

5875

2013-2014 Regular Sessions

I N S E N A T E

June 18, 2013

Introduced by Sens. LITTLE, ROBACH -- (at request of the Governor) --
read twice and ordered printed, and when printed to be committed to
the Committee on Rules

AN ACT to amend the executive law, in relation to the unlawful discrimi-
natory practice because of familial status

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

- 1 Section 1. Subdivisions 1 and 1-a of section 296 of the executive law,
2 as amended by chapter 803 of the laws of 1975, paragraph (a) of subdivi-
3 sion 1 as amended by chapter 80 of the laws of 2009, paragraphs (b), (c)
4 and (d) of subdivision 1 as amended by chapter 75 of the laws of 2005,
5 paragraph (e) of subdivision 1 as amended by chapter 166 of the laws of
6 2000, paragraph (g) of subdivision 1 as added by chapter 98 of the laws
7 of 1984 and paragraphs (b), (c) and (d) of subdivision 1-a as amended by
8 chapter 106 of the laws of 2003, are amended to read as follows:
9 1. It shall be an unlawful discriminatory practice:
10 (a) For an employer or licensing agency, because of an individual's
11 age, race, creed, color, national origin, sexual orientation, military
12 status, sex, disability, predisposing genetic characteristics, FAMILIAL
13 STATUS, marital status, or domestic violence victim status, to refuse to
14 hire or employ or to bar or to discharge from employment such individual
15 or to discriminate against such individual in compensation or in terms,
16 conditions or privileges of employment.
17 (b) For an employment agency to discriminate against any individual
18 because of age, race, creed, color, national origin, sexual orientation,
19 military status, sex, disability, predisposing genetic characteristics,
20 FAMILIAL STATUS, or marital status, in receiving, classifying, disposing
21 or otherwise acting upon applications for its services or in referring
22 an applicant or applicants to an employer or employers.
23 (c) For a labor organization, because of the age, race, creed, color,
24 national origin, sexual orientation, military status, sex, disability,

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

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1 predisposing genetic characteristics, FAMILIAL STATUS, or marital status
2 of any individual, to exclude or to expel from its membership such indi-
3 vidual or to discriminate in any way against any of its members or
4 against any employer or any individual employed by an employer.

5 (d) For any employer or employment agency to print or circulate or
6 cause to be printed or circulated any statement, advertisement or publi-
7 cation, or to use any form of application for employment or to make any
8 inquiry in connection with prospective employment, which expresses
9 directly or indirectly, any limitation, specification or discrimination
10 as to age, race, creed, color, national origin, sexual orientation,
11 military status, sex, disability, predisposing genetic characteristics,
12 FAMILIAL STATUS, or marital status, or any intent to make any such limi-
13 tation, specification or discrimination, unless based upon a bona fide
14 occupational qualification; provided, however, that neither this para-
15 graph nor any provision of this chapter or other law shall be construed
16 to prohibit the department of civil service or the department of person-
17 nel of any city containing more than one county from requesting informa-
18 tion from applicants for civil service examinations concerning any of
19 the aforementioned characteristics, other than sexual orientation, for
20 the purpose of conducting studies to identify and resolve possible prob-
21 lems in recruitment and testing of members of minority groups to insure
22 the fairest possible and equal opportunities for employment in the civil
23 service for all persons, regardless of age, race, creed, color, national
24 origin, sexual orientation, military status, sex, disability, predispos-
25 ing genetic characteristics, FAMILIAL STATUS, or marital status.

26 (e) For any employer, labor organization or employment agency to
27 discharge, expel or otherwise discriminate against any person because he
28 or she has opposed any practices forbidden under this article or because
29 he or she has filed a complaint, testified or assisted in any proceeding
30 under this article.

31 (f) Nothing in this subdivision shall affect any restrictions upon the
32 activities of persons licensed by the state liquor authority with
33 respect to persons under twenty-one years of age.

34 (g) For an employer to compel an employee who is pregnant to take a
35 leave of absence, unless the employee is prevented by such pregnancy
36 from performing the activities involved in the job or occupation in a
37 reasonable manner.

38 1-a. It shall be an unlawful discriminatory practice for an employer,
39 labor organization, employment agency or any joint labor-management
40 committee controlling apprentice training programs:

41 (a) To select persons for an apprentice training program registered
42 with the state of New York on any basis other than their qualifications,
43 as determined by objective criteria which permit review;

44 (b) To deny to or withhold from any person because of race, creed,
45 color, national origin, sexual orientation, military status, sex, age,
46 disability, FAMILIAL STATUS, or marital status, the right to be admitted
47 to or participate in a guidance program, an apprenticeship training
48 program, on-the-job training program, executive training program, or
49 other occupational training or retraining program;

50 (c) To discriminate against any person in his or her pursuit of such
51 programs or to discriminate against such a person in the terms, condi-
52 tions or privileges of such programs because of race, creed, color,
53 national origin, sexual orientation, military status, sex, age, disabili-
54 ty, FAMILIAL STATUS or marital status;

55 (d) To print or circulate or cause to be printed or circulated any
56 statement, advertisement or publication, or to use any form of applica-

1 tion for such programs or to make any inquiry in connection with such
2 program which expresses, directly or indirectly, any limitation, spec-
3 ification or discrimination as to race, creed, color, national origin,
4 sexual orientation, military status, sex, age, disability, FAMILIAL
5 STATUS or marital status, or any intention to make any such limitation,
6 specification or discrimination, unless based on a bona fide occupa-
7 tional qualification.

8 S 2. Subdivision 3 of section 296 of the executive law is amended by
9 adding a new paragraph (d) to read as follows:

10 (D) NOTHING IN THIS SUBDIVISION REGARDING "REASONABLE ACCOMMODATION"
11 OR IN THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH ADDED THIS
12 PARAGRAPH SHALL ALTER, DIMINISH, INCREASE, OR CREATE NEW OR ADDITIONAL
13 REQUIREMENTS TO ACCOMMODATE PROTECTED CLASSES PURSUANT TO THIS ARTICLE
14 OTHER THAN THE ADDITIONAL REQUIREMENTS AS EXPLICITLY SET FORTH IN SUCH
15 CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN.

16 S 3. Paragraph (a) of subdivision 9 of section 296 of the executive
17 law, as amended by chapter 106 of the laws of 2003, is amended to read
18 as follows:

19 (a) It shall be an unlawful discriminatory practice for any fire
20 department or fire company therein, through any member or members there-
21 of, officers, board of fire commissioners or other body or office having
22 power of appointment of volunteer firefighters, directly or indirectly,
23 by ritualistic practice, constitutional or by-law prescription, by tacit
24 agreement among its members, or otherwise, to deny to any individual
25 membership in any volunteer fire department or fire company therein, or
26 to expel or discriminate against any volunteer member of a fire depart-
27 ment or fire company therein, because of the race, creed, color,
28 national origin, sexual orientation, military status, sex [or], marital
29 status, OR FAMILIAL STATUS, of such individual.

30 S 4. Subdivision 13 of section 296 of the executive law, as amended by
31 chapter 196 of the laws of 2010, is amended to read as follows:

32 13. It shall be an unlawful discriminatory practice (i) for any person
33 to boycott or blacklist, or to refuse to buy from, sell to or trade
34 with, or otherwise discriminate against any person, because of the race,
35 creed, color, national origin, sexual orientation, military status, sex,
36 [or] disability, OR FAMILIAL STATUS, of such person, or of such person's
37 partners, members, stockholders, directors, officers, managers, super-
38 intendants, agents, employees, business associates, suppliers or custom-
39 ers, or (ii) for any person wilfully to do any act or refrain from doing
40 any act which enables any such person to take such action. This subdivi-
41 sion shall not apply to:

42 (a) Boycotts connected with labor disputes; or

43 (b) Boycotts to protest unlawful discriminatory practices.

44 S 5. Severability clause. If any clause, sentence, paragraph, subdivi-
45 sion, section or part of this act shall be adjudged by a court of compe-
46 tent jurisdiction to be invalid, such judgment shall not affect, impair
47 or invalidate the remainder thereof, but shall be confined in its opera-
48 tion to the clause, sentence, paragraph, subdivision, section or part
49 thereof directly involved in the controversy in which such judgment
50 shall have been rendered. It is hereby declared to be the intent of the
51 legislature that this act would have been enacted even if such invalid
52 provisions had not been included herein.

53 S 6. This act shall take effect on the ninetieth day after it shall
54 have become a law.