

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 53 Session of 2019

INTRODUCED BY A. WILLIAMS, FONTANA, SCHWANK, COSTA, BARTOLOTTA AND HUGHES, JANUARY 11, 2019

REFERRED TO LABOR AND INDUSTRY, JANUARY 11, 2019

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

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

21 * * *

22 (c) The term "employe" does not include (1) [any individual
 23 employed in agriculture or in the domestic service of any

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

5 * * *

6 (bb) (1) The term "domestic worker" includes an individual
7 employed in a home or personal residence of an employer for the
8 purpose of:

9 (i) caring for an individual under eighteen years of age;

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

12 (iii) housekeeping or any other domestic service.

13 (2) The term "domestic worker" does not include any of the
14 following:

15 (i) an individual who is working on a casual basis;

16 (ii) an individual who is engaged in companionship services,
17 as defined in section 213(a)(15) of the Fair Labor Standards Act
18 of 1938 (52 Stat. 1060, 29 U.S.C. § 213(a)(15)), and is employed
19 by an employer other than the family or household using the
20 individual's services; or

21 (iii) an individual who is a relative through blood,
22 marriage or adoption of either:

23 (A) an employer; or

24 (B) an individual for whom the domestic worker delivers
25 services under a program funded or administered by Federal,
26 State or local government.

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

28 Section 5. Unlawful Discriminatory Practices.--It shall be
29 an unlawful discriminatory practice, unless based upon a bona
30 fide occupational qualification, or in the case of a fraternal

1 corporation or association, unless based upon membership in such
2 association or corporation, or except where based upon
3 applicable security regulations established by the United States
4 or the Commonwealth of Pennsylvania:

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

1 beliefs, practices, or observances of the corporation, or
2 association. Notwithstanding any provision of this clause, it
3 shall not be an unlawful discriminatory practice for an employer
4 to express a preference in the hiring or firing of an individual
5 as a domestic worker or in a personal or confidential capacity.

6 * * *

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