job that is dominated by  
41 employees of the opposite sex, a different race, or dissimilar  
42 national origin.



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1           **Sec. 10.** Notwithstanding section 9 of this chapter, an employer  
2 may pay different wage rates to employees if the payments are  
3 made pursuant to:

- 4           (1) a seniority or merit system;  
5           (2) a system that measures earnings by quantity or quality of  
6           production; or  
7           (3) a differential based on any other factor other than sex,  
8           race, or national origin.

9           **Sec. 11.** An employer who is paying a wage rate differential in  
10 violation of section 9 of this chapter may not reduce the wage rate  
11 of an employee to comply with section 9 of this chapter.

12           **Sec. 12.** A labor organization, or its agents, representing  
13 employees of an employer having employees subject to this chapter  
14 may not cause or attempt to cause an employer to discriminate  
15 against an employee in violation of section 9 of this chapter.

16           **Sec. 13.** The department shall adopt rules under IC 4-22-2 to  
17 implement this chapter. The rules must include specifications of the  
18 criteria for determining whether a job is dominated by employees  
19 of one (1) sex, a particular race, or a particular national origin.  
20 The criteria must include:

- 21           (1) whether the job has been formally classified or  
22           traditionally considered to be male, female, white, or  
23           minority;  
24           (2) whether there is a history of discrimination against women  
25           or individuals of a particular race regarding wages,  
26           assignment, or access to jobs, or other terms or conditions of  
27           employment; and  
28           (3) the demographic composition of the workforce in  
29           equivalent jobs.

30           The rules shall provide a time frame for retention of records by the  
31 employer. The rules may not include a list of jobs. The rules must  
32 provide for protection of the confidentiality of employees and must  
33 require that reports not include the names of employees or other  
34 identifying information.

35           **Sec. 14. (a)** Upon commencement of an individual's employment  
36 and at least annually thereafter, an employer shall provide to each  
37 employee a written statement informing the employee of the job  
38 title, wage rate, and how the wage is calculated.

39           **(b)** An employer shall make and preserve records that document  
40 the wages paid to employees and support the method, system,  
41 calculations, and bases used to establish, adjust, and determine the  
42 wage rates paid to its employees.



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1 (c) An employer shall preserve the records for the periods of  
 2 time established under section 13 of this chapter and shall make  
 3 reports from the records as required by rule of the department.

4 Sec. 15. The department may use the information and data from  
 5 reports submitted under section 14(c) of this chapter for statistical  
 6 and research purposes, subject to the provisions of IC 22-1-1-8 (2).

7 Sec. 16. It is an unfair employment practice for an employer:

8 (1) to take adverse action or otherwise discriminate against an  
 9 individual because:

10 (A) the individual has opposed an act or practice made  
 11 unlawful by this chapter;

12 (B) has sought to enforce rights protected under this  
 13 chapter; or

14 (C) has testified, assisted, or participated in an  
 15 investigation, hearing, or other proceeding to enforce this  
 16 chapter; or

17 (2) to discharge, discriminate against, coerce, intimidate,  
 18 threaten, or interfere with an employee or person because:

19 (A) the employee inquired about, disclosed, compared, or  
 20 discussed the employee's wages or the wages of another  
 21 employee; or

22 (B) the employee exercised, enjoyed, aided, or encouraged  
 23 another person to exercise or enjoy any right granted or  
 24 protected by this chapter.

25 Sec. 17. An aggrieved individual may file a complaint with the  
 26 civil rights commission under IC 22-9-1-6 if the individual alleges  
 27 a discriminatory practice under section 9, 11, 12, or 16 of this  
 28 chapter. The civil rights commission shall determine whether the  
 29 complaint requires action to be taken under IC 22-9-1-6.

30 Sec. 18. (a) An aggrieved individual alleging a violation of  
 31 section 14(a) and 14(b) of this chapter may file a civil action in a  
 32 circuit or superior court having jurisdiction in the county where  
 33 the violation is alleged to have occurred.

34 (b) The department may file a civil action in a circuit or  
 35 superior court having jurisdiction in the county where a violation  
 36 of section 14(c) of this chapter is alleged to have occurred.

37 (c) In an action under this chapter in which the court finds  
 38 against an employer, the employee or the department shall be  
 39 awarded reasonable attorney's fees, expert witness fees if  
 40 appropriate, and costs of the action.

41 (d) A civil action under this chapter must be filed not later than  
 42 two (2) years after the date of the last event constituting the alleged

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1 **violation for which the action is brought.**  
2 **(e) The procedures and requirements for an appeal under**  
3 **IC 22-9-8 apply to this chapter.**  
4 **SECTION 3. An emergency is declared for this act.**

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