

HOUSE BILL 1265

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CF SB 212

By: Delegates Clippinger, Anderson, Barkley, Barnes, Barve, Bobo, Bromwell, Cardin, Carr, Carter, Clagett, Costa, Cullison, Dumais, Fraser-Hidalgo, Frick, Frush, Gaines, Gilchrist, Gutierrez, Guzzone, Hammen, Haynes, Healey, Hixson, Hubbard, Hucker, Ivey, Jones, Kaiser, A. Kelly, Kramer, Lafferty, Lee, Love, Luedtke, Malone, McIntosh, A. Miller, Mitchell, Mizeur, Morhaim, Murphy, Nathan-Pulliam, Niemann, Pena-Melnyk, Reznik, B. Robinson, S. Robinson, Rosenberg, Simmons, Stein, Summers, Swain, F. Turner, V. Turner, Valderrama, Waldstreicher, A. Washington, M. Washington, and Zucker

Introduced and read first time: February 7, 2014

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Fairness for All Marylanders Act of 2014**

3 FOR the purpose of prohibiting discrimination based on gender identity with regard to
4 public accommodations, housing, and employment; prohibiting discrimination
5 based on gender identity by certain licensed or regulated persons; prohibiting
6 discrimination based on sexual orientation or gender identity with regard to the
7 leasing of property for commercial usage or in the provision of certain services
8 or facilities; altering a certain exception for employers that relates to standards
9 concerning dress and grooming; providing that an employer is immune from
10 certain liability for certain acts to verify the gender identity of any employee or
11 applicant in response to a certain charge; making certain remedies and
12 procedures regarding discrimination applicable to discrimination based on
13 sexual orientation and gender identity; requiring certain State personnel
14 actions to be made without regard to gender identity or sexual orientation;
15 defining the term “gender identity”; making certain conforming changes;
16 making certain legislative findings and declarations; and generally relating to
17 discrimination based on sexual orientation and gender identity.

18 BY renumbering

19 Article – State Government
20 Section 20–101(e) and (f), respectively
21 to be Section 20–101(f) and (g), respectively
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2009 Replacement Volume and 2013 Supplement)

2 BY adding to

3 Article – State Government

4 Section 20–101(e) and 20–102

5 Annotated Code of Maryland

6 (2009 Replacement Volume and 2013 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article – State Government

9 Section 20–301 and 20–303

10 Annotated Code of Maryland

11 (2009 Replacement Volume and 2013 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – State Government

14 Section 20–302, 20–304, 20–401, 20–402, 20–501, 20–602, 20–603, 20–605(a)(2),
15 20–606(a) through (e), 20–608, 20–702(a), 20–704(a)(2), 20–705,
16 20–707(b) and (c), and 20–1103(b)

17 Annotated Code of Maryland

18 (2009 Replacement Volume and 2013 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – State Personnel and Pensions

21 Section 2–302

22 Annotated Code of Maryland

23 (2009 Replacement Volume and 2013 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That Section(s) 20–101(e) and (f), respectively, of Article – State
26 Government of the Annotated Code of Maryland be renumbered to be Section(s)
27 20–101(f) and (g), respectively.

28 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
29 read as follows:

30 **Article – State Government**

31 20–101.

32 **(E) “GENDER IDENTITY” MEANS A GENDER-RELATED IDENTITY,**
33 **APPEARANCE, EXPRESSION, OR BEHAVIOR OF AN INDIVIDUAL REGARDLESS OF**
34 **THE INDIVIDUAL’S ASSIGNED SEX AT BIRTH.**

35 **20–102.**

1 **THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:**

2 **(1) THERE IS A NEED TO PROHIBIT DISCRIMINATION ON THE**
3 **BASIS OF RACE, COLOR, RELIGION, ANCESTRY, NATIONAL ORIGIN, AGE, SEX,**
4 **MARITAL STATUS, DISABILITY, SEXUAL ORIENTATION, AND GENDER IDENTITY IN**
5 **THE AREAS OF EMPLOYMENT, HOUSING, CREDIT, AND PUBLIC**
6 **ACCOMMODATIONS;**

7 **(2) THE STATE HAS THE RESPONSIBILITY TO ACT TO ASSURE**
8 **THAT EVERY INDIVIDUAL WITHIN THE STATE IS AFFORDED AN EQUAL**
9 **OPPORTUNITY TO ENJOY A FULL AND PRODUCTIVE LIFE, AND THE FAILURE TO**
10 **PROVIDE SUCH EQUAL OPPORTUNITY, WHETHER BECAUSE OF DISCRIMINATION,**
11 **PREJUDICE, OR INTOLERANCE, THREATENS THE WELFARE OF THE STATE AND**
12 **ITS INHABITANTS;**

13 **(3) MANY RESIDENTS OF THE STATE HAVE ENCOUNTERED**
14 **PREJUDICE ON ACCOUNT OF THEIR RACE, COLOR, RELIGION, ANCESTRY,**
15 **NATIONAL ORIGIN, AGE, SEX, MARITAL STATUS, DISABILITY, SEXUAL**
16 **ORIENTATION, OR GENDER IDENTITY, AND THIS PREJUDICE HAS SEVERELY**
17 **LIMITED OR ACTUALLY PREVENTED ACCESS TO BASIC NECESSITIES OF LIFE,**
18 **LEADING TO DEPRIVATION AND SUFFERING;**

19 **(4) THE OPPORTUNITY TO OBTAIN EMPLOYMENT, HOUSING,**
20 **CREDIT, AND PUBLIC ACCOMMODATIONS WITHOUT DISCRIMINATION IS HEREBY**
21 **RECOGNIZED AS AND DECLARED TO BE A CIVIL RIGHT; AND**

22 **(5) THESE FINDINGS ARE INTENDED TO CODIFY THE PRINCIPLES**
23 **OF JUSTICE AND EQUAL OPPORTUNITY AND TO ENSURE THAT THE PUBLIC**
24 **UNDERSTANDS THAT DISCRIMINATION ON THE BASIS OF RACE, COLOR,**
25 **RELIGION, ANCESTRY, NATIONAL ORIGIN, AGE, SEX, MARITAL STATUS,**
26 **DISABILITY, SEXUAL ORIENTATION, OR GENDER IDENTITY IS EXPRESSLY**
27 **PROHIBITED.**

28 20–301.

29 In this subtitle, “place of public accommodation” means:

30 (1) an inn, hotel, motel, or other establishment that provides lodging
31 to transient guests;

32 (2) a restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or
33 other facility principally engaged in selling food or alcoholic beverages for consumption
34 on or off the premises, including a facility located on the premises of a retail
35 establishment or gasoline station;

1 (3) a motion picture house, theater, concert hall, sports arena,
2 stadium, or other place of exhibition or entertainment;

3 (4) a retail establishment that:

4 (i) is operated by a public or private entity; and

5 (ii) offers goods, services, entertainment, recreation, or
6 transportation; and

7 (5) an establishment:

8 (i) 1. that is physically located within the premises of any
9 other establishment covered by this subtitle; or

10 2. within the premises of which any other establishment
11 covered by this subtitle is physically located; and

12 (ii) that holds itself out as serving patrons of the covered
13 establishment.

14 20–302.

15 This subtitle does not prohibit the proprietor or employees of any establishment
16 from denying service to any person for failure to conform to the usual and regular
17 requirements, standards, and regulations of the establishment, provided that the
18 denial is not based on discrimination on the grounds of race, sex, age, color, creed,
19 national origin, marital status, sexual orientation, **GENDER IDENTITY**, or disability.

20 20–303.

21 This subtitle does not apply:

22 (1) to a private club or other establishment that is not open to the
23 public, except to the extent that the facilities of the private club or other establishment
24 are made available to the customers or patrons of an establishment within the scope of
25 this subtitle;

26 (2) with respect to sex discrimination, to a facility that is:

27 (i) uniquely private and personal in nature; and

28 (ii) designed to accommodate only a particular sex; and

29 (3) to an establishment providing lodging to transient guests located
30 within a building that:

1 (i) contains not more than five rooms for rent or hire; and

2 (ii) is occupied by the proprietor of the establishment as the
3 proprietor's residence.

4 20-304.

5 An owner or operator of a place of public accommodation or an agent or
6 employee of the owner or operator may not refuse, withhold from, or deny to any
7 person any of the accommodations, advantages, facilities, or privileges of the place of
8 public accommodation because of the person's race, sex, age, color, creed, national
9 origin, marital status, sexual orientation, **GENDER IDENTITY**, or disability.

10 20-401.

11 This subtitle does not prohibit any person that is licensed or regulated by the
12 Department of Labor, Licensing, and Regulation from refusing, withholding from, or
13 denying accommodations, advantages, facilities, privileges, sales, or services to any
14 person for failure to conform to the usual and regular requirements, standards, and
15 regulations of the licensed or regulated person, provided that the denial is not based
16 on discrimination on the grounds of race, sex, color, creed, national origin, marital
17 status, sexual orientation, age, **GENDER IDENTITY**, or disability.

18 20-402.

19 A person that is licensed or regulated by a unit in the Department of Labor,
20 Licensing, and Regulation listed in § 2-108 of the Business Regulation Article may not
21 refuse, withhold from, or deny any person any of the accommodations, advantages,
22 facilities, privileges, sales, or services of the licensed or regulated person or
23 discriminate against any person because of the person's race, sex, creed, color, national
24 origin, marital status, sexual orientation, age, **GENDER IDENTITY**, or disability.

25 20-501.

26 An owner or operator of commercial property, an agent or employee of the owner
27 or operator of commercial property, or a person that is licensed or regulated by the
28 State may not discriminate against an individual in the terms, conditions, or
29 privileges of the leasing of property for commercial use, or in the provision of services
30 or facilities in connection with the leasing of property for commercial use, because of
31 the individual's race, color, religion, sex, age, disability, marital status, **SEXUAL**
32 **ORIENTATION**, **GENDER IDENTITY**, or national origin.

33 20-602.

1 It is the policy of the State, in the exercise of its police power for the protection
2 of the public safety, public health, and general welfare, for the maintenance of
3 business and good government, and for the promotion of the State's trade, commerce,
4 and manufacturers:

5 (1) to assure all persons equal opportunity in receiving employment
6 and in all labor management-union relations, regardless of race, color, religion,
7 ancestry or national origin, sex, age, marital status, sexual orientation, **GENDER**
8 **IDENTITY**, or disability unrelated in nature and extent so as to reasonably preclude
9 the performance of the employment; and

10 (2) to that end, to prohibit discrimination in employment by any
11 person.

12 20-603.

13 This subtitle does not require:

14 (1) an employer, employment agency, labor organization, or joint
15 labor-management committee subject to this subtitle to grant preferential treatment
16 to any individual or group on the basis of the race, color, religion, sex, age, national
17 origin, **GENDER IDENTITY**, sexual orientation, or disability of the individual or group
18 because an imbalance may exist with respect to the total number or percentage of
19 individuals of any race, color, religion, sex, age, national origin, **GENDER IDENTITY**,
20 or sexual orientation or individuals with disabilities employed by the employer,
21 referred or classified for employment by the employment agency or labor organization,
22 admitted to membership or classified by the labor organization, or admitted to, or
23 employed in, any apprenticeship or other training program, compared to the total
24 number or percentage of individuals of that race, color, religion, sex, age, national
25 origin, **GENDER IDENTITY**, or sexual orientation or individuals with disabilities in the
26 State or any community, section, or other area, or in the available work force in the
27 State or any community, section, or other area; or

28 (2) an employer to reasonably accommodate an employee's religion or
29 disability if the accommodation would cause undue hardship on the conduct of the
30 employer's business.

31 20-605.

32 (a) Notwithstanding any other provision of this subtitle, this subtitle does
33 not prohibit:

34 (2) an employer from establishing [standards concerning an
35 employee's dress and grooming, if the standards are directly related to the nature of
36 the employment of the employee] **AND REQUIRING AN EMPLOYEE TO ADHERE TO**
37 **REASONABLE WORKPLACE APPEARANCE, GROOMING, AND DRESS STANDARDS**

1 THAT ARE DIRECTLY RELATED TO THE NATURE OF THE EMPLOYMENT OF THE
2 EMPLOYEE AND THAT ARE NOT PRECLUDED BY ANY PROVISION OF STATE OR
3 FEDERAL LAW, AS LONG AS THE EMPLOYER ALLOWS ANY EMPLOYEE TO APPEAR,
4 GROOM, AND DRESS CONSISTENT WITH THE EMPLOYEE'S GENDER IDENTITY;

5 20–606.

6 (a) An employer may not:

7 (1) fail or refuse to hire, discharge, or otherwise discriminate against
8 any individual with respect to the individual's compensation, terms, conditions, or
9 privileges of employment because of:

10 (i) the individual's race, color, religion, sex, age, national origin,
11 marital status, sexual orientation, **GENDER IDENTITY**, genetic information, or
12 disability unrelated in nature and extent so as to reasonably preclude the performance
13 of the employment; or

14 (ii) the individual's refusal to submit to a genetic test or make
15 available the results of a genetic test;

16 (2) limit, segregate, or classify its employees or applicants for
17 employment in any way that would deprive or tend to deprive any individual of
18 employment opportunities or otherwise adversely affect the individual's status as an
19 employee because of:

20 (i) the individual's race, color, religion, sex, age, national origin,
21 marital status, sexual orientation, **GENDER IDENTITY**, genetic information, or
22 disability unrelated in nature and extent so as to reasonably preclude the performance
23 of the employment; or

24 (ii) the individual's refusal to submit to a genetic test or make
25 available the results of a genetic test;

26 (3) request or require genetic tests or genetic information as a
27 condition of hiring or determining benefits; or

28 (4) fail or refuse to make a reasonable accommodation for the known
29 disability of an otherwise qualified employee.

30 (b) An employment agency may not:

31 (1) fail or refuse to refer for employment or otherwise discriminate
32 against any individual because of the individual's race, color, religion, sex, age,
33 national origin, marital status, sexual orientation, **GENDER IDENTITY**, or disability

1 unrelated in nature and extent so as to reasonably preclude the performance of the
2 employment; or

3 (2) classify or refer for employment any individual on the basis of the
4 individual's race, color, religion, sex, age, national origin, marital status, sexual
5 orientation, **GENDER IDENTITY**, or disability unrelated in nature and extent so as to
6 reasonably preclude the performance of the employment.

7 (c) A labor organization may not:

8 (1) exclude or expel from its membership, or otherwise discriminate
9 against, any individual because of the individual's race, color, religion, sex, age,
10 national origin, marital status, sexual orientation, **GENDER IDENTITY**, or disability
11 unrelated in nature and extent so as to reasonably preclude the performance of the
12 employment;

13 (2) limit, segregate, or classify its membership, or classify or fail or
14 refuse to refer for employment any individual, in any way that would deprive or tend
15 to deprive the individual of employment opportunities, limit the individual's
16 employment opportunities, or otherwise adversely affect the individual's status as an
17 employee or as an applicant for employment because of the individual's race, color,
18 religion, sex, age, national origin, marital status, sexual orientation, **GENDER**
19 **IDENTITY**, or disability unrelated in nature and extent so as to reasonably preclude
20 the performance of the employment; or

21 (3) cause or attempt to cause an employer to discriminate against an
22 individual in violation of this section.

23 (d) An employer, labor organization, or joint labor-management committee
24 controlling apprenticeship or other training or retraining programs, including
25 on-the-job training programs, may not discriminate against any individual in
26 admission to, or employment in, any program established to provide apprenticeship or
27 other training or retraining because of the individual's race, color, religion, sex, age,
28 national origin, marital status, sexual orientation, **GENDER IDENTITY**, or disability
29 unrelated in nature and extent so as to reasonably preclude the performance of the
30 employment.

31 (e) (1) Except as provided in paragraph (2) of this subsection, an
32 employer, labor organization, or employment agency may not print or cause to be
33 printed or published any notice or advertisement relating to employment by the
34 employer, membership in or any classification or referral for employment by the labor
35 organization, or any classification or referral for employment by the employment
36 agency that indicates any preference, limitation, specification, or discrimination based
37 on race, color, religion, sex, age, national origin, marital status, sexual orientation,
38 **GENDER IDENTITY**, or disability.

1 (2) A notice or advertisement may indicate a preference, limitation,
2 specification, or discrimination based on religion, sex, age, national origin, marital
3 status, or disability if religion, sex, age, national origin, marital status, or disability is
4 a bona fide occupational qualification for employment.

5 20–608.

6 An employer shall be immune from liability under this title or under the
7 common law arising out of reasonable acts taken by the employer to verify the sexual
8 orientation **OR GENDER IDENTITY** of any employee or applicant in response to a
9 charge filed against the employer on the basis of sexual orientation **OR GENDER**
10 **IDENTITY**.

11 20–702.

12 (a) It is the policy of the State:

13 (1) to provide for fair housing throughout the State to all, regardless of
14 race, color, religion, sex, familial status, national origin, marital status, sexual
15 orientation, **GENDER IDENTITY**, or disability; and

16 (2) to that end, to prohibit discriminatory practices with respect to
17 residential housing by any person, in order to protect and insure the peace, health,
18 safety, prosperity, and general welfare of all.

19 20–704.

20 (a) This subtitle does not apply to:

21 (2) with respect to discrimination on the basis of sex, sexual
22 orientation, **GENDER IDENTITY**, or marital status:

23 (i) the rental of rooms in any dwelling, if the owner maintains
24 the dwelling as the owner's principal residence; or

25 (ii) the rental of any apartment in a dwelling that contains not
26 more than five rental units, if the owner maintains the dwelling as the owner's
27 principal residence.

28 20–705.

29 Except as provided in §§ 20–703 and 20–704 of this subtitle, a person may not:

30 (1) refuse to sell or rent after the making of a bona fide offer, refuse to
31 negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to

1 any person because of race, color, religion, sex, disability, marital status, familial
2 status, sexual orientation, **GENDER IDENTITY**, or national origin;

3 (2) discriminate against any person in the terms, conditions, or
4 privileges of the sale or rental of a dwelling, or in the provision of services or facilities
5 in connection with the sale or rental of a dwelling, because of race, color, religion, sex,
6 disability, marital status, familial status, sexual orientation, **GENDER IDENTITY**, or
7 national origin;

8 (3) make, print, or publish, or cause to be made, printed, or published,
9 any notice, statement, or advertisement with respect to the sale or rental of a dwelling
10 that indicates any preference, limitation, or discrimination based on race, color,
11 religion, sex, disability, marital status, familial status, sexual orientation, **GENDER**
12 **IDENTITY**, or national origin, or an intention to make any preference, limitation, or
13 discrimination;

14 (4) represent to any person, because of race, color, religion, sex,
15 disability, marital status, familial status, sexual orientation, **GENDER IDENTITY**, or
16 national origin, that any dwelling is not available for inspection, sale, or rental when
17 the dwelling is available; or

18 (5) for profit, induce or attempt to induce any person to sell or rent
19 any dwelling by representations regarding the entry or prospective entry into the
20 neighborhood of a person of a particular race, color, religion, sex, disability, marital
21 status, familial status, sexual orientation, **GENDER IDENTITY**, or national origin.

22 20–707.

23 (b) (1) A person whose business includes engaging in residential real
24 estate–related transactions may not discriminate against any person in making
25 available a transaction, or in the terms or conditions of a transaction, because of race,
26 color, religion, sex, disability, marital status, familial status, sexual orientation,
27 **GENDER IDENTITY**, or national origin.

28 (2) Paragraph (1) of this subsection does not prohibit a person engaged
29 in the business of furnishing appraisals of real property from taking into consideration
30 factors other than race, color, religion, sex, disability, marital status, familial status,
31 sexual orientation, **GENDER IDENTITY**, or national origin.

32 (c) A person may not, because of race, color, religion, sex, disability, marital
33 status, familial status, sexual orientation, **GENDER IDENTITY**, or national origin:

34 (1) deny a person access to, or membership or participation in, a
35 multiple–listing service, real estate brokers’ organization, or other service,
36 organization, or facility relating to the business of selling or renting dwellings; or

1 (2) discriminate against a person in the terms or conditions of
2 membership or participation.

3 20–1103.

4 (b) Whether or not acting under color of law, a person may not, by force or
5 threat of force, willfully injure, intimidate, interfere with, or attempt to injure,
6 intimidate, or interfere with:

7 (1) any person because of race, color, religion, sex, disability, marital
8 status, familial status, sexual orientation, **GENDER IDENTITY**, or national origin and
9 because the person is or has been:

10 (i) selling, purchasing, renting, financing, occupying, or
11 contracting or negotiating for the sale, purchase, rental, financing, or occupation of
12 any dwelling; or

13 (ii) applying for or participating in any service, organization, or
14 facility relating to the business of selling or renting dwellings;

15 (2) any person because the person is or has been, or in order to
16 intimidate the person or any other person or any class of persons from:

17 (i) participating, without discrimination on account of race,
18 color, religion, sex, disability, marital status, familial status, sexual orientation,
19 **GENDER IDENTITY**, or national origin, in any of the activities, services, organizations,
20 or facilities described in item (1) of this subsection; or

21 (ii) affording another person or class of persons the opportunity
22 or protection to participate in any of the activities, services, organizations, or facilities
23 described in item (1) of this subsection; or

24 (3) any person because the person is or has been, or in order to
25 discourage the person or any other person from:

26 (i) lawfully aiding or encouraging other persons to participate,
27 without discrimination on account of race, color, religion, sex, disability, marital
28 status, familial status, sexual orientation, **GENDER IDENTITY**, or national origin, in
29 any of the activities, services, organizations, or facilities described in item (1) of this
30 subsection; or

31 (ii) participating lawfully in speech or peaceful assembly
32 opposing any denial of the opportunity to participate in any of the activities, services,
33 organizations, or facilities described in item (1) of this subsection.

34 **Article – State Personnel and Pensions**

1 2-302.

2 (a) The State recognizes and honors the value and dignity of every person
3 and understands the importance of providing employees and applicants for
4 employment with a fair opportunity to pursue their careers in an environment free of
5 discrimination or harassment prohibited by law.

6 (b) (1) Except as provided in paragraph (2) of this subsection or by other
7 law, all personnel actions concerning a State employee or applicant for employment in
8 State government shall be made without regard to:

9 (i) age;

10 (ii) ancestry;

11 (iii) color;

12 (iv) creed;

13 **(V) GENDER IDENTITY;**

14 **[(v)] (VI) marital status;**

15 **[(vi)] (VII) mental or physical disability;**

16 **[(vii)] (VIII) national origin;**

17 **[(viii)] (IX) race;**

18 **[(ix)] (X) religious affiliation, belief, or opinion; [or]**

19 **[(x)] (XI) sex; OR**

20 **(XII) SEXUAL ORIENTATION.**

21 (2) A personnel action may be taken with regard to age, sex, or
22 disability to the extent that age, sex, or physical or mental qualification is required by
23 law or is a bona fide occupational qualification.

24 (c) (1) Each State employee is expected to assume personal responsibility
25 and leadership in ensuring fair employment practices and equal employment
26 opportunity in Maryland State government.

27 (2) Employment discrimination and harassment by State managers,
28 supervisors, or other employees is prohibited.

1 (3) A State employee who violates this subtitle is subject to
2 disciplinary action by the employee's appointing authority, including the termination
3 of State employment.

4 (d) The Equal Employment Opportunity Program in Title 5, Subtitle 2 of this
5 article governs all employees of any unit in the Executive Branch of State government,
6 including a unit with an independent personnel system.

7 (e) (1) At least annually, the Secretary shall report on the Equal
8 Employment Opportunity Program established in § 5-202 of this article to the Joint
9 Committee on Fair Practices and State Personnel Oversight.

10 (2) The head of a personnel system in the Legislative and Judicial
11 branches may report periodically on equal employment opportunity programs and
12 policies in effect in that personnel system to the Joint Committee on Fair Practices
13 and State Personnel Oversight.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2014.