

**First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 07-0173.01 Christy Chase

SENATE BILL 07-025

SENATE SPONSORSHIP

Veiga,

HOUSE SPONSORSHIP

Madden,

Senate Committees

State, Veterans & Military Affairs
Appropriations

House Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE EXPANSION OF EMPLOYMENT NONDISCRIMINATION**
102 **PROTECTIONS, AND MAKING AN APPROPRIATION THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Adds sexual orientation to the list of characteristics for which a person may not be discriminated against under state laws applying to:

Employers' practices involving hiring, discharging, promoting, or demoting employees; the harassment of employees; and the compensation of employees;

Employment agency practices involving listings, referrals, or compliance with an employer's direct or indirect request

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 17, 2007

SENATE
Amended 2nd Reading
April 16, 2007

to discriminate;
Labor organization practices involving the exclusion, expulsion, or other discrimination in membership;
Employer, employment agency, or labor organization practices involving the use of a discriminatory publication, application, or inquiry; and
Apprenticeship training programs or other occupational instruction programs.

Allows employers to require compliance with a dress code.

Excludes religious organizations or associations from the definition of "employer" for purposes of complying with state employment nondiscrimination laws.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 24-34-401, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **24-34-401. Definitions.** As used in this part 4, unless the context
5 otherwise requires:

6 (7.5) "SEXUAL ORIENTATION" MEANS A PERSON'S [REDACTED] [REDACTED]
7 ORIENTATION TOWARD HETEROSEXUALITY, HOMOSEXUALITY,
8 BISEXUALITY, OR TRANSGENDER STATUS OR AN EMPLOYER'S PERCEPTION
9 THEREOF.

10 **SECTION 2.** 24-34-402 (1) (a), (1) (b), (1) (c), (1) (d), and (1)
11 (f), Colorado Revised Statutes, are amended, and the said 24-34-402 is
12 further amended BY THE ADDITION OF THE FOLLOWING NEW
13 SUBSECTIONS, to read:

14 **24-34-402. Discriminatory or unfair employment practices.**

15 (1) It shall be a discriminatory or unfair employment practice:

16 (a) For an employer to refuse to hire, to discharge, to promote or
17 demote, to harass during the course of employment, or to discriminate in
18 matters of compensation against any person otherwise qualified because
19 of disability, race, creed, color, sex, SEXUAL ORIENTATION, RELIGION, age,

1 national origin, or ancestry; but, with regard to a disability, it is not a
2 discriminatory or an unfair employment practice for an employer to act
3 as provided in this paragraph (a) if there is no reasonable accommodation
4 that the employer can make with regard to the disability, the disability
5 actually disqualifies the person from the job, and the disability has a
6 significant impact on the job. For purposes of this paragraph (a), "harass"
7 means to create a hostile work environment based upon an individual's
8 race, national origin, sex, SEXUAL ORIENTATION, disability, age, or
9 religion. Notwithstanding the provisions of this paragraph (a),
10 harassment is not an illegal act unless a complaint is filed with the
11 appropriate authority at the complainant's workplace and such authority
12 fails to initiate a reasonable investigation of a complaint and take prompt
13 remedial action if appropriate.

14 (b) For an employment agency to refuse to list and properly
15 classify for employment or to refer an individual for employment in a
16 known available job for which such individual is otherwise qualified
17 because of disability, race, creed, color, sex, SEXUAL ORIENTATION,
18 RELIGION, age, national origin, or ancestry or for an employment agency
19 to comply with a request from an employer for referral of applicants for
20 employment if the request indicates either directly or indirectly that the
21 employer discriminates in employment on account of disability, race,
22 creed, color, sex, SEXUAL ORIENTATION, RELIGION, age, national origin,
23 or ancestry; but, with regard to a disability, it is not a discriminatory or an
24 unfair employment practice for an employment agency to refuse to list
25 and properly classify for employment or to refuse to refer an individual
26 for employment in a known available job for which such individual is
27 otherwise qualified if there is no reasonable accommodation that the

1 employer can make with regard to the disability, the disability actually
2 disqualifies the applicant from the job, and the disability has a significant
3 impact on the job;

4 (c) For a labor organization to exclude any individual otherwise
5 qualified from full membership rights in such labor organization, or to
6 expel any such individual from membership in such labor organization,
7 or to otherwise discriminate against any of its members in the full
8 enjoyment of work opportunity because of disability, race, creed, color,
9 sex, SEXUAL ORIENTATION, RELIGION, age, national origin, or ancestry;

10 (d) For any employer, employment agency, or labor organization
11 to print or circulate or cause to be printed or circulated any statement,
12 advertisement, or publication, or to use any form of application for
13 employment or membership, or to make any inquiry in connection with
14 prospective employment or membership ~~which~~ THAT expresses, either
15 directly or indirectly, any limitation, specification, or discrimination as to
16 disability, race, creed, color, sex, SEXUAL ORIENTATION, RELIGION, age,
17 national origin, or ancestry or intent to make any such limitation,
18 specification, or discrimination, unless based upon a bona fide
19 occupational qualification or required by and given to an agency of
20 government for security reasons;

21 (f) For any employer, labor organization, joint apprenticeship
22 committee, or vocational school providing, coordinating, or controlling
23 apprenticeship programs or providing, coordinating, or controlling
24 on-the-job training programs or other instruction, training, or retraining
25 programs:

26 (I) To deny to or withhold from any qualified person because of
27 disability, race, creed, color, sex, SEXUAL ORIENTATION, RELIGION, age,

1 national origin, or ancestry the right to be admitted to or participate in an
2 apprenticeship training program, an on-the-job training program, or any
3 other occupational instruction, training, or retraining program; but, with
4 regard to a disability, it is not a discriminatory or an unfair employment
5 practice to deny or withhold the right to be admitted to or participate in
6 any such program if there is no reasonable accommodation that can be
7 made with regard to the disability, the disability actually disqualifies the
8 applicant from the program, and the disability has a significant impact on
9 participation in the program;

10 (II) To discriminate against any qualified person in pursuit of such
11 programs or to discriminate against such a person in the terms, conditions,
12 or privileges of such programs because of disability, race, creed, color,
13 sex, SEXUAL ORIENTATION, RELIGION, age, national origin, or ancestry;

14 (III) To print or circulate or cause to be printed or circulated any
15 statement, advertisement, or publication, or to use any form of application
16 for such programs, or to make any inquiry in connection with such
17 programs ~~which~~ THAT expresses, directly or indirectly, any limitation,
18 specification, or discrimination as to disability, race, creed, color, sex,
19 SEXUAL ORIENTATION, RELIGION, age, national origin, or ancestry or any
20 intent to make any such limitation, specification, or discrimination, unless
21 based on a bona fide occupational qualification;

22 (5) NOTHING IN THIS SECTION SHALL PRECLUDE AN EMPLOYER
23 FROM REQUIRING COMPLIANCE WITH A REASONABLE DRESS CODE AS LONG
24 AS THE DRESS CODE IS APPLIED CONSISTENTLY.

25 (6) FOR PURPOSES OF THIS SECTION, "EMPLOYER" SHALL NOT
26 INCLUDE ANY RELIGIOUS ORGANIZATION OR ASSOCIATION, EXCEPT FOR
27 ANY RELIGIOUS ORGANIZATION OR ASSOCIATION THAT IS SUPPORTED IN

1 WHOLE OR IN PART BY MONEY RAISED BY TAXATION OR PUBLIC
2 BORROWING.

3 **SECTION 3. Appropriation.** (1) In addition to any other
4 appropriation, there is hereby appropriated, out of any moneys in the
5 controlled maintenance trust fund, to the department of regulatory
6 agencies, for allocation to the executive director's office, for legal
7 services, for the fiscal year beginning July 1, 2007, the sum of thirty-three
8 thousand eight hundred eighty-five dollars (\$33,885), or so much thereof
9 as may be necessary, for the implementation of this act.

10 (2) In addition to any other appropriation, there is hereby
11 appropriated, out of any moneys in the general fund not otherwise
12 appropriated, to the department of regulatory agencies, for allocation to
13 the division of civil rights, for the fiscal year beginning July 1, 2007, the
14 sum of twenty-eight thousand seven hundred one dollars (\$28,701) and
15 0.5 FTE, or so much thereof as may be necessary, for the implementation
16 of this act.

17 (3) In addition to any other appropriation, there is hereby
18 appropriated to the department of law, for the fiscal year beginning July
19 1, 2007, the sum of thirty-three thousand eight hundred eighty-five dollars
20 (\$33,885) and 0.3 FTE, or so much thereof as may be necessary, for the
21 provision of legal services to the department of regulatory agencies
22 related to the implementation of this act. Said sum shall be from cash
23 funds exempt received from the department of regulatory agencies out of
24 the appropriation made in subsection (1) of this section.

25 **SECTION 4. Effective date - applicability.** (1) This act shall
26 take effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly that is

1 allowed for submitting a referendum petition pursuant to article V,
2 section 1 (3) of the state constitution (August 8, 2007, if adjournment sine
3 die is on May 9, 2007); except that, if a referendum petition is filed
4 against this act or an item, section, or part of this act within such period,
5 then the act, item, section, or part, if approved by the people, shall take
6 effect on the date of the official declaration of the vote thereon by
7 proclamation of the governor.

8 (2) The provisions of this act shall apply to discriminatory or
9 unfair employment practices committed on or after the applicable
10 effective date of this act.