
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2280 Session of
2018

INTRODUCED BY MADDEN, SCHLOSSBERG, SOLOMON, MURT, O'BRIEN,
A. DAVIS, DEAN, STURLA, DERMODY, KINSEY, D. MILLER, HANNA,
CONKLIN, SAMUELSON, CALTAGIRONE, ROEBUCK, DALEY, BULLOCK,
FRANKEL, DeLUCA, PASHINSKI, HILL-EVANS AND SCHWEYER,
APRIL 19, 2018

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 19, 2018

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 and for unlawful
12 discriminatory practices.

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

15 Section 1. Section 4(b), (c) and (x) of the act of October
16 27, 1955 (P.L.744, No.222), known as the Pennsylvania Human
17 Relations Act, are amended and the section is amended by adding
18 a subsection to read:

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

21 * * *

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

14 (c) The term "employee" does not include (1) [any individual
15 employed in agriculture or in the domestic service of any
16 person, (2)] any individuals, except domestic workers, who, as a
17 part of their employment, reside in the personal residence of
18 the employer[,] or [(3)] (2) any individual employed by said
19 individual's parents, spouse or child.

20 * * *

21 (x) The term "independent contractor" includes:

22 (1) any person who is subject to the provisions governing
23 any of the professions and occupations regulated by State
24 licensing laws enforced by the Bureau of Professional and
25 Occupational Affairs in the Department of State, or is included
26 in the Fair Housing Act (Public Law 90-284, 42 U.S.C. § 3601 et
27 seq.) [.] or

28 (2) a person, other than an employee, who performs a service
29 for remuneration under a contract, written or oral, express or
30 implied, for an employer.

1 * * *

2 (bb) The term "domestic worker":

3 (1) means an individual employed in a home or personal
4 residence of an employer for the purpose of:

5 (i) caring for an individual under 18 years of age;

6 (ii) serving as a companion for a sick or convalescing
7 individual or an individual over sixty-two years of age; or

8 (iii) housekeeping or any other domestic service.

9 (2) The term does not include any of the following:

10 (i) An individual who is working on a casual basis.

11 (ii) An individual engaged in providing companionship
12 services, as defined in section 213(a) (15) of the Fair Labor
13 Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 13(a) (15)) and
14 is employed by an employer other than the family or household
15 using his or her services.

16 (iii) An individual who is a relative through blood,
17 marriage or adoption of either (A) the employer or (B) the
18 individual for whom the domestic worker delivers services under
19 a program funded or administered by Federal, State or local
20 government.

21 Section 2. Section 5(a) of the act is amended to read:

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

29 (a) For any employer because of the race, color, religious
30 creed, ancestry, age, sex, national origin or non-job related

1 handicap or disability or the use of a guide or support animal
2 because of the blindness, deafness or physical handicap of any
3 individual or independent contractor, to refuse to hire or
4 employ or contract with, or to bar or to discharge from
5 employment such individual or independent contractor, or to
6 otherwise discriminate against such individual or independent
7 contractor with respect to compensation, hire, tenure, terms,
8 conditions or privileges of employment or contract, if the
9 individual or independent contractor is the best able and most
10 competent to perform the services required. The [provision]
11 provisions of this paragraph shall not apply, to (1) operation
12 of the terms or conditions of any bona fide retirement or
13 pension plan which have the effect of a minimum service
14 requirement, (2) operation of the terms or conditions of any
15 bona fide group or employe insurance plan, (3) age limitations
16 placed upon entry into bona fide apprenticeship programs of two
17 years or more approved by the State Apprenticeship and Training
18 Council of the Department of Labor and Industry, established by
19 the act of July 14, 1961 (P.L.604, No.304), known as "The
20 Apprenticeship and Training Act." Notwithstanding any provision
21 of this clause, it shall not be an unlawful employment practice
22 for a religious corporation or association to hire or employ on
23 the basis of sex in those certain instances where sex is a bona
24 fide occupational qualification because of the religious
25 beliefs, practices, or observances of the corporation, or
26 association. Notwithstanding any provision of this clause, it
27 shall not be an unlawful discriminatory practice for an employer
28 to express a preference in the hiring or firing of an individual
29 as a domestic worker or in a personal or confidential capacity.

30 * * *

1 Section 3. This act shall take effect in 90 days.