S T A T E O F N E W Y O R K

5316--A

2011-2012 Regular Sessions

I N S E N A T E

May 5, 2011

Introduced by Sens. STEWART-COUSINS, ADDABBO, AVELLA, BRESLIN, DUANE, ESPAILLAT, GIANARIS, HASSELL-THOMPSON, HUNTLEY, KRUEGER, KRUGER, MONTGOMERY, PARKER, RIVERA, SERRANO, SQUADRON, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to unlawful hiring discrimination by employers, employment agencies and licensing agencies based upon an individual's unemployment status

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

Section 1. The executive law is amended by adding a new section 296-c to read as follows:

S 296-C. UNLAWFUL DISCRIMINATORY PRACTICES IN RELATION TO LICENSING OR EMPLOYMENT AGENCIES; UNEMPLOYMENT STATUS. 1. FOR THE PURPOSES OF THIS SECTION, THE TERM "UNEMPLOYMENT STATUS" SHALL MEAN BEING UNEMPLOYED, HAVING ACTIVELY LOOKED FOR EMPLOYMENT DURING THE THEN MOST RECENT FOUR WEEK PERIOD, AND CURRENTLY BEING AVAILABLE FOR EMPLOYMENT.

2. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER OR LICENSING AGENCY, BECAUSE OF AN INDIVIDUAL'S UNEMPLOYMENT STATUS, TO REFUSE TO HIRE OR TO EMPLOY OR TO BAR SUCH INDIVIDUAL OR TO DISCRIMINATE AGAINST SUCH INDIVIDUAL IN COMPENSATION OR IN TERMS, CONDITIONS OR PRIVILEGES OF EMPLOYMENT.

3. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER OR AN EMPLOYMENT AGENCY TO DISCRIMINATE AGAINST ANY INDIVIDUAL BECAUSE OF UNEMPLOYMENT STATUS IN RECEIVING, CLASSIFYING, DISPOSING OR OTHERWISE ACTING UPON APPLICATIONS FOR ITS SERVICES OR IN REFERRING AN APPLICANT OR APPLICANTS TO AN EMPLOYER OR EMPLOYERS.

4. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER OR AN EMPLOYMENT AGENCY TO PRINT OR CIRCULATE OR CAUSE TO BE PRINTED OR

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

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CIRCULATED ANY STATEMENT, ADVERTISEMENT OR PUBLICATION, OR TO USE ANY FORM OF APPLICATION FOR EMPLOYMENT OR TO MAKE ANY INQUIRY IN CONNECTION WITH PROSPECTIVE EMPLOYMENT, WHICH EXPRESSES DIRECTLY OR INDIRECTLY, ANY LIMITATION, SPECIFICATION OR DISCRIMINATION AS TO UNEMPLOYMENT STATUS, OR ANY INTENT TO MAKE ANY SUCH LIMITATION, SPECIFICATION OR DISCRIMINATION, UNLESS BASED UPON A BONA FIDE OCCUPATIONAL QUALIFICATION; PROVIDED, HOWEVER, THAT NEITHER THIS SECTION NOR ANY PROVISION OF THIS CHAPTER OR OTHER LAW SHALL BE CONSTRUED TO PROHIBIT THE DEPARTMENT OF CIVIL SERVICE OR THE DEPARTMENT OF PERSONNEL OF ANY CITY CONTAINING MORE THAN ONE COUNTY FROM REQUESTING INFORMATION FROM APPLICANTS FOR CIVIL SERVICE EXAMINATIONS CONCERNING THE AFOREMENTIONED CHARACTERISTIC, OTHER THAN SEXUAL ORIENTATION, FOR THE PURPOSE OF CONDUCTING STUDIES TO IDENTIFY AND RESOLVE POSSIBLE PROBLEMS IN RECRUITMENT AND TESTING OF MEMBERS OF MINORITY GROUPS TO ENSURE THE FAIREST POSSIBLE AND EQUAL OPPORTUNITIES FOR EMPLOYMENT IN THE CIVIL SERVICE FOR ALL PERSONS.

5. ANY EMPLOYER, EMPLOYMENT AGENCY, OR LICENSING AGENCY WHO VIOLATES THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND DOLLARS FOR THE FIRST VIOLATION AND TEN THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION.

S 2. This act shall take effect immediately.