

Lilly Ledbetter Fair Pay Act of 2009

On January 29, 2009, President Obama signed the first piece of legislation of his Administration: the Lilly Ledbetter Fair Pay Act of 2009 (“Act”). This law overturned the Supreme Court’s decision in *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, 550 U.S. 618 (2007), which severely restricted the time period for filing complaints of employment discrimination concerning compensation.

The Act states the EEOC’s longstanding position that each paycheck that contains discriminatory compensation is a separate violation regardless of when the discrimination began. The Ledbetter Act recognizes the “reality of wage discrimination” and restores “bedrock principles of American law.” Particularly important for the victims of discrimination, the Act contains an explicit retroactivity provision.

People challenging a wide variety of practices that resulted in discriminatory compensation can benefit from the Act’s passage. These practices may include employer decisions about base pay or wages, job classifications, career ladder or other noncompetitive promotion denials, tenure denials, and failure to respond to requests for raises.

Differences in pay that occur because of sex violate the EPA and/or Title VII of the Civil Rights Act of 1964, as amended. In addition, compensation differences based on race, color, religion, national origin, age, disability, genetic information, and/or retaliation also violate laws enforced by EEOC. For more information regarding equal wages because of any of these reasons, please call the EEOC at:

1-800-669-4000

Or

1-800-669-6820 (TTY)

Or visit our web site at:

www.eeoc.gov

EQUAL PAY ACT OF 1963 AND LILLY LEDBETTER FAIR PAY ACT OF 2009



**UNITED STATES
EQUAL
EMPLOYMENT
OPPORTUNITY
COMMISSION**

EQUAL PAY ACT OF 1963

The Equal Pay Act (EPA) prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions.

- Wages can include more than just hourly or annual pay. Wages includes bonuses, company cars, expense accounts, insurance etc.
- An employer cannot lower the wages of some employees to make wages equal.



Things to Consider:

Equal Wages: Must be paid in the same form. For example, an employer cannot pay a higher hourly wage to a male employee and then attempt to equalize the difference by periodically paying a bonus to a female employee.

The EPA speaks in terms of **equal work**, but the word “equal” does not require that the jobs be identical, only that they are substantially equal. In comparing two jobs for purposes of the EPA, consideration should be given to the actual job duties, not job titles or classifications. The EEOC looks at whether both jobs require the same skill, effort and responsibility.

Skill: Measured by factors such as the experience, ability, education and training required to perform a job. Possession of a skill not needed to meet the requirements of the job should not be considered. For example, a hotel clerk alleges that he is paid less than a female who performs substantially equal work. He has a high school diploma while his female co-worker has a college degree. However, performance of the two jobs requires the same education, ability, experience, and training.

Therefore, the skill required to perform the two jobs is substantially equal. A college degree does not justify a higher salary because it is not needed to perform the job.

Effort: Amount of physical or mental exertion needed to perform job.

Responsibility is usually defined as the degree of accountability required in performing a job. Factors to be considered in determining the level of responsibility in a job include:

- Extent to which employee works without supervision,
- Extent to which employee exercises supervisory functions, and
- Impact of employee’s exercise of his or her job functions on the employer’s business.

Ordinarily, “**establishment**” means a physically separate place of business. However, given that many employees have virtual offices, the EEOC assesses whether the “establishment” is separate on a case-by-case basis.

Working conditions usually consist of two factors:

- Surroundings, and
- Hazards.