



## focus: The Equal Pay Act

### Figuring out whether jobs held by men and women are ‘substantially similar’

One of your female crew members just told you she thinks she’s being paid less than a male staffer performing the same job.

Will the woman be able to successfully sue your employer under The Equal Pay Act?

Maybe.

First, she’ll have to show that her job is “substantially similar” to the man’s job.

When it comes to determining whether two jobs are substantially similar, job titles and descriptions aren’t as important as you’d think they’d be.

Rather, the decision about whether two positions are substantially similar involves consideration of three specific factors: the skill,

effort and responsibility required for the position.

#### Skill level

That means judges considering cases brought under The Equal Pay Act will look at the skill level required for the jobs held by the man and woman when deciding whether two jobs are substantially similar. Factors to be considered include the level of ability, education, experience and training needed for the job.

Another consideration when deciding whether two jobs are substantially similar is the amount of physical and mental effort needed for the position.

Example: A man and a woman work side by side on

an assembly line. However, the man has the added responsibility of moving parts from the line into containers. In that case, his position requires more effort than the woman’s job does, which means that the positions aren’t substantially similar.

Further, judges will examine the amount of responsibility tied to the job. If a man and a woman are both salespeople, but the man also has to make decisions about whether to accept customers’ checks, the two jobs aren’t substantially similar, because the male worker’s position has an additional layer of responsibility that the woman’s job does not.