

SENATE BILL 2641

By Yarbro

AN ACT to amend Tennessee Code Annotated, Title 8;
Title 12 and Title 50, relative to employment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 1, Part 3, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Department" means the department of labor and workforce development;

(2) "Employee" means an individual who works for salary, wages, or other remuneration for an employer;

(3) "Employer" means a person or entity that employs fifty (50) or more employees, and includes the state and its political subdivisions;

(4) "Political subdivision" means any local governmental entity, including, but not limited to, any municipality, metropolitan government, county, utility district, school district, public building authority, housing authority, emergency communications district, and development district created and existing pursuant to the laws of this state, or any instrumentality of government created by any one (1) or more of the aforementioned local governmental entities; and

(5) "Wage or salary history" means wages paid for employment by the person's current or former employer.

(b) No employer shall:

(1) Rely on the wage or salary history of an applicant in determining whether to offer employment to the applicant or in determining the wages or salary for the applicant;

(2) Orally or in writing seek, request, or require the wage or salary history from an applicant or current employee as a condition to be interviewed, as a condition of continuing to be considered for an offer of employment, or as a condition of continued employment or promotion;

(3) Orally or in writing seek, request, or require the wage or salary history of an applicant or current employee from a current or former employer, current or former employee, or agent of the applicant or current employee's current or former employer, except as provided in subsection (d);

(4) Refuse to interview, hire, promote, or otherwise employ, or otherwise retaliate against, an applicant or current employee based upon prior wage or salary history;

(5) Refuse to interview, hire, promote, or otherwise employ, or otherwise retaliate against, an applicant or current employee because the applicant or current employee did not provide wage or salary history in accordance with this section; or

(6) Refuse to interview, hire, promote, or otherwise employ, or otherwise retaliate against, an applicant or current or former employee because the applicant or current or former employee filed a complaint with the department alleging a violation of this section.

(c) Nothing in this section prevents an applicant or current employee from voluntarily, and without prompting, disclosing or verifying wage or salary history for any purpose, including, but not limited to, negotiating wages or salary.

(d) An employer may confirm wage or salary history only if, at the time an offer of employment with compensation is made, the applicant or current employee responds

to the offer by providing prior wage or salary information to support a wage or salary higher than offered by the employer.

(e)

(1) A violation of this section is a Class B misdemeanor, subject only to fine. The department shall enforce this section.

(2) In addition to the penalties under subdivision (e)(1), an applicant or current or former employee aggrieved by a violation of this section may bring a civil action for compensation for any damages sustained as a result of the violation of this section in any court of competent jurisdiction in this state. The court may award injunctive relief, as well as reasonable attorneys' fees, to a plaintiff who prevails in a civil action brought under this section.

(f) Nothing in this section diminishes the rights, privileges, or remedies of an applicant or current or former employee under any other law or rule, or under any collective bargaining agreement or employment contract entered into before July 1, 2020. However, if that agreement or contract is amended or renewed on or after July 1, 2020, then any provision in the agreement or contract that is contrary to this section is void.

(g) This section does not supersede any federal law that requires the disclosure or verification of wage or salary history information.

SECTION 2. This act shall take effect July 1, 2020, the public welfare requiring it.