
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1306 Session of
2015

INTRODUCED BY BROWNE, JUNE 10, 2016

REFERRED TO LABOR AND INDUSTRY, JUNE 10, 2016

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 Governor's Office; defining its functions, powers and duties;
8 providing for procedure and enforcement; providing for
9 formulation of an educational program to prevent prejudice;
10 providing for judicial review and enforcement and imposing
11 penalties," further providing for the title of the act, for
12 findings and declaration of policy, for right to freedom from
13 discrimination in employment, housing and public
14 accommodation, for definitions, for unlawful discriminatory
15 practices, for powers and duties of commission, for
16 educational program and for construction and exclusiveness of
17 remedy.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. The title and sections 2 and 3 of the act of
21 October 27, 1955 (P.L.744, No.222), known as the Pennsylvania
22 Human Relations Act, amended December 20, 1991 (P.L.414, No.51),
23 are amended to read:

24 AN ACT

25 Prohibiting certain practices of discrimination because of race,
26 color, religious creed, ancestry, sex, sexual orientation,

1 gender identity or expression, age or national origin by
2 employers, employment agencies, labor organizations and
3 others as herein defined; creating the Pennsylvania Human
4 Relations Commission in the Governor's Office; defining its
5 functions, powers and duties; providing for procedure and
6 enforcement; providing for formulation of an educational
7 program to prevent prejudice; providing for judicial review
8 and enforcement and imposing penalties.

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

10 (a) The practice or policy of discrimination against
11 individuals or groups by reason of their race, color, familial
12 status, religious creed, ancestry, age, sex, sexual orientation,
13 gender identity or expression, national origin, handicap or
14 disability, use of guide or support animals because of the
15 blindness, deafness or physical handicap of the user or because
16 the user is a handler or trainer of support or guide animals is
17 a matter of concern of the Commonwealth. Such discrimination
18 foments domestic strife and unrest, threatens the rights and
19 privileges of the inhabitants of the Commonwealth, and
20 undermines the foundations of a free democratic state. The
21 denial of equal employment, housing and public accommodation
22 opportunities because of such discrimination, and the consequent
23 failure to utilize the productive capacities of individuals to
24 their fullest extent, deprives large segments of the population
25 of the Commonwealth of earnings necessary to maintain decent
26 standards of living, necessitates their resort to public relief
27 and intensifies group conflicts, thereby resulting in grave
28 injury to the public health and welfare, compels many
29 individuals to live in dwellings which are substandard,
30 unhealthful and overcrowded, resulting in racial segregation in

1 public schools and other community facilities, juvenile
2 delinquency and other evils, thereby threatening the peace,
3 health, safety and general welfare of the Commonwealth and its
4 inhabitants. Public policies, reflecting an open and welcoming
5 environment and ensuring equal opportunity, foster economic
6 growth and prosperity which benefit the inhabitants of this
7 Commonwealth. Conversely, the absence of nondiscrimination
8 protections hinder efforts to recruit and retain the diversity
9 of talented individuals and successful enterprises required for
10 a thriving economy and strong public sector on which the
11 inhabitants of this Commonwealth depend.

12 (b) It is hereby declared to be the public policy of this
13 Commonwealth [to]:

14 (1) To foster the employment of all individuals in
15 accordance with their fullest capacities regardless of their
16 race, color, religious creed, ancestry, age, sex, sexual
17 orientation, gender identity or expression, national origin,
18 handicap or disability, use of guide or support animals because
19 of the blindness, deafness or physical handicap of the user or
20 because the user is a handler or trainer of support or guide
21 animals, and to safeguard their right to obtain and hold
22 employment without such discrimination[, to].

23 (2) To assure equal opportunities to all individuals and to
24 safeguard their rights to public accommodation [and to secure
25 housing accommodation and commercial property] regardless of
26 race, color, familial status, religious creed, ancestry, age,
27 sex, national origin, handicap or disability, use of guide or
28 support animals because of blindness or deafness of the user or
29 because the user is a handler or trainer of guide or support
30 animals.

1 (3) To assure equal opportunities to all individuals and to
2 safeguard their rights to secure housing accommodation and
3 commercial property regardless of race, color, familial status,
4 religious creed, ancestry, age, sex, national origin, handicap
5 or disability, use of guide or support animals because of
6 blindness or deafness of the user or because the user is a
7 handler or trainer of guide or support animals.

8 (c) This act shall be deemed an exercise of the police power
9 of the Commonwealth for the protection of the public welfare,
10 prosperity, health and peace of the people of the Commonwealth
11 of Pennsylvania.

12 Section 3. Right to Freedom from Discrimination in
13 Employment[, Housing and Public Accommodation].--The opportunity
14 for an individual to obtain employment for which he is
15 qualified[, and to obtain all the accommodations, advantages,
16 facilities and privileges of any public accommodation and of any
17 housing accommodation and commercial property] without
18 discrimination because of race, color, familial status,
19 religious creed, ancestry, handicap or disability, age, sex,
20 sexual orientation, gender identity or expression, national
21 origin, the use of a guide or support animal because of the
22 blindness, deafness or physical handicap of the user or because
23 the user is a handler or trainer of support or guide animals is
24 hereby recognized as and declared to be a civil right which
25 shall be enforceable as set forth in this act.

26 Section 2. The act is amended by adding sections to read:

27 Section 3.1. Right to Freedom from Discrimination in
28 Housing.--The opportunity for an individual to obtain all the
29 accommodations, advantages, facilities and privileges of any
30 housing accommodation and commercial property without

1 discrimination because of race, color, familial status,
2 religious creed, ancestry, handicap or disability, age, sex,
3 national origin, the use of a guide or support animal because of
4 the blindness, deafness or physical handicap of the user or
5 because the user is a handler or trainer of support or guide
6 animals is hereby recognized as and declared to be a civil right
7 which shall be enforceable as set forth in this act.

8 Section 3.2. Right to Freedom from Discrimination in Public
9 Accommodation.--The opportunity for an individual to obtain all
10 the accommodations, advantages, facilities and privileges of any
11 public accommodation without discrimination because of race,
12 color, familial status, religious creed, ancestry, handicap or
13 disability, age, sex, national origin, the use of a guide or
14 support animal because of the blindness, deafness or physical
15 handicap of the user or because the user is a handler or trainer
16 of support or guide animals is hereby recognized as and declared
17 to be a civil right which shall be enforceable as set forth in
18 this act.

19 Section 3. Section 4(b) of the act, amended December 20,
20 1991 (P.L.414, No.51), is amended and the section is amended by
21 adding subsections to read:

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

24 * * *

25 (b) The term "employer" includes the Commonwealth or any
26 political subdivision or board, department, commission or school
27 district thereof and any person employing four or more persons
28 within the Commonwealth, but except as hereinafter provided,
29 does not include religious, fraternal, charitable or sectarian
30 corporations or associations, except such corporations or

1 associations supported, in whole or in part, by governmental
2 appropriations. The term "employer" with respect to
3 discriminatory practices based on race, color, age, sex, sexual
4 orientation, gender identity or expression, national origin or
5 non-job related handicap or disability, includes religious,
6 fraternal, charitable and sectarian corporations and
7 associations employing four or more persons within the
8 Commonwealth.

9 * * *

10 (bb) The term "sexual orientation" means heterosexuality,
11 homosexuality or bisexuality.

12 (cc) The term "gender identity or expression" means the
13 gender-related identity, appearance, mannerisms, expression or
14 other gender-related characteristics of an individual regardless
15 of the individual's designated sex at birth.

16 Section 4. Sections 5(a), (b), (c), (f) and (g) and 7(i),
17 (j) and (k) of the act, amended December 20, 1991 (P.L.414,
18 No.51), are amended to read:

19 Section 5. Unlawful Discriminatory Practices.--It shall be
20 an unlawful discriminatory practice, unless based upon a bona
21 fide occupational qualification, or in the case of a fraternal
22 corporation or association, unless based upon membership in such
23 association or corporation, or except where based upon
24 applicable security regulations established by the United States
25 or the Commonwealth of Pennsylvania:

26 (a) For any employer because of the race, color, religious
27 creed, ancestry, age, sex, sexual orientation, gender identity
28 or expression, national origin or non-job related handicap or
29 disability or the use of a guide or support animal because of
30 the blindness, deafness or physical handicap of any individual

1 or independent contractor, to refuse to hire or employ or
2 contract with, or to bar or to discharge from employment such
3 individual or independent contractor, or to otherwise
4 discriminate against such individual or independent contractor
5 with respect to compensation, hire, tenure, terms, conditions or
6 privileges of employment or contract, if the individual or
7 independent contractor is the best able and most competent to
8 perform the services required. The [provision] provisions of
9 this paragraph shall not apply, to (1) operation of the terms or
10 conditions of any bona fide retirement or pension plan which
11 have the effect of a minimum service requirement, (2) operation
12 of the terms or conditions of any bona fide group or employe
13 insurance plan, (3) age limitations placed upon entry into bona
14 fide apprenticeship programs of two years or more approved by
15 the State Apprenticeship and Training Council of the Department
16 of Labor and Industry, established by the act of July 14, 1961
17 (P.L.604, No.304), known as "The Apprenticeship and Training
18 Act." Notwithstanding any provision of this clause, it shall not
19 be an unlawful employment practice for a religious corporation
20 or association to hire or employ on the basis of sex in those
21 certain instances where sex is a bona fide occupational
22 qualification because of the religious beliefs, practices, or
23 observances of the corporation, or association. Except as
24 otherwise required by law, it is not an unlawful discriminatory
25 practice based on race, color, religious creed, ancestry, age,
26 sexual orientation, gender identity or expression or national
27 origin under this act to fail or refuse to construct new or
28 additional facilities.

29 (b) For any employer, employment agency or labor
30 organization, prior to the employment, contracting with an

1 independent contractor or admission to membership, to:

2 (1) Elicit any information or make or keep a record of or
3 use any form of application or application blank containing
4 questions or entries concerning the race, color, religious
5 creed, ancestry, age, sex, sexual orientation, gender identity
6 or expression, national origin, past handicap or disability or
7 the use of a guide or support animal because of the blindness,
8 deafness or physical handicap of any applicant for employment or
9 membership. Prior to an offer of employment, an employer may not
10 inquire as to whether an individual has a handicap or disability
11 or as to the severity of such handicap or disability. An
12 employer may inquire as to the individual's ability to perform
13 the essential functions of the employment.

14 (2) Print or publish or cause to be printed or published any
15 notice or advertisement relating to employment or membership
16 indicating any preference, limitation, specification or
17 discrimination based upon race, color, religious creed,
18 ancestry, age, sex, sexual orientation, gender identity or
19 expression, national origin, non-job related handicap or
20 disability or the use of a guide or support animal because of
21 the blindness, deafness or physical handicap of the user.

22 (3) Deny or limit, through a quota system, employment or
23 membership because of race, color, religious creed, ancestry,
24 age, sex, sexual orientation, gender identity or expression,
25 national origin, non-job related handicap or disability, the use
26 of a guide or support animal because of the blindness, deafness
27 or physical handicap of the user or place of birth.

28 (4) Substantially confine or limit recruitment or hiring of
29 individuals, with intent to circumvent the spirit and purpose of
30 this act, to any employment agency, employment service, labor

1 organization, training school or training center or any other
2 employe-referring source which services individuals who are
3 predominantly of the same race, color, religious creed,
4 ancestry, age, sex, sexual orientation, gender identity or
5 expression, national origin or non-job related handicap or
6 disability.

7 (5) Deny employment because of a prior handicap or
8 disability.

9 Nothing in clause (b) of this section shall bar any
10 institution or organization for handicapped or disabled persons
11 from limiting or giving preference in employment or membership
12 to handicapped or disabled persons.

13 (c) For any labor organization because of the race, color,
14 religious creed, ancestry, age, sex, sexual orientation, gender
15 identity or expression, national origin, non-job related
16 handicap or disability or the use of a guide or support animal
17 because of the blindness, deafness or physical handicap of any
18 individual to deny full and equal membership rights to any
19 individual or otherwise to discriminate against such individuals
20 with respect to hire, tenure, terms, conditions or privileges of
21 employment or any other matter, directly or indirectly, related
22 to employment.

23 * * *

24 (f) For any employment agency to fail or refuse to classify
25 properly, refer for employment or otherwise to discriminate
26 against any individual because of his race, color, religious
27 creed, ancestry, age, sex, sexual orientation, gender identity
28 or expression, national origin, non-job related handicap or
29 disability or the use of a guide or support animal because of
30 the blindness, deafness or physical handicap of the user.

1 (g) For any individual seeking employment to publish or
2 cause to be published any advertisement which in any manner
3 expresses a limitation or preference as to the race, color,
4 religious creed, ancestry, age, sex, sexual orientation, gender
5 identity or expression, national origin, non-job related
6 handicap or disability or the use of a guide or support animal
7 because of the blindness, deafness or physical handicap of any
8 prospective employer.

9 * * *

10 Section 7. Powers and Duties of the Commission.--The
11 Commission shall have the following powers and duties:

12 * * *

13 (i) To create such advisory agencies and conciliation
14 councils, local or state-wide, as will aid in effectuating the
15 purposes of this act. The Commission may itself or it may
16 empower these agencies and councils to (1) study the problems of
17 discrimination in all or specific fields of human relationships
18 when based on race, color, familial status, religious creed,
19 ancestry, age, sex, sexual orientation, gender identity or
20 expression, national origin or handicap or disability, and (2)
21 foster, through community effort or otherwise, good will among
22 the groups and elements of the population of the State. Such
23 agencies and councils may make recommendations to the Commission
24 for the development of policies and procedure in general.
25 Advisory agencies and conciliation councils created by the
26 Commission shall be composed of representative citizens, serving
27 without pay, but the Commission may make provision for technical
28 and clerical assistance to such agencies and councils, and for
29 the payment of the expenses of such assistance.

30 (j) To issue such publications and such results of

1 investigations and research as, in its judgment, will tend to
2 promote good will and minimize or eliminate discrimination
3 because of race, color, familial status, religious creed,
4 ancestry, age, sex, sexual orientation, gender identity or
5 expression, national origin or handicap or disability.

6 (k) To submit an annual report for each fiscal year by the
7 following March 31 to the General Assembly, the Labor and
8 Industry Committee of the Senate and the State Government
9 Committee of the House of Representatives and the Governor
10 describing in detail the types of complaints received, the
11 investigations, status of cases, Commission action which has
12 been taken, how many were found to have probable cause, how many
13 were resolved by public hearing and the length of time from the
14 initial complaint to final Commission resolution. It shall also
15 contain recommendations for such further legislation concerning
16 abuses and discrimination because of race, color, familial
17 status, religious creed, ancestry, national origin, age, sex,
18 sexual orientation, gender identity or expression, handicap or
19 disability or the use of a guide or support animal because of
20 the blindness, deafness or physical handicap of the user or
21 because the user is a handler or trainer of support or guide
22 animals, as may be desirable.

23 * * *

24 Section 5. Section 8 of the act, amended July 12, 1996
25 (P.L.684, No.117), is amended to read:

26 Section 8. Educational Program.--The Commission, in
27 cooperation with the Department of Education, is authorized to
28 recommend a multicultural educational program, designed for the
29 students of the schools in this Commonwealth and for all other
30 residents thereof, with emphasis on foreign cultural and

1 language studies, as well as on the basic shared precepts and
2 principles of United States culture, in order to promote
3 cultural understanding and appreciation and to further good will
4 among all persons, without regard to race, color, familial
5 status, religious creed, ancestry, age, sex, sexual orientation,
6 gender identity or expression, national origin, handicap or
7 disability.

8 Section 6. Section 12(b) of the act, amended December 20,
9 1991 (P.L.414, No.51), is amended and the section is amended by
10 adding a subsection to read:

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

12 * * *

13 (b) Except as provided in subsection (c), nothing contained
14 in this act shall be deemed to repeal or supersede any of the
15 provisions of any existing or hereafter adopted municipal
16 ordinance, municipal charter or of any law of this Commonwealth
17 relating to discrimination because of race, color, familial
18 status, religious creed, ancestry, age, sex, sexual orientation,
19 gender identity or expression, national origin or handicap or
20 disability, but as to acts declared unlawful by section five of
21 this act the procedure herein provided shall, when invoked, be
22 exclusive and the final determination therein shall exclude any
23 other action, civil or criminal, based on the same grievance of
24 the complainant concerned. If the complainant institutes any
25 action based on such grievance without resorting to the
26 procedure provided in this act, such complainant may not
27 subsequently resort to the procedure herein. In the event of a
28 conflict between the interpretation of a provision of this act
29 and the interpretation of a similar provision contained in any
30 municipal ordinance, the interpretation of the provision in this

1 act shall apply to such municipal ordinance.

2 * * *

3 (g) Nothing in this act shall prohibit an employer from
4 requiring an employe, during the employe's hours at work, to
5 adhere to reasonable dress or grooming standards not prohibited
6 by other provisions of Federal, State or local law, provided
7 that the employer permits any employe to adhere to the dress or
8 grooming standards that are consistent with the employe's gender
9 identity or expression.

10 Section 7. This act shall take effect in 30 days.