

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 7
OFFERED BY MS. BONAMICI OF OREGON**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Paycheck Fairness
3 Act”.

**4 SEC. 2. ENHANCED ENFORCEMENT OF EQUAL PAY RE-
5 QUIREMENTS.**

6 (a) DEFINITIONS.—Section 3 of the Fair Labor
7 Standards Act of 1938 (29 U.S.C. 203) is amended by
8 adding at the end the following:

9 “(z) ‘Sex’ includes—

10 “(1) a sex stereotype;

11 “(2) pregnancy, childbirth, or a related medical
12 condition;

13 “(3) sexual orientation or gender identity; and

14 “(4) sex characteristics, including intersex
15 traits.

16 “(aa) ‘Sexual orientation’ includes homosexuality,
17 heterosexuality, and bisexuality.

1 “(bb) ‘Gender identity’ means the gender-related
2 identity, appearance, mannerisms, or other gender-related
3 characteristics of an individual, regardless of the individ-
4 ual’s designated sex at birth.”.

5 (b) BONA FIDE FACTOR DEFENSE AND MODIFICA-
6 TION OF SAME ESTABLISHMENT REQUIREMENT.—Section
7 6(d)(1) of the Fair Labor Standards Act of 1938 (29
8 U.S.C. 206(d)(1)) is amended—

9 (1) by striking “No employer having” and in-
10 sserting “(A) No employer having”;

11 (2) by striking “any other factor other than
12 sex” and inserting “a bona fide factor other than
13 sex, such as education, training, or experience”; and

14 (3) by inserting at the end the following:

15 “(B) The bona fide factor defense described in
16 subparagraph (A)(iv) shall apply only if the em-
17 ployer demonstrates that such factor (i) is not based
18 upon or derived from a sex-based differential in com-
19 pensation; (ii) is job-related with respect to the posi-
20 tion in question; (iii) is consistent with business ne-
21 cessity; and (iv) accounts for the entire differential
22 in compensation at issue. Such defense shall not
23 apply where the employee demonstrates that an al-
24 ternative employment practice exists that would
25 serve the same business purpose without producing

1 such differential and that the employer has refused
2 to adopt such alternative practice.

3 “(C) For purposes of subparagraph (A), em-
4 ployees shall be deemed to work in the same estab-
5 lishment if the employees work for the same em-
6 ployer at workplaces located in the same county or
7 similar political subdivision of a State. The pre-
8 ceding sentence shall not be construed as limiting
9 broader applications of the term ‘establishment’ con-
10 sistent with rules prescribed or guidance issued by
11 the Equal Employment Opportunity Commission.”.

12 (c) NONRETALIATION PROVISION.—Section 15 of the
13 Fair Labor Standards Act of 1938 (29 U.S.C. 215) is
14 amended—

15 (1) in subsection (a)—

16 (A) in paragraph (3), by striking “em-
17 ployee has filed” and all that follows and insert-
18 ing “employee—

19 “(A) has made a charge or filed any com-
20 plaint or instituted or caused to be instituted
21 any investigation, proceeding, hearing, or action
22 under or related to this Act, including an inves-
23 tigation conducted by the employer, or has tes-
24 tified or is planning to testify or has assisted or
25 participated in any manner in any such inves-

1 tigation, proceeding, hearing or action, or has
2 served or is planning to serve on an industry
3 committee;

4 “(B) has opposed any practice made un-
5 lawful by this Act; or

6 “(C) has inquired about, discussed, or dis-
7 closed the wages of the employee or another
8 employee (such as by inquiring or discussing
9 with the employer why the wages of the em-
10 ployee are set at a certain rate or salary);”;

11 (B) in paragraph (5), by striking the pe-
12 riod at the end and inserting “; or”; and

13 (C) by adding at the end the following:

14 “(6) to require an employee to sign a contract
15 or waiver that would prohibit the employee from dis-
16 closing information about the employee’s wages.”;
17 and

18 (2) by adding at the end the following:

19 “(c) Subsection (a)(3)(C) shall not apply to instances
20 in which an employee who has access to the wage informa-
21 tion of other employees as a part of such employee’s essen-
22 tial job functions discloses the wages of such other employ-
23 ees to individuals who do not otherwise have access to such
24 information, unless such disclosure is in response to a
25 complaint or charge or in furtherance of an investigation,

1 proceeding, hearing, or action under section 6(d), includ-
2 ing an investigation conducted by the employer. Nothing
3 in this subsection shall be construed to limit the rights
4 of an employee provided under any other provision of
5 law.”.

6 (d) ENHANCED PENALTIES.—Section 16(b) of the
7 Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)) is
8 amended—

9 (1) by inserting after the first sentence the fol-
10 lowing: “Any employer who violates section 6(d), or
11 who violates the provisions of section 15(a)(3) in re-
12 lation to a violation of section 6(d), shall additionally
13 be liable for such compensatory damages, or, where
14 the employee demonstrates that the employer acted
15 with malice or reckless indifference, punitive dam-
16 ages as may be appropriate, except that the United
17 States shall not be liable for punitive damages.”;

18 (2) in the sentence beginning “An action to”,
19 by striking “the preceding sentences” and inserting
20 “any of the preceding sentences of this subsection”;

21 (3) in the sentence beginning “No employees
22 shall”, by striking “No employees” and inserting
23 “Except with respect to class actions brought to en-
24 force section 6(d), no employee”;

1 (4) by inserting after the sentence referred to
2 in paragraph (3), the following: “Notwithstanding
3 any other provision of Federal law, any action
4 brought to enforce section 6(d) may be maintained
5 as a class action as provided by the Federal Rules
6 of Civil Procedure.”; and

7 (5) in the sentence beginning “The court in”—

8 (A) by striking “in such action” and in-
9 serting “in any action brought to recover the li-
10 ability prescribed in any of the preceding sen-
11 tences of this subsection”; and

12 (B) by inserting before the period the fol-
13 lowing: “, including expert fees”.

14 (e) ACTION BY THE SECRETARY.—Section 16(c) of
15 the Fair Labor Standards Act of 1938 (29 U.S.C. 216(c))
16 is amended—

17 (1) in the first sentence—

18 (A) by inserting “or, in the case of a viola-
19 tion of section 6(d), additional compensatory or
20 punitive damages, as described in subsection
21 (b),” before “and the agreement”; and

22 (B) by inserting before the period the fol-
23 lowing: “, or such compensatory or punitive
24 damages, as appropriate”;

1 (2) in the second sentence, by inserting before
2 the period the following: “and, in the case of a viola-
3 tion of section 6(d), additional compensatory or pu-
4 nitive damages, as described in subsection (b)”;

5 (3) in the third sentence, by striking “the first
6 sentence” and inserting “the first or second sen-
7 tence”; and

8 (4) in the sixth sentence—

9 (A) by striking “commenced in the case”
10 and inserting “commenced—
11 “(1) in the case”;

12 (B) by striking the period and inserting “;
13 or”;

14 (C) by adding at the end the following:

15 “(2) in the case of a class action brought to en-
16 force section 6(d), on the date on which the indi-
17 vidual becomes a party plaintiff to the class action.”.

18 (f) JOINT ENFORCEMENT AUTHORITY.—

19 (1) IN GENERAL.—Notwithstanding section 1 of
20 Reorganization Plan No. 1 of 1978 (92 Stat. 3781;
21 5 U.S.C. App.) and any other provision of law, the
22 Secretary of Labor, acting through the Office of
23 Federal Contract Compliance Programs, and the
24 Equal Opportunity Employment Commission shall
25 jointly carry out the functions and authorities de-

1 scribed in such section and any other provision of
2 law to enforce and administer the provisions of sec-
3 tion 6(d) of the Fair Labor Standards Act of 1938
4 (29 U.S.C. 206(d)) with respect to Federal contrac-
5 tors, Federal subcontractors, and federally-assisted
6 construction contractors, within the jurisdiction of
7 the Office of Federal Contract Compliance Programs
8 under Executive Order 11246 (42 U.S.C. 2000e
9 note; relating to equal employment opportunity) or
10 a successor Executive Order.

11 (2) COORDINATION.—The Equal Opportunity
12 Employment Commission and the Secretary of
13 Labor shall establish such coordinating mechanisms
14 as necessary to carry out the joint authority under
15 paragraph (1).

16 **SEC. 3. TRAINING.**

17 The Equal Employment Opportunity Commission
18 and the Secretary of Labor, acting through the Office of
19 Federal Contract Compliance Programs, subject to the
20 availability of funds appropriated under section 11, shall
21 provide training to employees of the Commission and the
22 Office of Federal Contract Compliance Programs and to
23 affected individuals and entities on matters involving dis-
24 crimination in the payment of wages.

1 **SEC. 4. NEGOTIATION SKILLS TRAINING.**

2 (a) PROGRAM AUTHORIZED.—

3 (1) IN GENERAL.—The Secretary of Labor,
4 after consultation with the Secretary of Education,
5 is authorized to establish and carry out a grant pro-
6 gram.

7 (2) GRANTS.—In carrying out the program, the
8 Secretary of Labor may make grants on a competi-
9 tive basis to eligible entities to carry out negotiation
10 skills training programs for the purposes of address-
11 ing pay disparities, including through outreach to
12 women and girls.

13 (3) ELIGIBLE ENTITIES.—To be eligible to re-
14 ceive a grant under this subsection, an entity shall
15 be a public agency, such as a State, a local govern-
16 ment in a metropolitan statistical area (as defined
17 by the Office of Management and Budget), a State
18 educational agency, or a local educational agency, a
19 private nonprofit organization, or a community-
20 based organization.

21 (4) APPLICATION.—To be eligible to receive a
22 grant under this subsection, an entity shall submit
23 an application to the Secretary of Labor at such
24 time, in such manner, and containing such informa-
25 tion as the Secretary of Labor may require.

1 (5) USE OF FUNDS.—An entity that receives a
2 grant under this subsection shall use the funds made
3 available through the grant to carry out an effective
4 negotiation skills training program for the purposes
5 described in paragraph (2).

6 (b) INCORPORATING TRAINING INTO EXISTING PRO-
7 GRAMS.—The Secretary of Labor and the Secretary of
8 Education shall issue regulations or policy guidance that
9 provides for integrating the negotiation skills training, to
10 the extent practicable, into programs authorized under—

11 (1) in the case of the Secretary of Education,
12 the Elementary and Secondary Education Act of
13 1965 (20 U.S.C. 6301 et seq.), the Carl D. Perkins
14 Career and Technical Education Act of 2006 (20
15 U.S.C. 2301 et seq.), the Higher Education Act of
16 1965 (20 U.S.C. 1001 et seq.), and other programs
17 carried out by the Department of Education that the
18 Secretary of Education determines to be appro-
19 priate; and

20 (2) in the case of the Secretary of Labor, the
21 Workforce Innovation and Opportunity Act (29
22 U.S.C. 3101 et seq.), and other programs carried
23 out by the Department of Labor that the Secretary
24 of Labor determines to be appropriate.

1 (c) REPORT.—Not later than 18 months after the
2 date of enactment of this Act, and annually thereafter,
3 the Secretary of Labor, in consultation with the Secretary
4 of Education, shall prepare and submit to Congress a re-
5 port describing the activities conducted under this section
6 and evaluating the effectiveness of such activities in
7 achieving the purposes of this section.

8 **SEC. 5. RESEARCH, EDUCATION, AND OUTREACH.**

9 (a) IN GENERAL.—Not later than 18 months after
10 the date of enactment of this Act, and periodically there-
11 after, the Secretary of Labor shall conduct studies and
12 provide information to employers, labor organizations, and
13 the general public concerning the means available to elimi-
14 nate pay disparities between men and women (including
15 women who are Asian American, Black or African-Amer-
16 ican, Hispanic American or Latino, Native American or
17 Alaska Native, Native Hawaiian or Pacific Islander, and
18 White American), including—

19 (1) conducting and promoting research to de-
20 velop the means to correct expeditiously the condi-
21 tions leading to the pay disparities, with specific at-
22 tention paid to women and girls from historically
23 underrepresented and minority groups;

24 (2) publishing and otherwise making available
25 to employers, labor organizations, professional asso-

1 ciations, educational institutions, the media, and the
2 general public the findings resulting from studies
3 and other materials, relating to eliminating the pay
4 disparities;

5 (3) sponsoring and assisting State, local, and
6 community informational and educational programs;

7 (4) providing information to employers, labor
8 organizations, professional associations, and other
9 interested persons on the means of eliminating the
10 pay disparities; and

11 (5) recognizing and promoting the achievements
12 of employers, labor organizations, and professional
13 associations that have worked to eliminate the pay
14 disparities.

15 (b) REPORT ON GENDER PAY GAP IN TEENAGE
16 LABOR FORCE.—

17 (1) REPORT REQUIRED.—Not later than one
18 year after the date of the enactment of this Act, the
19 Secretary of Labor, acting through the Director of
20 the Women’s Bureau and in coordination with the
21 Commissioner of Labor Statistics, shall—

22 (A) submit to Congress a report on the
23 gender pay gap in the teenage labor force; and

24 (B) make the report available on a publicly
25 accessible website of the Department of Labor.

1 (2) ELEMENTS.—The report under subsection
2 (a) shall include the following:

3 (A) An examination of trends and potential
4 solutions relating to the teenage gender pay
5 gap.

6 (B) An examination of how the teenage
7 gender pay gap potentially translates into
8 greater wage gaps in the overall labor force.

9 (C) An examination of overall lifetime
10 earnings and losses for informal and formal
11 jobs for women, including women of color.

12 (D) An examination of the teenage gender
13 pay gap, including a comparison of the average
14 amount earned by males and females, respec-
15 tively, in informal jobs, such as babysitting and
16 other freelance jobs, as well as formal jobs,
17 such as retail, restaurant, and customer service.

18 (E) A comparison of—
19 (i) the types of tasks typically per-
20 formed by women from the teenage years
21 through adulthood within certain informal
22 jobs, such as babysitting and other free-
23 lance jobs, and formal jobs, such as retail,
24 restaurant, and customer service; and

1 (ii) the types of tasks performed by
2 younger males in such positions.

3 (F) Interviews and surveys with workers
4 and employers relating to early gender-based
5 pay discrepancies.

6 (G) Recommendations for—

7 (i) addressing pay inequality for
8 women from the teenage years through
9 adulthood, including such women of color;

10 (ii) addressing any disadvantages ex-
11 perience by young women with respect to
12 work experience and professional develop-
13 ment;

14 (iii) the development of standards and
15 best practices for workers and employees
16 to ensure better pay for young women and
17 the prevention of early inequalities in the
18 workplace; and

19 (iv) expanding awareness for teenage
20 girls on pay rates and employment rights
21 in order to reduce greater inequalities in
22 the overall labor force.

1 **SEC. 6. ESTABLISHMENT OF THE NATIONAL AWARD FOR**
2 **PAY EQUITY IN THE WORKPLACE.**

3 (a) IN GENERAL.—There is established the National
4 Award for Pay Equity in the Workplace, which shall be
5 awarded by the Secretary of Labor in consultation with
6 the Equal Employment Opportunity Commission, on an
7 annual basis, to an employer to encourage proactive ef-
8 forts to comply with section 6(d) of the Fair Labor Stand-
9 ards Act of 1938 (29 U.S.C. 206(d)), as amended by this
10 Act.

11 (b) CRITERIA FOR QUALIFICATION.—The Secretary
12 of Labor, in consultation with the Equal Employment Op-
13 portunity Commission, shall—

14 (1) set criteria for receipt of the award, includ-
15 ing a requirement that an employer has made sub-
16 stantial effort to eliminate pay disparities between
17 men and women and deserves special recognition as
18 a consequence of such effort; and

19 (2) establish procedures for the application and
20 presentation of the award.

21 (c) BUSINESS.—In this section, the term “employer”
22 includes—

23 (1)(A) a corporation, including a nonprofit cor-
24 poration;

25 (B) a partnership;

26 (C) a professional association;

1 (D) a labor organization; and

2 (E) a business entity similar to an entity de-
3 scribed in any of subparagraphs (A) through (D);

4 (2) an entity carrying out an education referral
5 program, a training program, such as an apprentice-
6 ship or management training program, or a similar
7 program; and

8 (3) an entity carrying out a joint program,
9 formed by a combination of any entities described in
10 paragraph (1) or (2).

11 **SEC. 7. COLLECTION OF PAY INFORMATION BY THE EQUAL**
12 **EMPLOYMENT OPPORTUNITY COMMISSION.**

13 Section 709 of the Civil Rights Act of 1964 (42
14 U.S.C. 2000e–8) is amended by adding at the end the fol-
15 lowing:

16 “(f)(1) Not later than 18 months after the date of
17 enactment of this subsection, the Commission shall pro-
18 vide for the collection from employers of compensation
19 data and other employment-related data (including hiring,
20 termination, and promotion data) disaggregated by the
21 sex, race, and national origin of employees.

22 “(2) In carrying out paragraph (1), the Commission
23 shall have as its primary consideration the most effective
24 and efficient means for enhancing the enforcement of Fed-
25 eral laws prohibiting pay discrimination. For this purpose,

1 the Commission shall consider factors including the im-
2 position of burdens on employers, the frequency of required
3 reports (including the size of employers required to pre-
4 pare reports), appropriate protections for maintaining
5 data confidentiality, and the most effective format to re-
6 port such data.

7 “(3)(A) For each 12-month reporting period for an
8 employer, the compensation data collected under para-
9 graph (1) shall include, for each range of taxable com-
10 pensation described in subparagraph (B), disaggregated
11 by the categories described in subparagraph (E)—

12 “(i) the number of employees of the employer
13 who earn taxable compensation in an amount that
14 falls within such taxable compensation range; and

15 “(ii) the total number of hours worked by such
16 employees.

17 “(B) Subject to adjustment under subparagraph (C),
18 the taxable compensation ranges described in this sub-
19 paragraph are as follows:

20 “(i) Not more than \$19,239.

21 “(ii) Not less than \$19,240 and not more than
22 \$24,439.

23 “(iii) Not less than \$24,440 and not more than
24 \$30,679.

1 “(iv) Not less than \$30,680 and not more than
2 \$38,999.

3 “(v) Not less than \$39,000 and not more than
4 \$49,919.

5 “(vi) Not less than \$49,920 and not more than
6 \$62,919.

7 “(vii) Not less than \$62,920 and not more than
8 \$80,079.

9 “(viii) Not less than \$80,080 and not more
10 than \$101,919.

11 “(ix) Not less than \$101,920 and not more
12 than \$128,959.

13 “(x) Not less than \$128,960 and not more than
14 \$163,799.

15 “(xi) Not less than \$163,800 and not more
16 than \$207,999.

17 “(xii) Not less than \$208,000.

18 “(C) The Commission may adjust the taxable com-
19 pensation ranges under subparagraph (B)—

20 “(i) if the Commission determines that such ad-
21 justment is necessary to enhance enforcement of
22 Federal laws prohibiting pay discrimination; or

23 “(ii) for inflation, in consultation with the Bu-
24 reau of Labor Statistics.

1 “(D) In collecting data described in subparagraph
2 (A)(ii), the Commission shall provide that, with respect
3 to an employee who the employer is not required to com-
4 pensate for overtime employment under section 7 of the
5 Fair Labor Standards Act of 1938 (29 U.S.C. 207), an
6 employer may report—

7 “(i) in the case of a full-time employee, that
8 such employee works 40 hours per week, and in the
9 case of a part-time employee, that such employee
10 works 20 hours per week; or

11 “(ii) the actual number of hours worked by
12 such employee.

13 “(E) The categories described in this subparagraph
14 shall be determined by the Commission and shall in-
15 clude—

16 “(i) race;

17 “(ii) national origin;

18 “(iii) sex; and

19 “(iv) job categories, including the job categories
20 described in the instructions for the Equal Employ-
21 ment Opportunity Employer Information Report
22 EEO-1, as in effect on the date of the enactment
23 of this subsection.

24 “(F) The Commission shall use the compensation
25 data collected under paragraph (1)—

1 “(i) to enhance—

2 “(I) the investigation of charges filed
3 under section 706 or section 6(d) of the Fair
4 Labor Standards Act of 1938 (29 U.S.C.
5 206(d)); and

6 “(II) the allocation of resources to inves-
7 tigate such charges; and

8 “(ii) for any other purpose that the Commission
9 determines appropriate.

10 “(G) The Commission shall annually make publicly
11 available aggregate compensation data collected under
12 paragraph (1) for the categories described in subpara-
13 graph (E), disaggregated by industry, occupation, and
14 core based statistical area (as defined by the Office of
15 Management and Budget).

16 “(4) The compensation data under paragraph (1)
17 shall be collected from each employer that—

18 “(A) is a private employer that has 100 or
19 more employees, including such an employer that is
20 a contractor with the Federal Government, or a sub-
21 contractor at any tier thereof; or

22 “(B) the Commission determines appropriate.”.

1 **SEC. 8. REINSTATEMENT OF PAY EQUITY PROGRAMS AND**
2 **PAY EQUITY DATA COLLECTION.**

3 (a) BUREAU OF LABOR STATISTICS DATA COLLEC-
4 TION.—The Commissioner of Labor Statistics shall con-
5 tinue to collect data on women workers in the Current
6 Employment Statistics survey.

7 (b) OFFICE OF FEDERAL CONTRACT COMPLIANCE
8 PROGRAMS INITIATIVES.—The Director of the Office of
9 Federal Contract Compliance Programs shall collect com-
10 pensation data and other employment-related data (in-
11 cluding, hiring, termination, and promotion data) by de-
12 mographics and designate not less than half of all non-
13 construction contractors each year to prepare and file such
14 data, and shall review and utilize the responses to such
15 data to identify contractors for further evaluation and for
16 other enforcement purposes as appropriate.

17 (c) DEPARTMENT OF LABOR DISTRIBUTION OF
18 WAGE DISCRIMINATION INFORMATION.—The Secretary of
19 Labor shall make readily available (in print, on the De-
20 partment of Labor website, and through any other forum
21 that the Department may use to distribute compensation
22 discrimination information), accurate information on com-
23 pensation discrimination, including statistics, explanations
24 of employee rights, historical analyses of such discrimina-
25 tion, instructions for employers on compliance, and any

1 other information that will assist the public in under-
2 standing and addressing such discrimination.

3 **SEC. 9. PROHIBITIONS RELATING TO PROSPECTIVE EM-**
4 **PLOYEES' SALARY AND BENEFIT HISTORY.**

5 (a) IN GENERAL.—The Fair Labor Standards Act of
6 1938 (29 U.S.C. 201 et seq.) is amended by inserting
7 after section 7 the following new section:

8 **“SEC. 8. REQUIREMENTS AND PROHIBITIONS RELATING TO**
9 **WAGE, SALARY, AND BENEFIT HISTORY.**

10 “(a) IN GENERAL.—It shall be an unlawful practice
11 for an employer to—

12 “(1) rely on the wage history of a prospective
13 employee in considering the prospective employee for
14 employment, including requiring that a prospective
15 employee’s prior wages satisfy minimum or max-
16 imum criteria as a condition of being considered for
17 employment;

18 “(2) rely on the wage history of a prospective
19 employee in determining the wages for such prospec-
20 tive employee, except that an employer may rely on
21 wage history if it is voluntarily provided by a pro-
22 spective employee, after the employer makes an offer
23 of employment with an offer of compensation to the
24 prospective employee, to support a wage higher than
25 the wage offered by the employer;

1 “(3) seek from a prospective employee or any
2 current or former employer the wage history of the
3 prospective employee, except that an employer may
4 seek to confirm prior wage information only after an
5 offer of employment with compensation has been
6 made to the prospective employee and the prospec-
7 tive employee responds to the offer by providing
8 prior wage information to support a wage higher
9 than that offered by the employer; or

10 “(4) discharge or in any other manner retaliate
11 against any employee or prospective employee be-
12 cause the employee or prospective employee—

13 “(A) opposed any act or practice made un-
14 lawful by this section; or

15 “(B) took an action for which discrimina-
16 tion is forbidden under section 15(a)(3).

17 “(b) DEFINITION.—In this section, the term ‘wage
18 history’ means the wages paid to the prospective employee
19 by the prospective employee’s current employer or previous
20 employer.”.

21 (b) PENALTIES.—Section 16 of such Act (29 U.S.C.
22 216) is amended by adding at the end the following new
23 subsection:

24 “(f)(1) Any person who violates the provisions of sec-
25 tion 8 shall—

1 “(A) be subject to a civil penalty of \$5,000 for
2 a first offense, increased by an additional \$1,000 for
3 each subsequent offense, not to exceed \$10,000; and

4 “(B) be liable to each employee or prospective
5 employee who was the subject of the violation for
6 special damages not to exceed \$10,000 plus attor-
7 neys’ fees, and shall be subject to such injunctive re-
8 lief as may be appropriate.

9 “(2) An action to recover the liability described in
10 paragraph (1)(B) may be maintained against any em-
11 ployer (including a public agency) in any Federal or State
12 court of competent jurisdiction by any one or more em-
13 ployees or prospective employees for and on behalf of—

14 “(A) the employees or prospective employees;
15 and

16 “(B) other employees or prospective employees
17 similarly situated.”.

18 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There
20 are authorized to be appropriated such sums as may be
21 necessary to carry out this Act.

22 (b) **PROHIBITION ON EARMARKS.**—None of the funds
23 appropriated pursuant to subsection (a) for purposes of
24 the grant program in section 5 of this Act may be used

1 for a congressional earmark as defined in clause 9(e) of
2 rule XXI of the Rules of the House of Representatives.

3 **SEC. 11. SMALL BUSINESS ASSISTANCE.**

4 (a) **EFFECTIVE DATE.**—This Act and the amend-
5 ments made by this Act shall take effect on the date that
6 is 6 months after the date of enactment of this Act.

7 (b) **TECHNICAL ASSISTANCE MATERIALS.**—The Sec-
8 retary of Labor and the Commissioner of the Equal Em-
9 ployment Opportunity Commission shall jointly develop
10 technical assistance material to assist small enterprises in
11 complying with the requirements of this Act and the
12 amendments made by this Act.

13 (c) **SMALL BUSINESSES.**—A small enterprise shall be
14 exempt from the provisions of this Act, and the amend-
15 ments made by this Act, to the same extent that such en-
16 terprise is exempt from the requirements of the Fair
17 Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) pur-
18 suant to clauses (i) and (ii) of section 3(s)(1)(A) of such
19 Act (29 U.S.C. 203(s)(1)(A)).

20 **SEC. 12. RULE OF CONSTRUCTION.**

21 Nothing in this Act, or in any amendments made by
22 this Act, shall affect the obligation of employers and em-
23 ployees to fully comply with all applicable immigration
24 laws, including being subject to any penalties, fines, or
25 other sanctions.

1 **SEC. 13. SEVERABILITY.**

2 If any provision of this Act, an amendment made by
3 this Act, or the application of that provision or amend-
4 ment to particular persons or circumstances is held invalid
5 or found to be unconstitutional, the remainder of this Act,
6 the amendments made by this Act, or the application of
7 that provision to other persons or circumstances shall not
8 be affected.

