

1264--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. GUNTHER, JACOBS, MILLMAN, JAFFEE, LIFTON, ENGLE-BRIGHT, STECK, SCARBOROUGH, RIVERA, ABINANTI, HOOPER, COLTON, MAYER, WALTER, SIMOTAS, ROSA -- Multi-Sponsored by -- M. of A. ARROYO, MONTESANO, MOSLEY -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to reasonable accommodation

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 21-e of section 292 of the executive law, as
2 added by chapter 269 of the laws of 1997, is amended and a new subdivi-
3 sion 21-f is added to read as follows:
4 21-e. The term "reasonable accommodation" means actions taken which
5 permit an employee, prospective employee or member with a disability, OR
6 A PREGNANCY-RELATED CONDITION, to perform in a reasonable manner the
7 activities involved in the job or occupation sought or held and include,
8 but are not limited to, provision of an accessible worksite, acquisition
9 or modification of equipment, support services for persons with impaired
10 hearing or vision, job restructuring and modified work schedules;
11 provided, however, that such actions do not impose an undue hardship on
12 the business, program or enterprise of the entity from which action is
13 requested.
14 21-F. THE TERM "PREGNANCY-RELATED CONDITION" MEANS A MEDICAL CONDITION
15 RELATED TO PREGNANCY OR CHILDBIRTH THAT INHIBITS THE EXERCISE OF A
16 NORMAL BODILY FUNCTION OR IS DEMONSTRABLE BY MEDICALLY ACCEPTED CLINICAL
17 OR LABORATORY DIAGNOSTIC TECHNIQUES; PROVIDED, HOWEVER, THAT IN ALL
18 PROVISIONS OF THIS ARTICLE DEALING WITH EMPLOYMENT, THE TERM SHALL BE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 LIMITED TO CONDITIONS WHICH, UPON THE PROVISION OF REASONABLE ACCOMMO-
2 DATIONS, DO NOT PREVENT THE COMPLAINANT FROM PERFORMING IN A REASONABLE
3 MANNER THE ACTIVITIES INVOLVED IN THE JOB OR OCCUPATION SOUGHT OR HELD;
4 AND PROVIDED FURTHER, HOWEVER, THAT PREGNANCY-RELATED CONDITIONS SHALL
5 BE TREATED AS TEMPORARY DISABILITIES FOR THE PURPOSES OF THIS ARTICLE.

6 S 2. Paragraph (a) of subdivision 3 of section 296 of the executive
7 law, as added by chapter 269 of the laws of 1997, is amended and a new
8 paragraph (c) is added to read as follows:

9 (a) It shall be an unlawful discriminatory practice for an employer,
10 licensing agency, employment agency or labor organization to refuse to
11 provide reasonable accommodations to the known disabilities, OR PREGNAN-
12 CY-RELATED CONDITIONS, of an employee, prospective employee or member in
13 connection with a job or occupation sought or held or participation in a
14 training program.

15 (C) THE EMPLOYEE MUST COOPERATE IN PROVIDING MEDICAL OR OTHER INFORMA-
16 TION THAT IS NECESSARY TO VERIFY THE EXISTENCE OF THE DISABILITY OR
17 PREGNANCY-RELATED CONDITION, OR THAT IS NECESSARY FOR CONSIDERATION OF
18 THE ACCOMMODATION. THE EMPLOYEE HAS A RIGHT TO HAVE SUCH MEDICAL INFOR-
19 MATION KEPT CONFIDENTIAL.

20 S 3. Severability clause. If any clause, sentence, paragraph, subdivi-
21 sion, section or part of this act shall be adjudged by a court of compe-
22 tent jurisdiction to be invalid, such judgment shall not affect, impair
23 or invalidate the remainder thereof, but shall be confined in its opera-
24 tion to the clause, sentence, paragraph, subdivision, section or part
25 thereof directly involved in the controversy in which such judgment
26 shall have been rendered. It is hereby declared to be the intent of the
27 legislature that this act would have been enacted even if such invalid
28 provisions had not been included herein.

29 S 4. This act shall take effect on the ninetieth day after it shall
30 have become a law.