INTRODUCED BY BROWNE, JUNE 10, 2016

REFERRED TO LABOR AND INDUSTRY, JUNE 10, 2016

AN ACT

Amending the act of October 27, 1955 (P.L.744, No.222),
entitled, as amended, "An act prohibiting certain practices
of discrimination because of race, color, religious creed,
ancestry, age or national origin by employers, employment
agencies, labor organizations and others as herein defined;
creating the Pennsylvania Human Relations Commission in the
Governor's Office; defining its functions, powers and duties;
providing for procedure and enforcement; providing for
formulation of an educational program to prevent prejudice;
providing for judicial review and enforcement and imposing
penalties," further providing for the title of the act, for
findings and declaration of policy, for right to freedom from
discrimination in employment, housing and public
accommodation, for definitions, for unlawful discriminatory
practices, for powers and duties of commission, for
educational program and for construction and exclusiveness of
remedy.

The General Assembly of the Commonwealth of Pennsylvania

hereby enacts as follows:

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

AN ACT

Prohibiting certain practices of discrimination because of race,
color, religious creed, ancestry, sex, sexual orientation,
gender identity or expression, age or national origin by
employers, employment agencies, labor organizations and
others as herein defined; creating the Pennsylvania Human
Relations Commission in the Governor's Office; defining its
functions, powers and duties; providing for procedure and
enforcement; providing for formulation of an educational
program to prevent prejudice; providing for judicial review
and enforcement and imposing penalties.

Section 2. Findings and Declaration of Policy.--
(a) The practice or policy of discrimination against
individuals or groups by reason of their race, color, familial
status, religious creed, ancestry, age, sex, sexual orientation,
gender identity or expression, national origin, handicap or
disability, use of guide or support animals because of the
blindness, deafness or physical handicap of the user or because
the user is a handler or trainer of support or guide animals is
a matter of concern of the Commonwealth. Such discrimination
foments domestic strife and unrest, threatens the rights and
privileges of the inhabitants of the Commonwealth, and
undermines the foundations of a free democratic state. The
denial of equal employment, housing and public accommodation
opportunities because of such discrimination, and the consequent
failure to utilize the productive capacities of individuals to
their fullest extent, deprives large segments of the population
of the Commonwealth of earnings necessary to maintain decent
standards of living, necessitates their resort to public relief
and intensifies group conflicts, thereby resulting in grave
injury to the public health and welfare, compels many
individuals to live in dwellings which are substandard,
unhealthy and overcrowded, resulting in racial segregation in
public schools and other community facilities, juvenile
delinquency and other evils, thereby threatening the peace,
health, safety and general welfare of the Commonwealth and its
inhabitants. **Public policies, reflecting an open and welcoming**
environment and ensuring equal opportunity, foster economic
growth and prosperity which benefit the inhabitants of this
Commonwealth. Conversely, the absence of nondiscrimination
protections hinder efforts to recruit and retain the diversity
of talented individuals and successful enterprises required for
a thriving economy and strong public sector on which the
inhabitants of this Commonwealth depend.

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

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

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

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

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

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

Section 3.1. Right to Freedom from Discrimination in Housing.—The opportunity for an individual to obtain all the accommodations, advantages, facilities and privileges of any housing accommodation and commercial property without
discrimination because of race, color, familial status,
religious creed, ancestry, handicap or disability, age, sex,
national origin, the use of a guide or support animal because of
the blindness, deafness or physical handicap of the user or
because the user is a handler or trainer of support or guide
animals is hereby recognized as and declared to be a civil right
which shall be enforceable as set forth in this act.

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

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

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

* * *

(b) The term "employer" includes the Commonwealth or any
political subdivision or board, department, commission or school
district thereof and any person employing four or more persons
within the Commonwealth, but except as hereinafter provided,
does not include religious, fraternal, charitable or sectarian
corporations or associations, except such corporations or
associations supported, in whole or in part, by governmental
appropriations. The term "employer" with respect to
discriminatory practices based on race, color, age, sex, sexual
orientation, gender identity or expression, national origin or
non-job related handicap or disability, includes religious,
fraternal, charitable and sectarian corporations and
associations employing four or more persons within the
Commonwealth.

* * *
(bb) The term "sexual orientation" means heterosexuality,
homosexuality or bisexuality.
(cc) The term "gender identity or expression" means the
gender-related identity, appearance, mannerisms, expression or
other gender-related characteristics of an individual regardless
of the individual's designated sex at birth.

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

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

(a) For any employer because of the race, color, religious
creed, ancestry, age, sex, sexual orientation, gender identity
or expression, national origin or non-job related handicap or
disability or the use of a guide or support animal because of
the blindness, deafness or physical handicap of any individual
or independent contractor, to refuse to hire or employ or
cannot with, or to bar or to discharge from employment such
individual or independent contractor, or to otherwise
discriminate against such individual or independent contractor
with respect to compensation, hire, tenure, terms, conditions or
privileges of employment or contract, if the individual or
independent contractor is the best able and most competent to
perform the services required. The provisions of
this paragraph shall not apply, to (1) operation of the terms or
conditions of any bona fide retirement or pension plan which
have the effect of a minimum service requirement, (2) operation
of the terms or conditions of any bona fide group or employe
insurance plan, (3) age limitations placed upon entry into bona
fide apprenticeship programs of two years or more approved by
the State Apprenticeship and Training Council of the Department
of Labor and Industry, established by the act of July 14, 1961
(P.L.604, No.304), known as "The Apprenticeship and Training
Act." Notwithstanding any provision of this clause, it shall not
be an unlawful employment practice for a religious corporation
or association to hire or employ on the basis of sex in those
certain instances where sex is a bona fide occupational
qualification because of the religious beliefs, practices, or
observances of the corporation, or association. Except as
otherwise required by law, it is not an unlawful discriminatory
practice based on race, color, religious creed, ancestry, age,
sexual orientation, gender identity or expression or national
origin under this act to fail or refuse to construct new or
additional facilities.
(b) For any employer, employment agency or labor
organization, prior to the employment, contracting with an
independent contractor or admission to membership, to:

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

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

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

(4) Substantially confine or limit recruitment or hiring of individuals, with intent to circumvent the spirit and purpose of this act, to any employment agency, employment service, labor
organization, training school or training center or any other
employe-referring source which services individuals who are
predominantly of the same race, color, religious creed,
ancestry, age, sex, sexual orientation, gender identity or
expression, national origin or non-job related handicap or
disability.

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

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

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

* * *

(f) For any employment agency to fail or refuse to classify
properly, refer for employment or otherwise to discriminate
against any individual because of his race, color, religious
creed, ancestry, age, sex, sexual orientation, gender identity
or expression, national origin, non-job related handicap or
disability or the use of a guide or support animal because of
the blindness, deafness or physical handicap of the user.
(g) For any individual seeking employment to publish or cause to be published any advertisement which in any manner expresses a limitation or preference as to the race, color, religious creed, ancestry, age, sex, sexual orientation, gender identity or expression, national origin, non-job related handicap or disability or the use of a guide or support animal because of the blindness, deafness or physical handicap of any prospective employer.

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

* * *

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

(j) To issue such publications and such results of
investigations and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination because of race, color, familial status, religious creed, ancestry, age, sex, sexual orientation, gender identity or expression, national origin or handicap or disability.

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

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

Section 8. Educational Program.--The Commission, in cooperation with the Department of Education, is authorized to recommend a multicultural educational program, designed for the students of the schools in this Commonwealth and for all other residents thereof, with emphasis on foreign cultural and
language studies, as well as on the basic shared precepts and
principles of United States culture, in order to promote
cultural understanding and appreciation and to further good will
among all persons, without regard to race, color, familial
status, religious creed, ancestry, age, sex, sexual orientation,
gender identity or expression, national origin, handicap or
disability.

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

Section 12. Construction and Exclusiveness of Remedy.--

(b) Except as provided in subsection (c), nothing contained
in this act shall be deemed to repeal or supersede any of the
provisions of any existing or hereafter adopted municipal
ordinance, municipal charter or of any law of this Commonwealth
relating to discrimination because of race, color, familial
status, religious creed, ancestry, age, sex, sexual orientation,
gender identity or expression, national origin or handicap or
disability, but as to acts declared unlawful by section five of
this act the procedure herein provided shall, when invoked, be
exclusive and the final determination therein shall exclude any
other action, civil or criminal, based on the same grievance of
the complainant concerned. If the complainant institutes any
action based on such grievance without resorting to the
procedure provided in this act, such complainant may not
subsequently resort to the procedure herein. In the event of a
conflict between the interpretation of a provision of this act
and the interpretation of a similar provision contained in any
municipal ordinance, the interpretation of the provision in this
(g) Nothing in this act shall prohibit an employer from requiring an employee, during the employee's hours at work, to adhere to reasonable dress or grooming standards not prohibited by other provisions of Federal, State or local law, provided that the employer permits any employee to adhere to the dress or grooming standards that are consistent with the employee's gender identity or expression.

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