
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1147 Session of
2018

INTRODUCED BY FONTANA, FARNESE, BOSCOLA, HUGHES, COSTA,
TARTAGLIONE, BREWSTER, BLAKE AND WILLIAMS, APRIL 24, 2018

REFERRED TO LABOR AND INDUSTRY, APRIL 24, 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 powers and duties of the Pennsylvania
12 Human Relations Commission; providing for training; and
13 further providing for procedure.

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

16 Section 1. Section 7(f) and (l) of the act of October 27,
17 1955 (P.L.744, No.222), known as the Pennsylvania Human
18 Relations Act, are amended to read:

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

21 * * *

22 (f) To initiate, receive, investigate and pass upon
23 complaints charging unlawful discriminatory practices and

1 violations of section 7.1.

2 * * *

3 (1) To prepare and distribute fair practices notices. The
4 employment fair practices notice shall include, at a minimum,
5 the following information:

6 (1) A description of discrimination, harassment and
7 retaliation as unlawful acts under Federal and State law.

8 (2) A description of sexual harassment as a form of unlawful
9 discrimination under Federal and State law.

10 (3) Examples of different acts and behavior constituting
11 unlawful discrimination, harassment and retaliation.

12 (4) Examples of different acts and behavior constituting
13 sexual harassment.

14 (5) The procedure available to file a complaint with the
15 Commission and the contact information for the Commission.

16 (6) Any other information the Commission deems pertinent.

17 * * *

18 Section 2. The act is amended by adding a section to read:

19 Section 7.1. Training.--(a) An employer shall provide
20 interactive training regarding discrimination, harassment and
21 retaliation to all current employes of the employer within sixty
22 days of the effective date of this section and every two years
23 thereafter. An employer shall provide interactive training to
24 all new employes hired after the effective date of this section
25 within thirty days following the commencement of work by the
26 employee and on the two-year training schedule for all employes
27 thereafter. The interactive training shall include, at a
28 minimum, the following:

29 (1) An explanation of discrimination, harassment and
30 retaliation as unlawful acts under Federal and State law.

1 (2) An explanation of sexual harassment as a form of
2 unlawful discrimination under Federal and State law.

3 (3) Examples of different acts and behavior that could be
4 considered unlawful discrimination, harassment and retaliation.

5 (4) Examples of different acts and behavior that could be
6 considered sexual harassment.

7 (5) Bystander intervention and other strategies that are
8 found to be effective in the prevention of harassment.

9 (6) The effects of discrimination and harassment on victims
10 and the workplace.

11 (7) The consequences of being found to be in violation of
12 Federal or State law prohibiting discrimination, harassment and
13 retaliation.

14 (8) A description of the employer's internal complaint
15 policies and procedures available to employees to report and
16 address discrimination, harassment and retaliation claims.

17 (9) The process available to file a complaint with the
18 Commission and the United States Equal Employment Opportunity
19 Commission, along with contact information.

20 (b) Employers shall provide additional interactive training
21 relating to discrimination, harassment and retaliation to all
22 current supervisors employed by the employer within sixty days
23 of the effective date of this section and every two years
24 thereafter. An employer shall provide interactive training to
25 all new supervisors hired or promoted after the effective date
26 of this section within thirty days of the commencement of a
27 supervisory position. The training shall include, at a minimum,
28 the following:

29 (1) The specific responsibilities of supervisors in the
30 identification and prevention of discrimination, harassment and

1 retaliation.

2 (2) A description of the employer's internal complaint
3 policies and procedures available to employes to report and
4 address discrimination, harassment and retaliation claims.

5 (3) Measures that supervisors should take to appropriately
6 address complaints of discrimination, harassment and
7 retaliation.

8 (4) The consequences of failing to address complaints of
9 discrimination, harassment and retaliation.

10 (c) Employers shall keep a record of all interactive
11 trainings provided by the employer as required under clauses (a)
12 and (b), including the following:

13 (1) The title and content of the interactive training.

14 (2) The date, time and duration of the interactive training.

15 (3) A certification documenting the completion of training
16 by each employe and supervisor of the employer.

17 Employers shall maintain the training records for at least
18 three years and the records shall be made available for
19 inspection by the Commission upon request.

20 (d) The Commission shall develop online interactive training
21 modules that may be used by employers to satisfy the
22 requirements of clauses (a) and (b). The modules shall be made
23 available at no cost on the Commission's publicly accessible
24 Internet website. The modules shall allow for the electronic
25 provision of a certification documenting that an employe or
26 supervisor completed training through the Commission's modules.
27 If an employer uses the Commission's interactive training
28 modules to satisfy the requirements of clauses (a) and (b), the
29 employer shall supplement such training by providing a
30 description of the employer's internal complaint policies and

1 procedures available to employes to report and address
2 discrimination, harassment and retaliation claims.

3 (e) The interactive training required by this section is
4 intended to establish a minimum threshold. An employer may offer
5 more frequent and additional training.

6 (f) An employer who violates this section shall be liable
7 for a civil penalty of not less than five hundred dollars (\$500)
8 and not more than one thousand dollars (\$1,000) for the first
9 violation and not less than one thousand dollars (\$1,000) and
10 not more than five thousand dollars (\$5,000) for the second or
11 each subsequent violation. The Commission may waive the civil
12 penalty for a first-time violation of this section if the
13 employer proves to the satisfaction of the Commission, within
14 sixty days of the issuance of the notice of violation, that the
15 violation has been cured.

16 (g) As used in this section unless a different meaning
17 clearly appears from the context:

18 "Interactive training" means participatory instruction,
19 whether in person or Internet-based, provided to an employe in a
20 manner that allows the employe to interact with the instructor
21 through the use of traditional learning techniques or computer-
22 based learning or a combination of both.

23 "Supervisor" means an employe who has authority to:

24 (1) undertake or recommend tangible employment decisions
25 affecting other employes; or

26 (2) direct the daily work activities of other employes.

27 Section 3. Section 9(a), (c), (d), (d.1)(4) and (f)(1) and
28 (4) of the act are amended to read:

29 Section 9. Procedure.--(a) Any person claiming a violation
30 of section 7.1 or claiming to be aggrieved by an alleged

1 unlawful discriminatory practice may make, sign and file with
2 the Commission a verified complaint, in writing, which shall
3 state the name and address of the person, employer, labor
4 organization or employment agency alleged to have violated
5 section 7.1 or to have committed the unlawful discriminatory
6 practice complained of, and which shall set forth the
7 particulars thereof and contain such other information as may be
8 required by the Commission. Commission representatives shall not
9 modify the substance of the complaint. Whenever a person invokes
10 the procedures set forth in this act, the Commission shall
11 refuse to accept for filing a complaint it determines to be
12 untimely with no grounds for equitable tolling, outside its
13 jurisdiction or frivolous on its face. The Commission upon its
14 own initiative or the Attorney General may, in like manner,
15 make, sign and file such complaint. Any employer whose employes,
16 or some of them, hinder or threaten to hinder compliance with
17 the provisions of this act may file with the Commission a
18 verified complaint, asking for assistance by conciliation or
19 other remedial action and, during such period of conciliation or
20 other remedial action, no hearings, orders or other actions
21 shall be taken by the Commission against such employer.

22 * * *

23 (c) If it shall be determined after such investigation that
24 no probable cause exists for crediting the allegations of the
25 complaint, the Commission shall, within ten days from such
26 determination, cause to be issued and served upon the
27 complainant written notice of such determination, and the said
28 complainant or his attorney may, within ten days after such
29 service, file with the Commission a written request for a
30 preliminary hearing before the Commission to determine probable

1 cause for crediting the allegations of the complaint. If it
2 shall be determined after such investigation that probable cause
3 exists for crediting the allegations of the complaint, the
4 Commission shall immediately endeavor to cause compliance with
5 section 7.1 or to eliminate the unlawful discriminatory practice
6 complained of by conference, conciliation and persuasion. The
7 members of the Commission and its staff shall not disclose what
8 has transpired in the course of such endeavors: Provided, That
9 the Commission may publish the facts in the case of any
10 complaint which has been dismissed, and the terms of
11 conciliation when the complaint has been adjusted, without
12 disclosing, except as required by the Fair Housing Act, the
13 identity of the parties involved.

14 * * *

15 (d) In case of failure so to cause such compliance or
16 eliminate such practice or in advance thereof, if in the
17 judgment of the Commission circumstances so warrant, the
18 Commission shall cause to be issued and served a written notice,
19 together with a copy of such complaint as the same may have been
20 amended, requiring the person, employer, labor organization or
21 employment agency named in such complaint, hereinafter referred
22 to as respondent, to answer the charges of such complaint at a
23 hearing before the Commission at a time and place to be
24 specified in such notice. The place of any such hearing shall be
25 in the county in which the alleged offense was committed.

26 (d.1) When notice of hearing is given as set forth in
27 subsection (d) and an election procedure is required by the Fair
28 Housing Act, either party may elect to have the claim asserted
29 in the complaint decided in a civil action brought under the
30 original jurisdiction of Commonwealth Court. The written notice

1 of the Commission shall be sent to all parties and will inform
2 them of their right to take civil action. An election must be
3 made within twenty days after receipt of the notice of hearing.
4 A party making this election shall notify the Commission and all
5 other parties. If an election for civil action is made by either
6 party, the Commission shall, within thirty days from the date of
7 election, commence and maintain a civil action on behalf of the
8 complainant provided, however, that, whenever the Attorney
9 General signs and files the complaint pursuant to subsection
10 (a), the Attorney General shall, within thirty days from the
11 date of election, commence and maintain a civil action on behalf
12 of the complainant. In those cases commenced by the Attorney
13 General, the Commission shall have the right to intervene. In
14 any action brought under this subsection:

15 * * *

16 (4) If, after a trial, the Commonwealth Court finds that a
17 respondent has not violated section 7.1 or engaged in any
18 unlawful discriminatory practice as defined in this act, the
19 court may award attorney fees and costs to the prevailing
20 respondent if the court determines that the complaint is
21 frivolous and that the Commission dealt with the party
22 complained against in a wilful, wanton and oppressive manner, in
23 which case the Commission shall be ordered to pay such costs and
24 attorney fees.

25 * * *

26 (f) (1) If, upon all the evidence at the hearing, the
27 Commission shall find that a respondent has violated section 7.1
28 or engaged in or is engaging in any unlawful discriminatory
29 practice as defined in this act, the Commission shall state its
30 findings of fact, and shall issue and cause to be served on such

1 respondent an order requiring such respondent to comply with
2 section 7.1 or to cease and desist from such unlawful
3 discriminatory practice and to take such affirmative action,
4 including, but not limited to, reimbursement of certifiable
5 travel expenses in matters involving the complaint, compensation
6 for loss of work in matters involving the complaint, hiring,
7 reinstatement or upgrading of employes, with or without back
8 pay, admission or restoration to membership in any respondent
9 labor organization, the making of reasonable accommodations, or
10 selling or leasing specified housing accommodations or
11 commercial property upon such equal terms and conditions and
12 with such equal facilities, services and privileges or lending
13 money, whether or not secured by mortgage or otherwise for the
14 acquisition, construction, rehabilitation, repair or maintenance
15 of housing accommodations or commercial property, upon such
16 equal terms and conditions to any person discriminated against
17 or all persons, and any other verifiable, reasonable out-of-
18 pocket expenses caused by such unlawful discriminatory practice,
19 provided that, in those cases alleging a violation of section
20 5(d), (e) or (h) or 5.3 where the underlying complaint is a
21 violation of section 5(h) or 5.3, the Commission may award
22 actual damages, including damages caused by humiliation and
23 embarrassment, as, in the judgment of the Commission, will
24 effectuate the purposes of this act, and including a requirement
25 for report of the manner of compliance.

26 * * *

27 (4) If, upon all the evidence, the Commission shall find
28 that a respondent has not violated section 7.1 or engaged in any
29 such unlawful discriminatory practice, the Commission shall
30 state its findings of fact, and shall issue and cause to be

1 served on the complainant an order dismissing the said complaint
2 as to such respondent.

3 * * *

4 Section 4. This act shall take effect in 90 days.