
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1148 Session of
2018

INTRODUCED BY TARTAGLIONE, FONTANA, FARNESE, HUGHES, SCHWANK,
COSTA, BREWSTER 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 definitions and for unlawful
12 discriminatory practices.

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

15 Section 1. The definitions of "employee" and "independent
16 contractor" in section 4 of the act of October 27, 1955
17 (P.L.744, No.222), known as the Pennsylvania Human Relations
18 Act, are amended and the section is amended by adding
19 definitions to read:

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

22 * * *

23 [(c) The term "employee" does not include (1) any individual

1 employed in agriculture or in the domestic service of any
2 person, (2) any individuals who, as a part of their employment,
3 reside in the personal residence of the employer, (3) any
4 individual employed by said individual's parents, spouse or
5 child.]

6 (c) The term "employee" means an individual who performs work
7 for an employer for wages. The term does not include:

8 (1) any individual employed in agriculture or in the
9 domestic service of any person;

10 (2) any individual who, as a part of the individual's
11 employment, resides in the personal residence of the employer;
12 or

13 (3) any individual employed by the individual's parents,
14 spouse or child.

15 * * *

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

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

23 (2) any person, other than an employe, who performs a
24 service for remuneration under a contract, written or oral,
25 express or implied, for an employer.

26 * * *

27 (bb) The term "intern" means a student or trainee who
28 performs work on a temporary basis for an employer under the
29 direct supervision of an employe in order to gain work
30 experience regardless of whether the employer pays wages to the

1 student or trainee.

2 (cc) The term "volunteer" means an individual who holds an
3 unpaid position under the direct supervision of an employe.

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

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

12 (a) For any employer because of the race, color, religious
13 creed, ancestry, age, sex, national origin or non-job related
14 handicap or disability or the use of a guide or support animal
15 because of the blindness, deafness or physical handicap of any
16 individual, intern, volunteer or independent contractor, to
17 refuse to hire or employ or contract with, or to bar or to
18 discharge from employment such individual, intern, volunteer or
19 independent contractor, or to otherwise discriminate against
20 such individual, intern, volunteer or independent contractor
21 with respect to compensation, hire, tenure, terms, conditions or
22 privileges of employment or contract, if the individual, intern,
23 volunteer or independent contractor is the best able and most
24 competent to perform the services required. The [provision]
25 provisions of this paragraph shall not apply, to (1) operation
26 of the terms or conditions of any bona fide retirement or
27 pension plan which have the effect of a minimum service
28 requirement, (2) operation of the terms or conditions of any
29 bona fide group or employe insurance plan, (3) age limitations
30 placed upon entry into bona fide apprenticeship programs of two

1 years or more approved by the State Apprenticeship and Training
2 Council of the Department of Labor and Industry, established by
3 the act of July 14, 1961 (P.L.604, No.304), known as "The
4 Apprenticeship and Training Act." Notwithstanding any provision
5 of this clause, it shall not be an unlawful employment practice
6 for a religious corporation or association to hire or employ on
7 the basis of sex in those certain instances where sex is a bona
8 fide occupational qualification because of the religious
9 beliefs, practices, or observances of the corporation, or
10 association.

11 * * *

12 Section 3. This act shall take effect in 60 days.