

2018 Regular Session

SENATE BILL NO. 219

BY SENATOR CARTER

DISCRIMINATION. Enacts the Louisiana Employment Non-Discrimination Act. (See Act)

1 AN ACT

2 To amend and reenact R.S. 23:332(A), (B), (C)(1) and (2), (D), (E), (H)(1), (3) and (4), R.S.
3 37:1025(B), 1107(C), 1360.23(H), 1437(D), 2719, 3425(C), 3447(C), and R.S.
4 40:1133.1(C), and to enact R.S. 23:302(9) and (10), 332(I) and (J), relative to
5 employment discrimination; to provide definitions; to provide regarding intentional
6 discrimination in employment; to provide exceptions based upon the First
7 Amendment of the United States Constitution; to provide exceptions for certain
8 entities; to provide regarding applicants to certain programs; to provide regarding
9 requirements for certain programs; to provide regarding licensure for certain
10 professions; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 23:332(A), (B), (C)(1) and (2), (D), (E), (H)(1), (3) and (4) are
13 hereby amended and reenacted and R.S. 23:302(9) and (10) and R.S. 332(I) and (J) and
14 hereby enacted to read as follows:

15 §302. Definitions

16 For purposes of this Chapter and unless the context clearly indicates
17 otherwise, the following terms shall have the following meanings ascribed to them:

* * *

(9) "Sexual orientation" means an individual's actual or perceived
heterosexuality, homosexuality, or bisexuality.

(10) "Gender identity or expression" means a gender-related identity,
appearance, expression, or behavior of a person, regardless of the person's
assigned sex at birth.

* * *

§332. Intentional discrimination in employment

A. It shall be unlawful discrimination in employment for an employer to
engage in any of the following practices:

(1) Intentionally fail or refuse to hire or to discharge any individual, or
otherwise to intentionally discriminate against any individual with respect to
compensation, or terms, conditions, or privileges of employment, because of the
individual's race, color, religion, sex, age, sexual orientation, gender identity or
expression, or national origin.

(2) Intentionally limit, segregate, or classify employees or applicants for
employment in any way which would deprive or tend to deprive any individual of
employment opportunities, or otherwise adversely affect the individual's status as an
employee, because of the individual's race, color, religion, sex, age, sexual
orientation, gender identity or expression, or national origin.

B. It shall be unlawful discrimination in employment for an employment
agency to intentionally fail or refuse to refer for employment, or otherwise to
intentionally discriminate against, any individual because of his race, color, religion,
sex, age, sexual orientation, gender identity or expression, or national origin, or
to intentionally classify or refer for employment any individual on the basis of his
race, color, religion, sex, age, sexual orientation, gender identity or expression,
or national origin.

C. It shall be unlawful discrimination in employment for a labor organization
to engage in any of the following practices:

1 (1) Intentionally exclude or intentionally expel from its membership, or
2 otherwise intentionally discriminate against, any individual because of his race,
3 color, religion, sex, **age, sexual orientation, gender identity or expression**, or
4 national origin.

5 (2) Intentionally limit, segregate, or classify its membership or applicants for
6 membership, or intentionally classify or fail or refuse to refer for employment any
7 individual in any way which would deprive or tend to deprive any individual of
8 employment opportunities, or would limit such employment opportunities, or
9 otherwise adversely affect his status as an employee or as an applicant for
10 employment, because of such individual's race, color, religion, sex, **age, sexual**
11 **orientation, gender identity or expression**, or national origin.

12 * * *

13 D. It shall be unlawful discrimination in employment for any employer, labor
14 organization, or joint labor-management committee controlling apprenticeship or
15 other training or retraining, including on-the-job training programs, to discriminate
16 against any individual because of his race, color, religion, sex, **age, sexual**
17 **orientation, gender identity or expression**, or national origin in admission to, or
18 employment in, any program established to provide apprenticeship or other training.

19 E. It shall be unlawful discrimination in employment for an employer,
20 employment agency, labor organization, or joint labor-management committee
21 controlling apprenticeship or other training or retraining, including on-the-job
22 training programs, to print or publish, or cause to be printed or published, any notice
23 or advertisement relating to employment by an employer or membership in or any
24 classification or referral for employment by a labor organization, or relating to any
25 classification or referral for employment by an employment agency, or relating to
26 admission to, or employment in, any program established to provide apprenticeship
27 or other training by a joint labor-management committee, indicating any preference,
28 limitation, specification, or discrimination based on race, color, religion, sex, **age,**
29 **sexual orientation, gender identity or expression**, or national origin. However, a

1 notice or advertisement may indicate a preference, limitation, specification, or
2 discrimination based on religion, sex, age, sexual orientation, gender identity or
3 expression, or national origin when religion, sex, age, sexual orientation, gender
4 identity or expression, or national origin is a bona fide occupational qualification
5 for employment.

6 * * *

7 H. Notwithstanding any other provision of this Section, it shall not be
8 unlawful discrimination in employment for:

9 (1) An employer to hire and employ employees, for an employment agency
10 to classify or refer for employment any individual, for a labor organization to
11 classify its membership or to classify or refer for employment any individual, or for
12 an employer, labor organization, or joint labor-management committee controlling
13 apprenticeship or other training or retraining programs to admit or employ any
14 individual in any such program on the basis of his religion, sex, age, sexual
15 orientation, gender identity or expression, or national origin in those certain
16 instances where religion, sex, age, sexual orientation, gender identity or
17 expression, or national origin is a bona fide occupational qualification reasonably
18 necessary for the normal operation of that particular business or enterprise.

19 * * *

20 (3) An employer to apply different standards of compensation or different
21 terms, conditions, or privileges of employment pursuant to a bona fide seniority or
22 merit system, or a system which measures earnings by quantity or quality of
23 production, or any other differential based on any factor other than sex, or to
24 employees who work in different locations, provided that such differences are not
25 the result of an intention to discriminate because of race, color, religion, sex, age,
26 sexual orientation, gender identity or expression, or national origin.

27 (4) An employer to give and to act upon the results of any professionally
28 developed ability test, provided that such test, its administration, or action upon the
29 results is not designed, intended, or used to discriminate because of race, color,

1 religion, sex, age, sexual orientation, gender identity or expression, or national
2 origin.

3 I. Nothing in this Section shall be interpreted to infringe upon the
4 freedom of expression, association, or the free exercise of religion protected by
5 the First Amendment of the United States Constitution and Article 1, Section
6 8 of the Constitution of Louisiana.

7 J. The provisions of this Section, relative to discrimination on the basis
8 of sexual orientation and gender identity or expression shall not apply to a
9 corporation, association, educational institution or institution of learning, or
10 society that is exempt from the religious discrimination provisions of 42 U.S.C.
11 2000(e)-1(a) or 2000(e)-2(e) (formerly Section 702(1) or 703(e)(2) of Title VII of
12 the Civil Rights Act of 1964).

13 Section 2. R.S. 37:1025(B), 1107(C), 1360.23(H), 1437(D), 2719, 3425(C), and
14 3447(C) are hereby amended and reenacted to read as follows:

15 §1025. Qualifications of applicants to the drug administration course

16 * * *

17 B. There will be no discrimination in selection of medication attendants for
18 reason of race, color, creed, religion, age, sex, sexual orientation, gender identity
19 or expression, disability; as defined in R.S. 51:2232(11), or national origin.

20 * * *

21 §1107. Requirements for licensed professional counselor; provisional license;
22 temporary license or temporary provisional license; renewal of
23 license or temporary provisional license

24 * * *

25 C. No license shall be denied any applicant based upon the applicant's race,
26 religion, creed, national origin, sex, ~~or~~ physical impairment, age, sexual orientation,
27 gender identity or expression, or disability.

28 * * *

29 §1360.23. Powers and duties of the board.

* * *

H. The board shall ensure that applicants for the program shall not be discriminated against due to race, color, creed, age, sex, sexual orientation, gender identity or expression, disability; as defined in R.S. 51:2232(3), or national origin.

* * *

§1437. Application for license

* * *

D. Every applicant for a license shall submit a sworn statement attesting that he has knowledge of and understands the provisions of the Fair Housing Act of 1968 and the Louisiana Equal Housing Opportunity Act, and any amendments thereto or any successor legislation subsequently following, and that the applicant shall not induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into an area, subdivision, or neighborhood of a person or persons of a particular race, color, religion, sex, age, sexual orientation, gender identity or expression, or national origin.

* * *

§2719. Discrimination

No license, certificate, or registration shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, age, sexual orientation, gender identity or expression, disability, or physical impairment so long as the physical impairment does not interfere with the performance of professional duties.

* * *

§3425. Qualifications for licensure; renewal

* * *

C. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, age, sexual orientation, gender identity or expression, or disability or physical impairment.

* * *

1 §3447. Requirements for licensed professional vocational counselor; renewal of a
2 license

3 * * *

4 C. No license shall be denied any applicant based upon the applicant's race,
5 religion, creed, national origin, sex, **age, sexual orientation, gender identity or**
6 **expression, disability,** or physical impairment.

7 Section 3. R.S. 40:1133.1(C) is hereby amended and reenacted to read as follows:

8 §1133.1. Emergency Medical Personnel

9 * * *

10 C. The bureau shall affirmatively provide that there is no discrimination
11 toward any individual in the licensure process on the basis of race, religion, creed,
12 national origin, sex, **sexual orientation, gender identity or expression,** or age.

13 Section 4. This Act shall be known as and may be cited as the "Louisiana
14 Employment Non-Discrimination Act" or "LENDA".

15 Section 5. This Act shall become effective on August 15, 2018; if vetoed by the
16 governor and subsequently approved by the legislature, the Act shall become effective on
17 June 30, 2018, or the day following such approval, whichever is later.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Mary Dozier O'Brien.

DIGEST

SB 219 Original

2018 Regular Session

Carter

Present law contains no provision declaring that no person should be discriminated against for reasons of their sexual orientation, gender identity or expression.

Present law is not consistent in its prohibition of discrimination based upon age.

Present law has made these consistent throughout the law, adding the language prohibiting discrimination on the basis of sexual orientation, gender identity or expression, but not all provisions needed to have the age language added.

Proposed law adds the prohibition of discrimination based upon age only where it had not previously appeared.

Proposed law provides that nothing in present law or proposed law regarding intentional discrimination in employment (R.S. 23:332) shall be interpreted to infringe upon the freedom of expression, association, or the free exercise of religion.

Proposed law exempts corporations, associations, educational institutions or institutions of

learning or society in accordance with federal law reenacted to authorize Sections 702 and 703 of Title 7 of the Civil Rights Act of 1964 (current site: 41 U.S.C. 2000(e)-1(a) or 2000(e)-2(e)).

Effective August 15, 2018; if vetoed by the governor and subsequently approved by the legislature, effective on June 30, 2018, or the day the legislature approved the Act, whichever is later.

(Amends R.S. 23:332(A), (B), (C)(1) and (2), (D), (E), (H)(1), (3) and (4), R.S. 37:1025(B), 1107(C), 1360.23(H), 1437(D), 2719, 3425(C), 3447(C), and R.S. 40:1133.1(C); adds R.S. 23:302(9) and (10), and 332(I) and (J))