

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 07-025

BY SENATOR(S) Veiga, Boyd, Fitz-Gerald, Groff, Romer, Tupa, and Windels;
also REPRESENTATIVE(S) Madden, Borodkin, Carroll M., Carroll T., Casso, Cerbo, Frangas, Hodge, Judd, Kefalas, Kerr A., Labuda, Levy, Marshall, McGihon, Merrifield, Pommer, Primavera, Romanoff, Todd, and Weissmann.

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

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

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

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

(7.5) "SEXUAL ORIENTATION" MEANS A PERSON'S ORIENTATION TOWARD HETEROSEXUALITY, HOMOSEXUALITY, BISEXUALITY, OR TRANSGENDER STATUS OR AN EMPLOYER'S PERCEPTION THEREOF.

SECTION 2. 24-34-402 (1) (a), (1) (b), (1) (c), (1) (d), and (1) (f),

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

Colorado Revised Statutes, are amended, and the said 24-34-402 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

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

(a) For an employer to refuse to hire, to discharge, to promote or demote, to harass during the course of employment, or to discriminate in matters of compensation against any person otherwise qualified because of disability, race, creed, color, sex, SEXUAL ORIENTATION, RELIGION, age, national origin, or ancestry; but, with regard to a disability, it is not a discriminatory or an unfair employment practice for an employer to act as provided in this paragraph (a) if there is no reasonable accommodation that the employer can make with regard to the disability, the disability actually disqualifies the person from the job, and the disability has a significant impact on the job. For purposes of this paragraph (a), "harass" means to create a hostile work environment based upon an individual's race, national origin, sex, SEXUAL ORIENTATION, disability, age, or religion. Notwithstanding the provisions of this paragraph (a), harassment is not an illegal act unless a complaint is filed with the appropriate authority at the complainant's workplace and such authority fails to initiate a reasonable investigation of a complaint and take prompt remedial action if appropriate.

(b) For an employment agency to refuse to list and properly classify for employment or to refer an individual for employment in a known available job for which such individual is otherwise qualified because of disability, race, creed, color, sex, SEXUAL ORIENTATION, RELIGION, age, national origin, or ancestry or for an employment agency to comply with a request from an employer for referral of applicants for employment if the request indicates either directly or indirectly that the employer discriminates in employment on account of disability, race, creed, color, sex, SEXUAL ORIENTATION, RELIGION, age, national origin, or ancestry; but, with regard to a disability, it is not a discriminatory or an unfair employment practice for an employment agency to refuse to list and properly classify for employment or to refuse to refer an individual for employment in a known available job for which such individual is otherwise qualified if there is no reasonable accommodation that the employer can make with regard to the disability, the disability actually disqualifies the applicant from the job, and the disability has a significant impact on the job;

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

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

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

(I) To deny to or withhold from any qualified person because of disability, race, creed, color, sex, SEXUAL ORIENTATION, RELIGION, age, national origin, or ancestry the right to be admitted to or participate in an apprenticeship training program, an on-the-job training program, or any other occupational instruction, training, or retraining program; but, with regard to a disability, it is not a discriminatory or an unfair employment practice to deny or withhold the right to be admitted to or participate in any such program if there is no reasonable accommodation that can be made with regard to the disability, the disability actually disqualifies the applicant from the program, and the disability has a significant impact on participation in the program;

(II) To discriminate against any qualified person in pursuit of such programs or to discriminate against such a person in the terms, conditions, or privileges of such programs because of disability, race, creed, color, sex,

SEXUAL ORIENTATION, RELIGION, age, national origin, or ancestry;

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

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

(6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS SECTION SHALL NOT APPLY TO A RELIGIOUS CORPORATION, ASSOCIATION, EDUCATIONAL INSTITUTION, OR SOCIETY WITH RESPECT TO THE EMPLOYMENT OF INDIVIDUALS OF A PARTICULAR RELIGION TO PERFORM WORK CONNECTED WITH THE CARRYING ON BY SUCH CORPORATION, ASSOCIATION, EDUCATIONAL INSTITUTION, OR SOCIETY OF ITS ACTIVITIES.

(7) FOR PURPOSES OF THIS SECTION, "EMPLOYER" SHALL NOT INCLUDE ANY RELIGIOUS ORGANIZATION OR ASSOCIATION, EXCEPT FOR ANY RELIGIOUS ORGANIZATION OR ASSOCIATION THAT IS SUPPORTED IN WHOLE OR IN PART BY MONEY RAISED BY TAXATION OR PUBLIC BORROWING.

SECTION 3. Appropriation - adjustments to the 2007 long bill.

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

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2007, the sum of thirty-three thousand eight hundred eighty-five dollars (\$33,885) and 0.3 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of regulatory agencies related

to the implementation of this act. Said sum shall be from cash funds exempt received from the department of regulatory agencies out of the appropriation made in subsection (1) of this section.

(3) For the implementation of this act, the appropriation made in section 21 of the annual general appropriation act for the fiscal year beginning July 1, 2007, shall be adjusted as follows: The general fund appropriation to the controlled maintenance trust fund is decreased by thirty-three thousand eight hundred eighty-five dollars (\$33,885).

SECTION 4. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 8, 2007, if adjournment sine die is on May 9, 2007); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

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

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO