

**§448.07 FS | WAGE RATE DISCRIMINATION BASED ON SEX PROHIBITED**

(1) DEFINITIONS

As used in this section, unless the context or subject matter clearly requires otherwise, the following terms shall have the meanings as defined in this section:

(a) "Employee" means any individual employed by an employer, including individuals employed by the state or any of its political subdivisions or instrumentalities of subdivisions.

(b) "Employer" means any person who employs two or more employees.

(c) "Wages" means and includes all compensation paid by an employer or his or her agent for the performance of service by an employee, including the cash value of all compensation paid in any medium other than cash.

(d) "Rate" with reference to wages means the basis of compensation for services by an employee for an employer and includes compensation based on time spent in the performance of such services, on the number of operations accomplished, or on the quality produced or handled.

(e) "Unpaid wages" means the difference between the wages actually paid to an employee and the wages required to be paid an employee pursuant to subsection (3).

(2) DISCRIMINATION ON BASIS OF SEX PROHIBITED

(a) No employer shall discriminate between employees on the basis of sex by paying wages to employees at a rate less than the rate at which he or she pays wages to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except when such payment is made pursuant to:

1. A seniority system;
2. A merit system;
3. A system which measures earnings by quantity or quality of production; or



4. A differential based on any reasonable factor other than sex when exercised in good faith.

(b) No person shall cause or attempt to cause an employer to discriminate against any employee in violation of the provisions of this section.

(3) CIVIL ACTION FOR UNPAID WAGES

Any employer or person who violates the provisions of this section is liable to the employee for the amount of the difference between the amount the employee was paid and the amount he or she should have been paid under this section. Nothing in this section allows a claimant to recover more than an amount equal to his or her unpaid wages while so employed for 1 year prior to the filing of the claim. An action to recover such liability may be maintained in any court of competent jurisdiction by the aggrieved employee within 6 months after termination of employment. The court in such action may award to the prevailing party costs of the action and a reasonable attorney's fee.

(4) Nothing in this section or in s. 725.07, relating to discrimination based on sex in providing equal pay for equal services performed, is applicable to any employer, labor organization or member thereof, or employee whose employer is subject to the federal Fair Labor Standards Act of 1938, as amended.

*History - (ss. 1, 2, 3, 4, ch. 69-5; s. 1, ch. 84-345; s. 167, ch. 97-103.)*

