

BILL NUMBER: S5248B

SPONSOR: BIAGGI

TITLE OF BILL: An act to amend the labor law, in relation to prohibiting wage differentials based on protected class status

PURPOSE OR GENERAL IDEA OF BILL:

The purpose of this bill is to protect more employees against pay discrimination.

SUMMARY OF PROVISIONS:

Section one of the bill would expand existing pay equity provisions to require equal pay for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under substantially similar working conditions. It would also prohibit pay differentials based on an individual's status within one or more protected class or classes. This would include age, race, creed, color, national origin, sexual orientation, gender identity and expression, military status, disability, predisposing genetic characteristics, familial status, marital status, domestic violence victim status, and other employees and interns protected under the New York State Human Rights Law.

A differential in rate of pay would be permitted when such differential is based on a seniority or merit system, a system measuring earnings by quantity and quality, or bona fide factor other than status within one or more protected class or classes which is job-related and consistent with business necessity.

Section 2 of the bill would authorize the New York State Department of Labor to assess a civil penalty for a differential in rate of pay because of protected class status.

Section 3 of this bill would set forth an effective date of 90 days after enactment.

DIFFERENCE BETWEEN ORIGINAL AND AMENDED VERSION (IF APPLICABLE):

The amended version makes a conforming change to § 197 of the Labor Law to ensure that civil penalties can be assessed for a differential in rate of pay because of protected class status.

JUSTIFICATION:

In New York State, our current equal pay laws protect against gender-based pay discrimination. This bill would address the systemic issue of pay discrimination due to a range of other factors - including age, race, creed, color, national origin, sexual orientation, gender identity and expression, military status, disability, predisposing genetic char-

acteristics, familial status, marital status, and domestic violence victim status - by prohibiting differentials in pay based on an employee's protected class status. These employees are already protected against other forms of unlawful discrimination in the workplace under the New York State Human Rights Law, and this would ensure that their employers cannot also discriminate in terms of their compensation.

Further, the "equal pay for equal work" standard has proved to place an excessive burden of proof on aggrieved employees when filing a claim for pay discrimination. In order to establish an equal pay violation, an employee must demonstrate that their job is substantially equal to the job of their higher-paid colleague. This bill would lessen this burden by requiring employers to also ensure equal pay for "substantially similar work," while still acknowledging that differentials in pay may exist based on non-discriminatory factors such as seniority, merit, geography, the quantity or quality of work, or an employee's education, training, or experience.

PRIOR LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

None.

EFFECTIVE DATE:

This act shall take effect on the ninetieth day after enactment.