

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 400 Session of 2021

INTRODUCED BY GALLOWAY, ISAACSON, LEE, HILL-EVANS, SANCHEZ,
CONKLIN, SCHLOSSBERG, HOWARD, CIRESI, NEILSON, FREEMAN,
O'MARA, WEBSTER AND WARREN, FEBRUARY 4, 2021

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 4, 2021

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 powers and duties
12 of the commission; providing for policies and procedures; and
13 establishing the Human Relations Training Fund.

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

16 Section 1. Sections 4(b) and (c) and 7(f) of the act of
17 October 27, 1955 (P.L.744, No.222), known as the Pennsylvania
18 Human Relations Act, are amended to read:

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

21 * * *

22 (b) The term "employer" includes the Commonwealth or any
23 political subdivision or board, department, commission or school

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

12 (c) The term "employee" [does not include (1) any individual
13 employed in agriculture or in the domestic service of any
14 person, (2) any individuals who, as a part of their employment,
15 reside in the personal residence of the employer, (3) any
16 individual employed by said individual's parents, spouse or
17 child.] means an individual subject to an employer's power to
18 control the nature and parameters of the individual's
19 activities, including, but not limited to, hiring, firing,
20 training, scheduling, directing work and proscribing the manner
21 in which the work should be completed. The term does not
22 include:

23 (1) an individual who is employed by, and who is working on
24 a casual basis in a home or personal residence of, another
25 individual; or

26 (2) an individual employed by the individual's parent,
27 spouse or child.

28 * * *

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

1 * * *

2 (f) To initiate, receive, investigate and pass upon
3 complaints charging unlawful discriminatory practices and
4 violations of section 7.1.

5 * * *

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

7 Section 7.1. Policies and Procedures.--(a) An employer
8 shall adopt written policies and procedures for preventing
9 harassment, discrimination and retaliation against employes. The
10 policies and procedures shall include, at a minimum, all of the
11 following:

12 (1) An explanation that harassment, discrimination and
13 retaliation are unlawful acts under Federal and State law.

14 (2) An explanation that sexual harassment is a form of
15 unlawful discrimination under Federal and State law.

16 (3) A complaint procedure to report and address harassment,
17 discrimination and retaliation claims, including a provision
18 allowing employes to report the claims to persons other than
19 their supervisor.

20 (4) The specific responsibilities of a supervisor in the
21 identification, prevention and reporting of harassment,
22 discrimination and retaliation.

23 (5) An explanation of the procedures for maintaining
24 confidentiality surrounding the reporting of harassment,
25 discrimination and retaliation claims.

26 (6) A procedure for the timely, thorough and prompt
27 investigation of claims of harassment, discrimination and
28 retaliation filed by an employe.

29 (b) An employer shall make the policies and procedures
30 available and easily accessible to all employes.

1 (c) An employer shall review and update the policies for
2 harassment, discrimination and retaliation as needed to remain
3 in compliance with Federal and State law.

4 (d) An employer shall keep records of the current policies
5 and procedures and make them available for inspection by the
6 Commission upon request. If applicable, employers shall also
7 keep a record of the immediately preceding policies and
8 procedures for a period of three years after the effective date
9 of the current policies and procedures and make them available
10 for inspection by the Commission upon request.

11 (e) The Commission shall develop standard policies and
12 procedures that may be used by employers to satisfy the
13 requirements under clause (a). The policies and procedures shall
14 be made publicly available at no cost on the Commission's
15 publicly accessible Internet website.

16 (f) The Commission shall publish on its publicly accessible
17 Internet website, and transmit to the Legislative Reference
18 Bureau for publication in the Pennsylvania Bulletin, any changes
19 to Federal or State harassment, discrimination or retaliation
20 laws that would impact the standard policies and procedures
21 under clause (e) within forty-five days of the changes. The
22 Commission may establish an electronic notification system to
23 alert employers of changes to the standard policies and
24 procedures.

25 (g) A person claiming a violation of this section may make a
26 complaint with the Commission. The complaint must state the name
27 and address of the employer alleged to have violated this
28 section. If after investigation by the Commission, the
29 Commission determines that the employer violated this section,
30 the Commission shall endeavor to cause compliance with this

1 section and may issue a citation and impose a fine as provided
2 in clause (h).

3 (h) The Commission has the power to issue citations and
4 impose fines on an employer for a violation of this section as
5 follows:

6 (1) A fine of not less than five hundred dollars (\$500) and
7 not more than one thousand dollars (\$1,000) for the first
8 violation.

9 (2) A fine of not less than one thousand dollars (\$1,000)
10 and not more than five thousand dollars (\$5,000) for the second
11 or each subsequent violation.

12 (3) The Commission may waive the fine for a first-time
13 violation of this section if the employer proves to the
14 satisfaction of the Commission, within sixty days of the
15 issuance of the citation, that the violation has been cured.

16 (i) The Human Relations Training Fund is established within
17 the State Treasury. A fine imposed and collected by the
18 Commission under clause (h) shall be deposited into the fund.
19 The money in the fund shall be appropriated on a continuing
20 basis to the Commission to be used for training, education and
21 outreach.

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