
By: Delegate Curran

Rules suspended

Introduced and read first time: March 15, 1996

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 Human Relations Commission - Jurisdiction - Employment Discrimination

3 FOR the purpose of altering the jurisdiction of the Maryland Human Relations

4 Commission with regard to matters involving discrimination in employment.

5 BY repealing and reenacting, with amendments,

6 Article 49B - Human Relations Commission

7 Section 15

8 Annotated Code of Maryland

9 (1994 Replacement Volume and 1995 Supplement)

10 BY repealing and reenacting, without amendments,

11 Article 49B - Human Relations Commission

12 Section 14, 16, 17, and 18

13 Annotated Code of Maryland

14 (1994 Replacement Volume and 1995 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article 49B - Human Relations Commission**

18 14.

19 It is hereby declared to be the policy of the State of Maryland, in the exercise of its
20 police power for the protection of the public safety, public health and general welfare, for
21 the maintenance of business and good government and for the promotion of the State's
22 trade, commerce and manufacturers to assure all persons equal opportunity in receiving
23 employment and in all labor management-union relations regardless of race, color,
24 religion, ancestry or national origin, sex, age, marital status, or physical or mental
25 handicap unrelated in nature and extent so as to reasonably preclude the performance of
26 the employment, and to that end to prohibit discrimination in employment by any person,
27 group, labor organization, organization or any employer or his agents.

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1 15.

2 For the purposes of this subtitle:

3 (a) The term "person" includes one or more individuals, labor unions,
4 partnerships, associations, corporations, legal representatives, mutual companies,
5 joint-stock companies, trusts, unincorporated organizations, trustees, trustees in
6 bankruptcy, or receivers.

7 (b) The term "employer" means a person engaged in an industry or business who
8 has [fifteen] TWO or more employees for each working day in each of twenty or more
9 calendar weeks in the current or preceding calendar year, and any agent of such a person;
10 such term does include the State of Maryland to the extent as may be provided in this
11 article but such term does not include a bona fide private membership club (other than a
12 labor organization) which is exempt from taxation under § 501(c) of the Internal Revenue
13 Code.

14 (c) The term "employment agency" means any person regularly undertaking with
15 or without compensation to procure employees for an employer or to procure for
16 employees opportunities to work for an employer and includes an agent or such a person;
17 but shall not include an agency of the United States or an agency of the State of Maryland
18 or political subdivision thereof, except such term shall include the United States
19 Employment Service and the system of State and local employment services receiving
20 federal assistance.

21 (d) The term "labor organization" means a labor organization engaged in an
22 industry and any agent of such an organization, and includes any organization of any kind,
23 any agency, or employee representation committee, group, association, or plan so
24 engaged in which employees participate and which exists for the purpose, in whole or in
25 part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay,
26 hours, or other terms or conditions of employment, and any conference, general
27 committee, joint or system board, or joint council so engaged which is subordinate to a
28 national or international labor organization.

29 (e) The term "employee" means an individual employed by an employer, except
30 that "employee" does not include any person elected to public office or any person chosen
31 by the officer to be on the officer's personnel staff, or an appointee in the policy making
32 level or an immediate advisor with respect to the exercise of the constitutional or legal
33 powers of the office. The exception set forth in the preceding sentence does not include
34 employees subject to the State or local civil service laws.

35 (f) The term "religion" includes all aspects of religious observances and practice,
36 as well as belief, except in those cases when the observance, practice, or belief cannot be
37 reasonably accommodated by an employer without causing undue hardship on the
38 conduct of the employer's business.

39 (g) The term "physical or mental handicap" means any physical disability,
40 infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or
41 illness including epilepsy, and which shall include, but not be limited to, any degree of
42 paralysis, amputation, lack of physical coordination, blindness or visual impairment,
43 deafness or hearing impairment, muteness or speech impediment or physical reliance on

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1 a seeing eye dog, wheelchair, or other remedial appliance or device; and any mental
2 impairment or deficiency as, but not limited to, retardation or such other which may have
3 necessitated remedial or special education and related services.

4 16.

5 (a) It shall be an unlawful employment practice for an employer:

6 (1) To fail or refuse to hire or to discharge any individual, or otherwise to
7 discriminate against any individual with respect to his compensation, terms, conditions, or
8 privileges of employment, because of such individual's race, color, religion, sex, age,
9 national origin, marital status, or physical or mental handicap unrelated in nature and
10 extent so as to reasonably preclude the performance of the employment; or

11 (2) To limit, segregate, or classify his employees or applicants for
12 employment in any way which would deprive or tend to deprive any individual of
13 employment opportunities or otherwise adversely affect his status as an employee,
14 because of the individual's race, color, religion, sex, age, national origin, marital status, or
15 physical or mental handicap unrelated in nature and extent so as to reasonably preclude
16 the performance of the employment;

17 (b) It shall be an unlawful employment practice for an employment agency to fail
18 or refuse to refer for employment, or otherwise to discriminate against, any individual
19 because of his race, color, religion, sex, age, national origin, marital status, or physical or
20 mental handicap unrelated in nature and extent so as to reasonably preclude the
21 performance of the employment, or to classify or refer for employment any individual on
22 the basis of his race, color, religion, sex, age, national origin, marital status, or physical or
23 mental handicap unrelated in nature and extent so as to reasonably preclude the
24 performance of the employment;

25 (c) It shall be an unlawful employment practice for a labor organization: (1) to
26 exclude or to expel from its membership, or otherwise to discriminate against, any
27 individual because of his race, color, religion, sex, age, national origin, marital status, or
28 physical or mental handicap unrelated in nature and extent so as to reasonably preclude
29 the performance of the employment; (2) to limit, segregate or classify its membership, or
30 to classify or fail or refuse to refer for employment any individual, in any way which would
31 deprive or tend to deprive any individual of employment opportunities, or would limit
32 such employment opportunities or otherwise adversely affect his status as an employee or
33 as an applicant for employment, because of such individual's race, color, religion, sex,
34 age, national origin, marital status, or physical or mental handicap unrelated in nature
35 and extent so as to reasonably preclude the performance of the employment; or (3) to
36 cause or attempt to cause an employer to discriminate against an individual in violation of
37 this section;

38 (d) It shall be an unlawful employment practice for any employer, labor
39 organization, or joint labor-management committee controlling apprenticeship or other
40 training or retraining, including on-the-job training programs to discriminate against any
41 individual because of his race, color, religion, sex, age, national origin, marital status, or
42 physical or mental handicap unrelated in nature or extent so as to reasonably preclude
43 the performance of the employment in admission to, or employment in, any program
44 established to provide apprenticeship or other training;

1 (e) It is an unlawful employment practice for an employer, labor organization, or
2 employment agency to print or cause to be printed or published any notice or
3 advertisement relating to employment by the employer or membership in or any
4 classification or referral for employment by the labor organization, or relating to any
5 classification or referral for employment by the agency, indicating any preference,
6 limitation, specification, or discrimination, based on race, color, religion, sex, age,
7 national origin or on the basis of a physical or mental qualification. However, a notice or
8 advertisement may indicate a preference, limitation, specification, or discrimination
9 based on religion, sex, age, national origin or physical or mental qualification when
10 religion, sex, age, national origin or physical or mental qualification is a bona fide
11 occupational qualification for employment;

12 (f) It is an unlawful employment practice for an employer to discriminate against
13 any of his employees or applicants for employment, for an employment agency to
14 discriminate against any individual, or for a labor organization to discriminate against any
15 member thereof or applicant for membership, because he has opposed any practice made
16 an unlawful employment practice by this subtitle or because he has made a charge,
17 testified, assisted, or participated in any manner in an investigation, proceeding, or
18 hearing under this subtitle;

19 (g) Notwithstanding any other provision of this subtitle, (1) it is not an unlawful
20 employment practice for an employer to hire and employ employees, for an employment
21 agency to classify, or refer for employment any individual, for a labor organization to
22 classify its membership or to classify or refer for employment any individual, or for an
23 employer, labor organization or joint labor-management committee controlling
24 apprenticeship or other training or retraining programs to admit or employ any individual
25 in any such program, on the basis of his religion, national origin or physical or mental
26 qualification in those instances where sex, age, religion, national origin or physical or
27 mental qualification is a bona fide occupational qualification reasonably necessary to the
28 normal operation of that particular business or enterprise; (2) it is not an unlawful
29 employment practice for an employer to establish standards concerning an employee's
30 dress and grooming if the standards are directly related to the nature of the employment
31 of the employee; (3) it is not an unlawful employment practice for a school, college,
32 university, or other educational institution or institution of learning to hire and employ
33 employees of a particular religion if the school, college, university, or other educational
34 institution or institution of learning is, in whole or in substantial part, owned, supported,
35 controlled, or managed by a particular religion or by a particular religious corporation,
36 association, or society or if the curriculum of the school, college, university, or other
37 educational institution or institution of learning is directed toward the propagation of a
38 particular religion; and (4) it is not unlawful for an employer, employment agency or labor
39 organization to observe the terms of a bona fide seniority system or any bona fide
40 employee benefit plan such as a retirement, pension or insurance plan, which is not a
41 subterfuge to evade the purposes of this subtitle; however, no employee benefit plan shall
42 excuse the failure to hire any individual;

43 (h) Nothing contained in this subtitle shall be interpreted to require any
44 employer, employment agency, labor organization, or joint labor-management committee
45 subject to this subtitle to grant preferential treatment to any individual or to any group
46 because of the race, color, religion, sex, age, national origin or physical or mental

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1 handicap of the individual or group on account of an imbalance which may exist with
2 respect to the total number or percentage of persons of any race, color, religion, sex, age,
3 national origin or physically or mentally handicapped persons employed by any employer,
4 referred or classified for employment by any employment agency or labor organization,
5 admitted to membership or classified by any labor agency or labor organization, admitted
6 to membership or classified by any labor organization, or admitted to, or employed in, any
7 apprenticeship or other training program, in comparison with the total number or
8 percentage of persons of such race, color, religion, sex, age, national origin or physically
9 or mentally handicapped persons in any community, State, section, or other area, or in
10 the available work force in any community, State, section, or other area.

11 17.

12 Disabilities caused or contributed to by pregnancy or childbirth, are temporary
13 disabilities for all job-related purposes, and shall be treated as such under any health or
14 temporary disability insurance or sick leave plan available in connection with
15 employment. Written and unwritten employment policies and practices involving matters
16 such as the commencement and duration of leave, the availability of extensions, the
17 accrual of seniority and other benefits and privileges, reinstatement and payment under
18 any health or temporary disability insurance or sick leave plan, formal or informal, shall
19 be applied to disability due to pregnancy or childbirth on the same terms and conditions
20 as they are applied to other temporary disabilities subject to the provisions of this section.

21 18.

22 This subtitle shall not apply to an employer with respect to the employment of
23 aliens outside of the State, or to a religious corporation, association, educational
24 institution or society with respect to the employment of individuals of a particular religion
25 to perform work connected with the carrying on by such corporation, association,
26 educational institution or society of its activities.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1996.