
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 490 Session of
2019

INTRODUCED BY FARNESE, FONTANA, LEACH, MUTH, A. WILLIAMS,
SANTARSIERO, COLLETT, HAYWOOD, BREWSTER, KEARNEY, COSTA,
HUGHES AND TARTAGLIONE, APRIL 18, 2019

REFERRED TO LABOR AND INDUSTRY, APRIL 18, 2019

AN ACT

1 Amending the act of October 27, 1955 (P.L.744, No.222), entitled
2 "An act prohibiting certain practices of discrimination
3 because of race, color, religious creed, ancestry, age or
4 national origin by employers, employment agencies, labor
5 organizations and others as herein defined; creating the
6 Pennsylvania Human Relations Commission in the Governor's
7 Office; defining its functions, powers and duties; providing
8 for procedure and enforcement; providing for formulation of
9 an educational program to prevent prejudice; providing for
10 judicial review and enforcement and imposing penalties,"
11 further providing for definitions, for procedure and for
12 construction and exclusiveness of remedy.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Sections 4(b), 9(h) and 12(c) and (c.2) of the
16 act of October 27, 1955 (P.L.744, No.222), known as the
17 Pennsylvania Human Relations Act, are amended to read:

18 Section 4. Definitions.--As used in this act unless a
19 different meaning clearly appears from the context:

20 * * *

21 (b) The term "employer" includes the Commonwealth or any
22 political subdivision or board, department, commission or school

1 district thereof and any person employing [four] one or more
2 persons within the Commonwealth, but except as hereinafter
3 provided, does not include religious, fraternal, charitable or
4 sectarian corporations or associations, except such corporations
5 or associations supported, in whole or in part, by governmental
6 appropriations. The term "employer" with respect to
7 discriminatory practices based on race, color, age, sex,
8 national origin or non-job related handicap or disability,
9 includes religious, fraternal, charitable and sectarian
10 corporations and associations employing [four] one or more
11 persons within the Commonwealth.

12 * * *

13 Section 9. Procedure.--* * *

14 (h) Any complaint filed pursuant to this section must be so
15 filed within [one hundred eighty days] three hundred days after
16 the alleged act of discrimination, unless otherwise required by
17 the Fair Housing Act.

18 * * *

19 Section 12. Construction and Exclusiveness of Remedy.--

20 * * *

21 (c) (1) In cases involving a claim of discrimination, if a
22 complainant invokes the procedures set forth in this act, that
23 individual's right of action in the courts of the Commonwealth,
24 including the right to demand a trial by jury, shall not be
25 foreclosed. If within one (1) year after the filing of a
26 complaint with the Commission, the Commission dismisses the
27 complaint or has not entered into a conciliation agreement to
28 which the complainant is a party, the Commission must so notify
29 the complainant. On receipt of such a notice the complainant
30 shall be able to bring an action in the courts of common pleas

1 of the Commonwealth based on the right to freedom from
2 discrimination granted by this act.

3 (2) An action under this subsection shall be filed within
4 two years after the date of notice from the Commission closing
5 the complaint. Any complaint so filed shall be served on the
6 Commission at the time the complaint is filed in court. The
7 Commission shall notify the complainant of this requirement.

8 (3) If the court or jury finds that the respondent has
9 engaged in or is engaging in an unlawful discriminatory practice
10 charged in the complaint, the court shall enjoin the respondent
11 from engaging in such unlawful discriminatory practice and order
12 affirmative action which may include, but is not limited to,
13 reinstatement or hiring of employes, granting of back pay, or
14 any other legal or equitable relief as the court or jury deems
15 appropriate. Back pay liability shall not accrue from a date
16 more than three years prior to the filing of a complaint
17 charging violations of this act.

18 (3.1) In addition to the legal and equitable relief
19 permitted under this section, the plaintiff may recover punitive
20 damages if the plaintiff demonstrates that the defendant engaged
21 in or is engaging in an unlawful discriminatory practice charged
22 in the complaint with malice or reckless indifference to the
23 rights of the plaintiff. This paragraph does not apply to an
24 action against the Commonwealth or a political subdivision or
25 board, department, commission or school district thereof.

26 (4) The court shall serve upon the Commission any final
27 order issued in any action brought under this subsection.

28 * * *

29 (c.2) If, after a trial held pursuant to subsection (c), the
30 court of common pleas finds that a defendant engaged in or is

1 engaging in any unlawful discriminatory practice as defined in
2 this act, the [court may award attorney fees and costs to the]
3 prevailing plaintiff[.] is entitled to the award of reasonable
4 attorney fees and costs unless the court determines that special
5 circumstances exist to justify denial of such fees.

6 * * *

7 Section 2. This act shall not be construed to affect an
8 action or proceeding commenced or right accrued before the
9 effective date of this section.

10 Section 3. This act shall take effect in 60 days.