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

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, ENGLEBRIGHT, 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:

Section 1. Subdivision 21-e of section 292 of the executive law, as added by chapter 269 of the laws of 1997, is amended and a new subdivision 21-f is added to read as follows:

21-e. The term "reasonable accommodation" means actions taken which permit an employee, prospective employee or member with a disability, OR A PREGNANCY-RELATED CONDITION, to perform in a reasonable manner the activities involved in the job or occupation sought or held and include, but are not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring and modified work schedules; provided, however, that such actions do not impose an undue hardship on the business, program or enterprise of the entity from which action is requested.

21-F. THE TERM "PREGNANCY-RELATED CONDITION" MEANS A MEDICAL CONDITION RELATED TO PREGNANCY OR CHILDBIRTH THAT INHIBITS THE EXERCISE OF A NORMAL BODILY FUNCTION OR IS DEMONSTRABLE BY MEDICALLY ACCEPTED CLINICAL OR LABORATORY DIAGNOSTIC TECHNIQUES; PROVIDED, HOWEVER, THAT IN ALL 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.

LBD01243-02-4

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

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

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

(C) THE EMPLOYEE MUST COOPERATE IN PROVIDING MEDICAL OR OTHER INFORMATION THAT IS NECESSARY TO VERIFY THE EXISTENCE OF THE DISABILITY OR PREGNANCY-RELATED CONDITION, OR THAT IS NECESSARY FOR CONSIDERATION OF THE ACCOMMODATION. THE EMPLOYEE HAS A RIGHT TO HAVE SUCH MEDICAL INFORMATION KEPT CONFIDENTIAL.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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