
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 938

Session of
1977

INTRODUCED BY PETRARCA, LAUDADIO, C. GEORGE, MANDERINO AND
SALVATORE, APRIL 20, 1977

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 20, 1977

AN ACT

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

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

15 Section 1. Sections 2 and 3, act of October 27, 1955
16 (P.L.744, No.222), known as the "Pennsylvania Human Relations
17 Act," amended December 19, 1974 (P.L.966, No.318), are amended
18 to read:

19 Section 2. Findings and Declaration of Policy.--

20 (a) The practice or policy of discrimination against
21 individuals or groups by reason of their race, color, religious
22 creed, ancestry, handicap or disability, use of guide dogs
23 because of blindness of the user, age, sex, medical condition,

1 or national origin is a matter of concern of the Commonwealth.
2 Such discrimination foments domestic strife and unrest,
3 threatens the rights and privileges of the inhabitants of the
4 Commonwealth, and undermines the foundations of a free
5 democratic state. The denial of equal employment, housing and
6 public accommodation opportunities because of such
7 discrimination, and the consequent failure to utilize the
8 productive capacities of individuals to their fullest extent,
9 deprives large segments of the population of the Commonwealth of
10 earnings necessary to maintain decent standards of living,
11 necessitates their resort to public relief and intensifies group
12 conflicts, thereby resulting in grave injury to the public
13 health and welfare, compels many individuals to live in
14 dwellings which are substandard, unhealthful and overcrowded,
15 resulting in racial segregation in public schools and other
16 community facilities, juvenile delinquency and other evils,
17 thereby threatening the peace, health, safety and general
18 welfare of the Commonwealth and its inhabitants.

19 (b) It is hereby declared to be the public policy of this
20 Commonwealth to foster the employment of all individuals in
21 accordance with their fullest capacities regardless of their
22 race, color, religious creed, ancestry, handicap or disability,
23 use of guide dogs because of blindness of the user, age, sex,
24 medical condition, or national origin, and to safeguard their
25 right to obtain and hold employment without such discrimination,
26 to assure equal opportunities to all individuals and to
27 safeguard their rights at places of public accommodation and to
28 secure commercial housing regardless of race, color, religious
29 creed, ancestry, sex, medical condition, handicap or disability,
30 use of guide dogs because of blindness of the user or national

1 origin.

2 (c) This act shall be deemed an exercise of the police power
3 of the Commonwealth for the protection of the public welfare,
4 prosperity, health and peace of the people of the Commonwealth
5 of Pennsylvania.

6 Section 3. Right to Freedom from Discrimination in
7 Employment, Housing and Places of Public Accommodation.--The
8 opportunity for an individual to obtain employment for which he
9 is qualified, and to obtain all the accommodations, advantages,
10 facilities and privileges of any place of public accommodation
11 and of commercial housing without discrimination because of
12 race, color, religious creed, ancestry, handicap or disability,
13 age, sex, medical condition, or national origin are hereby
14 recognized as and declared to be civil rights which shall be
15 enforceable as set forth in this act.

16 The opportunity of an individual to obtain all the
17 accommodations, advantages, facilities and privileges of
18 commercial housing without discrimination due to the sex of an
19 individual or to the use of a guide dog because of blindness of
20 the user is hereby recognized as and declared to be a civil
21 right which shall be enforceable as set forth in this act.

22 Section 2. Clause (b) of section 4 of the act, amended
23 December 19, 1974 (P.L.966, No.318), is amended to read:

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

26 * * *

27 (b) The term "employer" includes the Commonwealth or any
28 political subdivision or board, department, commission or school
29 district thereof and any person employing four or more persons
30 within the Commonwealth, but except as hereinafter provided,

1 does not include religious, fraternal, charitable or sectarian
2 corporations or associations, except such corporations or
3 associations supported, in whole or in part, by governmental
4 appropriations. The term "employer" with respect to
5 discriminatory practices based on race, color, age, national
6 origin, medical condition, or non-job related handicap or
7 disability, includes religious, fraternal, charitable and
8 sectarian corporations and associations employing four or more
9 persons within the Commonwealth.

10 * * *

11 Section 3. Section 4 of the act is amended by adding a
12 clause to read:

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

15 * * *

16 (q) The term "medical condition" means any health impairment
17 related to or associated with a diagnosis of cancer, for which a
18 person has been rehabilitated or cured, based on competent
19 medical evidence.

20 Section 4. Section 5 of the act, subsections (a), (b), (f),
21 (h) and (i) amended December 19, 1974 (P.L.966, No.318),
22 subsections (c) and (g) amended July 9, 1969 (P.L.133, No.56),
23 clause (j) added December 27, 1965 (P.L.1224, No.497),
24 undesignated paragraph added December 19, 1974 (P.L.966,
25 No.318), is amended to read:

26 Section 5. Unlawful Discriminatory Practices.--It shall be
27 an unlawful discriminatory practice, unless based upon a bona
28 fide occupational qualification, or in the case of a fraternal
29 corporation or association, unless based upon membership in such
30 association or corporation, or except where based upon

1 applicable security regulations established by the United States
2 or the Commonwealth of Pennsylvania:

3 (a) For any employer because of the race, color, religious
4 creed, ancestry, age, sex, national origin, medical condition,
5 or non-job related handicap or disability of any individual to
6 refuse to hire or employ, or to bar or to discharge from
7 employment such individual, or to otherwise discriminate against
8 such individual with respect to compensation, hire, tenure,
9 terms, conditions or privileges of employment, if the individual
10 is the best able and most competent to perform the services
11 required. The provision of this paragraph shall not apply, to
12 (1) termination of employment because of the terms or conditions
13 of any bona fide retirement or pension plan, (2) operation of
14 the terms or conditions of any bona fide retirement or pension
15 plan which have the effect of a minimum service requirement, (3)
16 operation of the terms or conditions of any bona fide group or
17 employee insurance plan.

18 (b) For any employer, employment agency or labor
19 organization, prior to the employment or admission to
20 membership, to

21 (1) Elicit any information or make or keep a record of or
22 use any form or application or application blank containing
23 questions or entries concerning the race, color, religious
24 creed, ancestry, sex, national origin, medical condition, or
25 past handicap or disability of any applicant for employment or
26 membership. An employer may inquire as to the existence and
27 nature of a present handicap or disability. To determine whether
28 such handicap or disability substantially interferes with the
29 ability to perform the essential function of the employment
30 which is applied for, is being engaged in, or has been engaged

1 in, the employer must inquire beyond the mere existence of a
2 handicap or disability.

3 (2) Print or publish or cause to be printed or published any
4 notice or advertisement relating to employment or membership
5 indicating any preference, limitation, specification or
6 discrimination based upon race, color, religious creed,
7 ancestry, age, sex, national origin, medical condition, or non-
8 job related handicap or disability.

9 (3) Deny or limit, through a quota system, employment or
10 membership because of race, color, religious creed, ancestry,
11 age, sex, national origin, medical condition, non-job related
12 handicap or disability or place of birth.

13 (4) Substantially confine or limit recruitment or hiring of
14 individuals, with intent to circumvent the spirit and purpose of
15 this act, to any employment agency, employment service, labor
16 organization, training school or training center or any other
17 employe-referring source which services individuals who are
18 predominantly of the same race, color, religious creed,
19 ancestry, age, sex, national origin, medical condition, or non-
20 job related handicap or disability.

21 (5) Deny employment because of a prior handicap or
22 disability.

23 Nothing in clause (b) of this section shall bar any
24 institution or organization for handicapped or disabled persons
25 from limiting or giving preference in employment or membership
26 to handicapped or disabled persons.

27 (c) For any labor organization because of the race, color,
28 religious creed, ancestry, age, sex, medical condition, or
29 national origin of any individual to deny full and equal
30 membership rights to any individual or otherwise to discriminate

1 against such individuals with respect to hire, tenure, terms,
2 conditions or privileges of employment or any other matter,
3 directly or indirectly, related to employment.

4 (d) For any employer, employment agency or labor
5 organization to discriminate in any manner against any
6 individual because such individual has opposed any practice
7 forbidden by this act, or because such individual has made a
8 charge, testified or assisted, in any manner, in any
9 investigation, proceeding or hearing under this act.

10 (e) For any person, whether or not an employer, employment
11 agency, labor organization or employe, to aid, abet, incite,
12 compel or coerce the doing of any act declared by this section
13 to be an unlawful discriminatory practice, or to obstruct or
14 prevent any person from complying with the provisions of this
15 act or any order issued thereunder, or to attempt, directly or
16 indirectly, to commit any act declared by this section to be
17 unlawful discriminatory practice.

18 (f) For any employment agency to fail or refuse to classify
19 properly, refer for employment or otherwise to discriminate
20 against any individual because of his race, color, religious
21 creed, ancestry, age, sex, national origin, medical condition,
22 or non-job related handicap or disability.

23 (g) For any individual seeking employment to publish or
24 cause to be published any advertisement which specifies or in
25 any manner expresses his race, color, religious creed, ancestry,
26 age, sex, medical condition, or national origin, or in any
27 manner expresses a limitation or preference as to the race,
28 color, religious creed, ancestry, age, sex, medical condition,
29 or national origin of any prospective employer.

30 (h) For any person to:

1 (1) Refuse to sell, lease, finance or otherwise to deny or
2 withhold commercial housing from any person because of the race,
3 color, religious creed, ancestry, sex, national origin, medical
4 condition, or handicap or disability of any prospective owner,
5 occupant or user of such commercial housing, or to refuse to
6 lease commercial housing to any person due to use of a guide dog
7 because of the blindness of the user.

8 (2) Refuse to lend money, whether or not secured by mortgage
9 or otherwise for the acquisition, construction, rehabilitation,
10 repair or maintenance of commercial housing or otherwise
11 withhold financing of commercial housing from any person because
12 of the race, color, religious creed, ancestry, sex, national
13 origin, medical condition, or handicap or disability of any
14 present or prospective owner, occupant or user of such
15 commercial housing.

16 (3) Discriminate against any person in the terms or
17 conditions of selling or leasing any commercial housing or in
18 furnishing facilities, services or privileges in connection with
19 the ownership, occupancy or use of any commercial housing
20 because of the race, color, religious creed, ancestry, sex,
21 national origin, medical condition, or handicap or disability of
22 any present or prospective owner, occupant or user of such
23 commercial housing or to discriminate against any person in the
24 terms of leasing any commercial housing or in furnishing
25 facilities, services or privileges in connection with the
26 occupancy or use of any commercial housing due to use of a guide
27 dog because of the blindness of the user.

28 (4) Discriminate against any person in the terms or
29 conditions of any loan of money, whether or not secured by
30 mortgage or otherwise for the acquisition, construction,

1 rehabilitation, repair or maintenance of commercial housing
2 because of the race, color, religious creed, ancestry, sex,
3 national origin, medical condition, or handicap or disability of
4 any present or prospective owner, occupant or user of such
5 commercial housing.

6 (5) Print, publish or circulate any statement or
7 advertisement relating to the sale, lease or acquisition of any
8 commercial housing or the loan of money, whether or not secured
9 by mortgage, or otherwise for the acquisition, construction,
10 rehabilitation, repair or maintenance of commercial housing
11 which indicates any preference, limitation, specification, or
12 discrimination based upon race, color, religious creed,
13 ancestry, sex, national origin, medical condition, or handicap
14 or disability, or to print, publish or circulate any statement
15 or advertisement relating to the lease of any commercial
16 dwelling which indicates any preference, limitation,
17 specification or discrimination based upon use of a guide dog
18 because of the blindness of the user.

19 (6) Make any inquiry, elicit any information, make or keep
20 any record or use any form of application, containing questions
21 or entries concerning race, color, religious creed, ancestry,
22 sex, national origin, medical condition, or handicap or
23 disability in connection with the sale or lease of any
24 commercial housing or loan of any money, whether or not secured
25 by mortgage or otherwise for the acquisition, construction,
26 rehabilitation, repair or maintenance of commercial housing, or
27 to make any inquiry, elicit any information, make or keep any
28 record or use any form of application, containing questions or
29 entries concerning the use of a guide dog because of the
30 blindness of the user, in connection with the lease of any

1 commercial housing.

2 (i) For any person being the owner, lessee, proprietor,
3 manager, superintendent, agent or employe of any place of public
4 accommodation, resort or amusement to

5 (1) Refuse, withhold from, or deny to any person because of
6 his race, color, religious creed, ancestry, national origin,
7 medical condition, or handicap or disability, or to any person
8 due to use of a guide dog because of the blindness of the user,
9 either directly or indirectly, any of the accommodations,
10 advantages, facilities or privileges of such place of public
11 accommodation, resort or amusement.

12 (2) Publish, circulate, issue, display, post or mail, either
13 directly or indirectly, any written or printed communication,
14 notice or advertisement to the effect that any of the
15 accommodations, advantages, facilities and privileges of any
16 such place shall be refused, withheld from or denied to any
17 person on account of race, color, religious creed, ancestry,
18 national origin, medical condition, or handicap or disability,
19 or to any person due to use of a guide dog because of the
20 blindness of the user, or that the patronage or custom thereat
21 of any person, belonging to or purporting to be of any
22 particular race, color, religious creed, ancestry, national
23 origin, medical condition, or handicap or disability or to any
24 person due to use of a guide dog because of the blindness of the
25 user, is unwelcome, objectionable or not acceptable, desired or
26 solicited.

27 Nothing in clause (h) of this section shall bar any religious
28 or denominational institution or organization or any charitable
29 or educational organization, which is operated, supervised or
30 controlled by or in connection with a religious organization or

1 any bona fide private or fraternal organization from giving
2 preference to persons of the same religion or denomination or to
3 members of such private or fraternal organization or from making
4 such selection as is calculated by such organization to promote
5 the religious principles or the aims, purposes or fraternal
6 principles for which it is established or maintained. Nor shall
7 it apply to the rental of rooms or apartments in a landlord
8 occupied rooming house with a common entrance.

9 (j) For any person subject to the act to fail to post and
10 exhibit prominently in his place of business any fair practices
11 notice prepared and distributed by the Pennsylvania Human
12 Relations Commission.

13 This section of the act as amended shall not be construed to
14 prohibit the refusal to hire or the dismissal of a person who is
15 not able to function properly in the job applied for or engaged
16 in.

17 Section 5. This act shall take effect in 60 days.