

2013 -- H 5442

=====  
LC00689  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

—————  
A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENT PRACTICES

Introduced By: Representatives Ferri, Ajello, Walsh, Williams, and Almeida

Date Introduced: February 13, 2013

Referred To: House Labor

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 28-5-7 of the General Laws in Chapter 28-5 entitled "Fair  
2      Employment Practices" is hereby amended to read as follows:

3           **28-5-7. Unlawful employment practices.** -- It shall be an unlawful employment  
4      practice:

5           (1) For any employer:

6           (i) To refuse to hire any applicant for employment because of his or her race or color,  
7      religion, sex, sexual orientation, gender identity or expression, disability, age, or country of  
8      ancestral origin;

9           (ii) Because of those reasons, to discharge an employee or discriminate against him or  
10     her with respect to hire, tenure, compensation, terms, conditions or privileges of employment, or  
11     any other matter directly or indirectly related to employment. However, if an insurer or employer  
12     extends insurance related benefits to persons other than or in addition to the named employee,  
13     nothing in this subdivision shall require those benefits to be offered to unmarried partners of  
14     named employees;

15          (iii) In the recruiting of individuals for employment or in hiring them, to utilize any  
16     employment agency, placement service, training school or center, labor organization, or any other  
17     employee referring source which the employer knows, or has reasonable cause to know,  
18     discriminates against individuals because of their race or color, religion, sex, sexual orientation,  
19     gender identity or expression, disability, age, or country of ancestral origin;

1 (iv) To refuse to reasonably accommodate an employee's or prospective employee's  
2 disability unless the employer can demonstrate that the accommodation would pose a hardship on  
3 the employer's program, enterprise, or business; or

4 (v) When an employee has presented to the employer an internal complaint alleging  
5 harassment in the workplace on the basis of race or color, religion, sex, disability, age, sexual  
6 orientation, gender identity or expression, or country of ancestral origin, to refuse to disclose in a  
7 timely manner in writing to that employee the disposition of the complaint, including a  
8 description of any action taken in resolution of the complaint; provided, however, no other  
9 personnel information shall be disclosed to the complainant.

10 (vi) To request, for purposes of satisfying the requirements of the federal employment  
11 verification system established by Section 1324a(b) of title 8 of the United States Code, as now or  
12 hereafter amended, more or different documents than are required under such section.

13 (2) (i) For any employment agency to fail or refuse to properly classify or refer for  
14 employment or otherwise discriminate against any individual because of his or her race or color,  
15 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of  
16 ancestral origin; or

17 (ii) For any employment agency, placement service, training school or center, labor  
18 organization, or any other employee referring source to comply with an employer's request for the  
19 referral of job applicants if the request indicates either directly or indirectly that the employer will  
20 not afford full and equal employment opportunities to individuals regardless of their race or color,  
21 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of  
22 ancestral origin;

23 (3) For any labor organization:

24 (i) To deny full and equal membership rights to any applicant for membership because of  
25 his or her race or color, religion, sex, sexual orientation, gender identity or expression, disability,  
26 age, or country of ancestral origin;

27 (ii) Because of those reasons, to deny a member full and equal membership rights, expel  
28 him or her from membership, or otherwise discriminate in any manner against him or her with  
29 respect to his or her hire, tenure, compensation, terms, conditions or privileges of employment, or  
30 any other matter directly or indirectly related to membership or employment, whether or not  
31 authorized or required by the constitution or bylaws of the labor organization or by a collective  
32 labor agreement or other contract;

33 (iii) To fail or refuse to classify properly or refer for employment, or otherwise to  
34 discriminate against any member because of his or her race or color, religion, sex, sexual

1 orientation, gender identity or expression, disability, age, or country of ancestral origin; or

2 (iv) To refuse to reasonably accommodate a member's or prospective member's disability  
3 unless the labor organization can demonstrate that the accommodation would pose a hardship on  
4 the labor organization's program, enterprise, or business;

5 (4) Except where based on a bona fide occupational qualification certified by the  
6 commission or where necessary to comply with any federal mandated affirmative action  
7 programs, for any employer or employment agency, labor organization, placement service,  
8 training school or center, or any other employee referring source, prior to employment or  
9 admission to membership of any individual, to:

10 (i) Elicit or attempt to elicit any information directly or indirectly pertaining to his or her  
11 race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or  
12 country of ancestral origin;

13 (ii) Make or keep a record of his or her race or color, religion, sex, sexual orientation,  
14 gender identity or expression, disability, age, or country of ancestral origin;

15 (iii) Use any form of application for employment, or personnel or membership blank  
16 containing questions or entries directly or indirectly pertaining to race or color, religion, sex,  
17 sexual orientation, gender identity or expression, disability, age, or country of ancestral origin;

18 (iv) Print or publish or cause to be printed or published any notice or advertisement  
19 relating to employment or membership indicating any preference, limitation, specification, or  
20 discrimination based upon race or color, religion, sex, sexual orientation, gender identity or  
21 expression, disability, age, or country of ancestral origin; or

22 (v) Establish, announce, or follow a policy of denying or limiting, through a quota  
23 system or otherwise, employment or membership opportunities of any group because of the race  
24 or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country  
25 of ancestral origin of that group;

26 (5) For any employer or employment agency, labor organization, placement service,  
27 training school or center, or any other employee referring source to discriminate in any manner  
28 against any individual because he or she has opposed any practice forbidden by this chapter, or  
29 because he or she has made a charge, testified, or assisted in any manner in any investigation,  
30 proceeding, or hearing under this chapter;

31 (6) For any person, whether or not an employer, employment agency, labor organization,  
32 or employee, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to  
33 be an unlawful employment practice, or to obstruct or prevent any person from complying with  
34 the provisions of this chapter or any order issued pursuant to this chapter, or to attempt directly or

1 indirectly to commit any act declared by this section to be an unlawful employment practice;

2 (7) For any employer to include on any application for employment, except applications  
3 for law enforcement agency positions or positions related to law enforcement agencies, a question  
4 inquiring or to otherwise inquire either orally or in writing whether the applicant has ever been  
5 arrested or charged with any crime; provided, that nothing in this subdivision shall prevent an  
6 employer from inquiring whether the applicant has ever been convicted of any crime;

7 (8) (i) For any person who, on June 7, 1988, is providing either by direct payment or by  
8 making contributions to a fringe benefit fund or insurance program, benefits in violation with  
9 sections 28-5-6, 28-5-7 and 28-5-38, until the expiration of a period of one year from June 7,  
10 1988 or if there is an applicable collective bargaining agreement in effect on June 7, 1988, until  
11 the termination of that agreement, in order to come into compliance with sections 28-5-6, 28-5-7  
12 and 28-5-38, to reduce the benefits or the compensation provided any employee on June 7, 1988,  
13 either directly or by failing to provide sufficient contributions to a fringe benefit fund or  
14 insurance program.

15 (ii) Where the costs of these benefits on June 7, 1988 are apportioned between employers  
16 and employees, the payments or contributions required to comply with sections 28-5-6, 28-5-7  
17 and 28-5-38 may be made by employers and employees in the same proportion.

18 (iii) Nothing in this section shall prevent the readjustment of benefits or compensation  
19 for reasons unrelated to compliance with sections 28-5-6, 28-5-7 and 28-5-38.

20 SECTION 2. This act shall take effect upon passage.

=====  
LC00689  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENT PRACTICES

\*\*\*

1           This act would make it unlawful and prohibit any employer for purposes of satisfying the  
2 requirements of the federal employment verification system from requiring more or different  
3 documents from employees than as are required under federal law.

4           This act would take effect upon passage.

=====  
LC00689  
=====