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March 16, 2023

House File 1625 (Her)

Dear Chair Nelson and Members of the House Labor and Industry Committee,

The National Federation of Independent Business (NFIB) represents 10,000 small businesses across Minnesota. Our mission is to advocate for the best interests of Main Street.

NFIB Minnesota appreciates the opportunity to comment on HF 1625. This proposal prohibits employers from inquiring about, considering or requiring disclosure of a job applicant's past pay during the hiring process. It deems any such action an unfair discriminatory practice under the Minnesota Human Rights Act, shifting the burden of proof onto the employer and exposing small businesses to severe penalties.

The penalties for a violation of this new restriction are steep: a civil penalty to the state as determined by an Administrative Law Judge; payment of three times actual damages plus punitive damages to the complainant; and, potentially, additional punitive damages and attorney's fees up to \$25,000. *Minn. Stat. 363A.29, Subd. 4*. Even if the Minnesota Human Rights Department finds that a complaint was frivolous or without merit, the complainant can bring a civil action in district court. *Minn. Stat. 363A.33*.

Our members believe in working hard, playing fair, and taking care of their employees and communities. Unfair employment discrimination is anathema to small business values.

Over 75% of all businesses in the state are very small, with fewer than 10 employees. Most small businesses do not have human resources offices to aid in compliance with employment regulations, or litigators on retainer or in-house counsel to defend against employment claims. Shifting the burden of proof from complainant to respondent and requiring small employers to disprove discrimination sets them up for ruinous penalties for singular mistakes.

We urge lawmakers to (i) avoid unnecessary burden shifting by removing the rebuttable presumption language and (ii) allow for a robust public awareness campaign by delaying penalties for violations of this section until one year after it takes effect.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Reynolds".

John L. Reynolds
Minnesota State Director
National Federation of Independent Business
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