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Does outlawing pay secrecy increase the gender wage gap in the United States?

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On average, women who work full time earn less than men who work full time. Although the wage gap between men's and women's earnings has decreased over the years, the gap still exists. Part of this difference may be due to the high prevalence of pay secrecy. According to Marlene Kim in Pay secrecy and the gender wage gap in the United States (*Industrial Relations: a Journal of Economy and Society*, October 2015), well over half of private sector employees are not allowed to discuss salary differences. In this article, Kim looks at the effects of pay secrecy on the gender wage gap and investigates whether the 11 states that have passed legislation against pay secrecy have been able to decrease this wage gap.

In 1938, Congress enacted the Fair Labor Standards Act (FLSA). Since then, the Act has been amended several times. One important amendment was the Equal Pay Act of 1963, which enforces equal pay for equal work, regardless of gender. The FLSA, however, has not been able to eliminate pay secrecy. Over the years, Congress has presented 22 bills to prohibit pay secrecy. Not one has passed.

Kim points out that, according to the National Labor Relations Act, pay secrecy is unlawful for workers who aren't supervisors or managers. However, many employers still enforce formal policies (about 33 percent) or informal policies (approximately another 33 percent) that prevent employees from talking about their salary level. Citing published research, Kim lists several reasons why employers are successful in enforcing these policies. One reason is that many employees are not aware of the law. Other reasons include mild penalties for breaking the law, a belief among employers that morale and productivity would decline, and U.S. work culture that dictates against discussing one's earnings.

To determine if state laws outlawing pay secrecy have decreased the wage gap, Kim compares data from the 11 states that have outlawed pay secrecy with data from states that have *not* outlawed pay secrecy. Her research included variables such as education, earnings, location, and race.

In her results, Kim found that the wage gap between men and women is smaller for women in the 11 states that have outlawed pay secrecy and that women in these states tend to earn more than women in other states. The effects of the legislation are heightened for women with higher education.