

Regular Session, 2004

HOUSE BILL NO. 845

BY REPRESENTATIVE K. CARTER

DISCRIMINATION: Creates the Louisiana Non-Discrimination Act

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AN ACT

To amend and reenact R.S. 23:302(4), (5), (6), (7), (8), and (9), 332(A), (B), (C)(1) and (2), (D), (E), (F), (H)(3) and (4), and R.S. 51:2231(A), 2232(3), 2235(16)(a), 2237(2), 2247, 2248, 2254(1) and (2), 2255(A), 2602(A), 2606(A)(1), (2), (3), (4), and (5), 2607(A) and (C), and 2608, and to enact R.S. 23:302(10), 332(H)(5), R.S. 51:2232(14) and (15), 2603(13) and (14), relative to discrimination; to provide with respect to employment, commerce, and housing; to provide for definitions; to prohibit discrimination on the basis of sexual orientation or gender identity; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:302(4), (5), (6), (7), (8) and (9), 332(A), (B), (C)(1) and (2), (D), (E), (F), (H)(3), and (4) are hereby amended and reenacted, and R.S. 23:302(10), and 332(H)(5) are hereby enacted to read as follows:

§302. Definitions

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

* * *

(4) "Gender identity" means a person's gender-related identity, appearance, or expression, whether or not that identity, appearance or expression is the same from that traditionally associated with the person's assigned sex at birth.

1 ~~(4)~~(5) "Genetic monitoring" means the periodic examination of employees to
2 evaluate acquired modifications to their genetic material, such as chromosomal
3 damage or evidence of increased occurrence of mutations, that may have developed
4 in the course of employment due to exposure to toxic substances in the workplace,
5 in order to identify, evaluate, respond to the effects of, or control adverse
6 environmental exposures in the workplace.

7 ~~(5)~~(6) "Genetic services" means health services, including genetic tests,
8 provided to obtain, assess, or interpret genetic information for diagnostic or
9 therapeutic purposes, or for genetic education or counseling.

10 ~~(6)~~(7) "Genetic test" means the analysis of human DNA, RNA, chromosomes,
11 and those proteins and metabolites used to detect heritable or somatic disease-related
12 genotypes or karyotypes for clinical purposes. A genetic test must be generally
13 accepted in the scientific and medical communities as being specifically determinative
14 for the presence, absence, or mutation of a gene or chromosome in order to qualify
15 under this definition. Genetic test does not include a routine physical examination or
16 a routine analysis, including, but not limited to, a chemical analysis, of body fluids,
17 unless conducted specifically to determine the presence, absence, or mutation of a
18 gene or chromosome.

19 ~~(7)~~(8) "Labor organization" means any organization which exists for the
20 purpose, in whole or in part, of collective bargaining or of dealing with employers
21 concerning grievances, terms, or conditions of employment, or for other mutual aid
22 or protection in relation to employment or any agent acting for such an organization.

23 ~~(8)~~(9) "Protected genetic information" means information about an
24 individual's genetic tests, the genetic tests of an individual's family members, or the
25 occurrence of a disease, or medical condition or disorder in family members of the
26 individual.

27 (10) "Sexual orientation" is limited to being, perceived as being, heterosexual,
28 homosexual, or bisexual.

1 §332. Intentional discrimination in employment

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

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

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

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

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

22 (1) Intentionally exclude or intentionally expel from its membership, or
23 otherwise intentionally discriminate against, any individual because of his race, color,
24 religion, sexual orientation, gender identity, sex, or national origin.

25 (2) Intentionally limit, segregate, or classify its membership or applicants for
26 membership, or intentionally classify or fail or refuse to refer for employment any
27 individual in any way which would deprive or tend to deprive any individual of
28 employment opportunities, or would limit such employment opportunities, or
29 otherwise adversely affect his status as an employee or as an applicant for

1 employment, because of such individual's race, color, religion, sexual orientation,
2 gender identity, sex, or national origin.

3 * * *

4 D. It shall be unlawful discrimination in employment for any employer, labor
5 organization, or joint labor-management committee controlling apprenticeship or
6 other training or retraining, including on-the-job training programs, to discriminate
7 against any individual because of his race, color, religion, sexual orientation, gender
8 identity, sex, or national origin in admission to, or employment in, any program
9 established to provide apprenticeship or other training.

10 E. It shall be unlawful discrimination in employment for an employer,
11 employment agency, labor organization, or joint labor management committee
12 controlling apprenticeship or other training or retraining, including on-the-job training
13 programs, to print or publish, or cause to be printed or published, any notice or
14 advertisement relating to employment by an employer or membership in or any
15 classification or referral for employment by a labor organization, or relating to any
16 classification or referral for employment by an employment agency, or relating to
17 admission to, or employment in, any program established to provide apprenticeship
18 or other training by a joint labor-management committee, indicating any preference,
19 limitation, specification, or discrimination based on race, color, religion, sexual
20 orientation, gender identity, sex, or national origin. However, a notice or
21 advertisement may indicate a preference, limitation, specification, or discrimination
22 based on religion, sex, or national origin when religion, sex, or national origin is a
23 bona fide occupational qualification for employment.

24 F. It shall be unlawful discrimination in employment for an insurer to engage
25 in any of the following practices:

26 (1) Intentionally fail or refuse to appoint or to discharge any insurance agent,
27 or otherwise to intentionally discriminate against any insurance agent with respect to
28 his compensation, terms, conditions, or privileges of employment, because of the

1 insurance agent's race, color, religion, sexual orientation, gender identity, sex, or
2 national origin.

3 (2) Intentionally limit, segregate, or classify his insurance agents or applicants
4 for an insurance agent in any way which would deprive or tend to deprive any
5 insurance agent or applicant of employment opportunities, or otherwise adversely
6 affect his status as an insurance agent or applicant because of the insurance agent's or
7 applicant's race, color, religion, sexual orientation, gender identity, sex, or national
8 origin.

9 * * *

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

12 * * *

13 (3) An employer to apply different standards of compensation or different
14 terms, conditions, or privileges of employment pursuant to a bona fide seniority or
15 merit system, or a system which measures earnings by quantity or quality of
16 production, or to employees who work in different locations, provided that such
17 differences are not the result of an intention to discriminate because of race, color,
18 religion, sexual orientation, gender identity, sex, or national origin.

19 (4) An employer to give and to act upon the results of any professionally
20 developed ability test, provided that such test, its administration, or action upon the
21 results is not designed, intended, or used to discriminate because of race, color,
22 religion, sexual orientation, gender identity, sex, or national origin.

23 (5) An employer to require employees to adhere to reasonable workplace
24 appearance, grooming, and dress standards not precluded by other provisions of state
25 or federal law, provided that an employer must allow an employee to appear and dress
26 consistently with the employee's gender identity.

27 Section 2. R.S. 51:2231(A), 2232(3), 2235(16)(a), 2237(2), 2247, 2248, 2254(1)
28 and (2), 2255(A), 2602(A), 2606(A)(1), (2), (3), (4) and (5), 2607 (A) and (C) and 2608 are

1 hereby amended and reenacted, and R.S. 51:2232(14) and (15), 2603 (13) and (14) are
2 hereby enacted to read as follows:

3 §2231. Statement of purpose; limitation on prohibitions against discrimination
4 because of age

5 A. It is the purpose and intent of the legislature by this enactment to provide
6 for execution within Louisiana of the policies embodied in the Federal Civil Rights
7 Act of 1964, 1968, and 1972 and the Age Discrimination in Employment Act of 1967,
8 as amended; and to assure that Louisiana has appropriate legislation prohibiting
9 discrimination in public accommodations sufficient to justify the deferral of cases by
10 the federal Equal Employment Opportunity Commission, the secretary of labor, and
11 the Department of Justice under those statutes; to safeguard all individuals within the
12 state from discrimination because of race, creed, color, religion, sexual orientation,
13 gender identity, sex, age, disability, or national origin in connection with employment
14 and in connection with public accommodations; to protect their interest in personal
15 dignity and freedom from humiliation; to make available to the state their full
16 productive capacities in employment; to secure the state against domestic strife and
17 unrest which would menace its democratic institutions; to preserve the public safety,
18 health, and general welfare; and to further the interest, rights, and privileges within
19 the state.

20 * * *

21 §2232. Definitions

22 As used in this Chapter:

23 * * *

24 (3) "Discriminatory practice in connection with public accommodations"
25 means any direct or indirect act or practice of exclusion, distinction, restriction,
26 segregation, limitation, refusal, denial, or any other act or practice of differentiation
27 or preference in the treatment of a person or persons because of race, creed, color,
28 religion, sexual orientation, gender identity, ~~sex~~, age, disability, or national origin.

1 §2247. Public accommodations, resorts, amusements; discriminatory practices
2 prohibited

3 Except as otherwise provided in this Chapter, it is a discriminatory practice
4 for a person to deny an individual the full and equal enjoyment of the goods, services,
5 facilities, privileges, advantages, and accommodations of a place of public
6 accommodation, resort, or amusement, as defined in this Chapter, on the grounds of
7 race, creed, color, religion, sexual orientation, gender identity, sex, age, disability, as
8 defined in R.S. 51:2232(11), or national origin.

9 §2248. Advertisement of accommodations, goods, services

10 It shall be an unlawful practice for a person, directly or indirectly, to publish,
11 circulate, issue, display, mail, or cause to be published, circulated, issued, displayed,
12 or mailed, a written, printed, oral, or visual communication, notice, or advertisement
13 which indicates that the goods, services, facilities, privileges, advantages, and
14 accommodations of a place of public accommodation, resort, or amusement shall be
15 refused, withheld from, or denied an individual on account of his race, color, religion,
16 sexual orientation, gender identity, disability, as defined in R.S. 51:2232(11), or
17 national origin, or that the patronage of or presence at a place of public
18 accommodations, resort, or amusement of an individual on account of his race, color,
19 sexual orientation, gender identity, religion, disability, as defined in R.S. 51:2232(11),
20 or national origin is objectionable, unwelcome, unacceptable, or undesirable.

21 * * *

22 §2254. Unlawful financial practices

23 It shall be an unlawful practice for a financial institution or an individual
24 employed by or acting on behalf of a financial institution:

25 (1) To discriminate against an individual because of the race, creed, color,
26 religion, national origin, sexual orientation, gender identity, sex, disability, as defined
27 in R.S. 51:2232(11), or age of the individual or the present or prospective owner,
28 tenant, or occupant of the immovable property or of a member, stockholder, director,
29 officer, employee, or representative of any of these, in the granting, withholding,

1 extending, modifying, or renewing of rates, terms, conditions, privileges, or other
2 provisions of financial assistance or in the extension of services in connection
3 therewith.

4 (2) To use a form of application for financial assistance or to make or keep
5 a record or inquiry in connection with applications for financial assistance which
6 indicates directly or indirectly a limitation, specification, or discrimination, as to race,
7 creed, color, religion, sexual orientation, gender identity, disability, as defined in R.S.
8 51:2232(11), or national origin, or an intent to make such a limitation, specification,
9 or discrimination.

10 * * *

11 §2255. Unlawful practices in connection with credit transactions; exceptions

12 A. It shall be an unlawful practice for any person, whether acting for himself
13 or another, in connection with any credit transaction because of race, creed, color,
14 religion, national origin, disability, as defined in R.S. 51:2232(11), sexual orientation,
15 gender identity, or sex:

16 * * *

17 §2602. Policy

18 A. The legislature finds and declares that persons in this state who seek a
19 place to live should be able to find such housing whenever it is available. Further, in
20 many localities there may be housing shortages. All persons should therefore be able
21 to compete for available housing on an open, fair, and equitable basis, regardless of
22 race, color, religion, sexual orientation, gender identity, sex, handicap, familial status,
23 or national origin.

24 * * *

25 §2603. Definitions

26 As used in this Chapter:

27 * * *

28 (13) "Sexual Orientation" is limited to being, or being perceived as being
29 heterosexual, homosexual, or bisexual.

1 §2607. Discrimination in residential real estate related transactions

2 A. It is unlawful for any person or other entity whose business includes
3 engaging in residential real estate related transactions to discriminate against any
4 person in making available such a transaction, or in the terms or conditions of such
5 a transaction, because of race, color, religion, sexual orientation, gender identity, sex,
6 handicap, familial status, or national origin.

7 * * *

8 C. Nothing in this Chapter prohibits a person engaged in the business of
9 furnishing appraisals of real property to take into consideration factors other than
10 race, color, religion, national origin, sexual orientation, gender identity, sex,
11 handicap, or familial status.

12 §2608. Discrimination in provision of brokerage services

13 It is unlawful to deny any person access to or membership or participation in
14 any multiple-listing service, real estate brokers' organization or other service,
15 organization, or facility relating to the business of selling or renting dwellings, or to
16 discriminate against him in the terms or conditions of such access, membership, or
17 participation, on account of race, color, religion, sexual orientation, gender identity,
18 sex, handicap, familial status, or national origin.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

K. Carter

HB No. 845

Abstract: Prohibits discrimination on the basis of sexual orientation or gender identity.

Present law provides for definitions.

Proposed law retains present law and defines "sexual orientation" and "gender identity".

Present law provides that it is unlawful to discriminate against anyone with respect to his money, terms, or privileges of employment because of the person's race, color, religion, sex or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful to deny someone employment because of his race, color, religion, sex or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful for an employment agency to deny to refer employment opportunities because of race, color, religion, sex or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful for a labor organization to discriminate from its membership or deny an individual of employment opportunities because of his race, color, religion, sex or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful for a committee, employer or organization controlling apprenticeship or training program to discriminate because of race, color, religion, sex or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful to publish, print or advertise for employment indicating any preference based on race, color, religion, sex or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that an employer may set different standards to pay employee pursuant to a legitimate seniority or merit system provided it's not used to discriminate because of race, color, religion, sex or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that an employer may develop tests, provided it is not intended to discriminate because of race, color, sex or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Proposed law provides that an employer may require employees to follow to a reasonable dress code appearance, provided the employee be allowed to dress consistently with the employee's gender identity.

Present law provides that Louisiana has legislation prohibiting discrimination in public accommodations because of race, creed, color, religion, sex, age, disability or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides authorities and responsibilities for the Louisiana Commission on Human Rights and authorize a committee to study and report on problems of discrimination because of race, creed, religion, sex, age, disability or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that any parish or municipality may create a human rights commission to safe guard its community from discrimination because of race, creed, color, religion, national origin, sex, disability or age.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful to deny a person full enjoyment of goods and services, facilities, privileges, advantages and accommodations of public places because of race, creed, color, religion, sex, age, disability or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful to publish, circulate, issue or advertise refusal of public accommodations, resorts or amusements because of race, color, religion, disability or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful for a financial institution to discriminate with the use of an application or when providing financial assistance because of race, creed, color, religion, national origin, sex, disability or age.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful to discriminate with any credit transaction because of race, creed, religion, national origin, disability or sex.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides for a policy that all persons in the state shall be able to compete for housing on an open, fair and equitable bases, regardless of race, color, religion, sex, handicap, familial status or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful to discriminate in the sale or rental of housing, because of race, color, religion, sex, familial status, or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful to discriminate in the terms, conditions or privileges of sale or rental of housing because of race, color, religion, sex, familial status, or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful to print, publish, advertise, sale or rental that indicates preference or discrimination based on race, color, religion, sex, familial status, or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful for a person or entity who transact real estate to discriminate because of race, color, religion, sex, familial status, or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

Present law provides that it is unlawful to deny membership or participation in a real estate organization or service because of race, color, religion, sex, familial status, or national origin.

Proposed law retains present law and adds sexual orientation and gender identity to the category of persons subject to exclusion and ejection.

(Amends R.S. 23:302(4), (5), (6), (7), and (8), 332(A), (B), (C)(1), and (2), (D), (E), (F), and (H)(3) and (4) and R.S. 51:2231(A), 2232(3), 2235(16)(a), 2237(2), 2247, 2248, 2254(1) and (2), 2255(A), 2602(A), 2606(A)(1), (2), (3), (4) and (5), 2607 (A) and (C) and 2608; Adds R.S. 23:302(10), 332(H)(5) and R.S. 51:2232(14) and (15), 2603 (13) and (14))