



1997 ASSEMBLY BILL 449

July 10, 1997 - Introduced by Representatives HASENOHRL, ZUKOWSKI, BLACK, R. YOUNG, MUSSER, SYKORA, URBAN, ALBERS, SCHNEIDER, AINSWORTH, GOETSCH, KEDZIE, PLOUFF, BOYLE and SPRINGER, cosponsored by Senators WIRCH and ROESSLER. Referred to Committee on Labor and Employment.

1 **AN ACT to amend** 111.31 (1), 111.31 (2), 111.31 (3), 111.321 and 111.322 (intro.);
2 **and to create** 111.365 of the statutes; **relating to:** employment discrimination
3 because of temporary absence from work while responding to an emergency call
4 as a volunteer fire fighter.

Analysis by the Legislative Reference Bureau

Under current law, discrimination in employment on the basis of age, race, creed, color, handicap, marital status, sex, national origin, ancestry, arrest record, conviction record, membership in the national guard, state defense force or military reserves or use or nonuse of a lawful product off the employer's premises during nonworking hours is prohibited. Current law also specifies that employment discrimination because of creed or handicap includes refusing to reasonably accommodate the religious observance or practice or handicap of an employe or prospective employe unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise or business.

This bill prohibits discrimination in employment based on temporary absence from work while responding to an emergency call as a volunteer fire fighter. The bill specifies that employment discrimination on that basis includes refusing to reasonably accommodate the temporary absence of an employe or prospective employe from work while responding to an emergency call as a volunteer fire fighter unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise or business. Under the bill, an employer may reasonably accommodate a temporary absence from work for that

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purpose by temporarily reallocating job duties, adjusting or modifying the employer's attendance policies or making other, similar accommodations for the employe or prospective employe. The bill defines "undue hardship" as significant difficulty or expense, with respect to an accommodation for an employe or prospective employe, when considered in light of various factors such as the nature and cost of the accommodation, the overall financial resources of the facility involved in providing the accommodation and of the employer, the number of persons employed by the facility and by the employer and the type of operation of the employer.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 111.31 (1) of the statutes is amended to read:

2 111.31 (1) The legislature finds that the practice of unfair discrimination in
3 employment against properly qualified individuals by reason of their age, race,
4 creed, color, handicap, marital status, sex, national origin, ancestry, sexual
5 orientation, arrest record, conviction record, membership in the national guard,
6 state defense force or any other reserve component of the military forces of the United
7 States or this state or, use or nonuse of lawful products off the employer's premises
8 during nonworking hours or temporary absence from work while responding to an
9 emergency call as a volunteer fire fighter substantially and adversely affects the
10 general welfare of the state. Employers, labor organizations, employment agencies
11 and licensing agencies that deny employment opportunities and discriminate in
12 employment against properly qualified individuals solely because of their age, race,
13 creed, color, handicap, marital status, sex, national origin, ancestry, sexual
14 orientation, arrest record, conviction record, membership in the national guard,
15 state defense force or any other reserve component of the military forces of the United
16 States or this state or, use or nonuse of lawful products off the employer's premises
17 during nonworking hours or temporary absence from work while responding to an

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1 emergency call as a volunteer fire fighter deprive those individuals of the earnings
2 that are necessary to maintain a just and decent standard of living.

3 **SECTION 2.** 111.31 (2) of the statutes is amended to read:

4 111.31 (2) It is the intent of the legislature to protect by law the rights of all
5 individuals to obtain gainful employment and to enjoy privileges free from
6 employment discrimination because of age, race, creed, color, handicap, marital
7 status, sex, national origin, ancestry, sexual orientation, arrest record, conviction
8 record, membership in the national guard, state defense force or any other reserve
9 component of the military forces of the United States or this state ~~or~~, use or nonuse
10 of lawful products off the employer's premises during nonworking hours or
11 temporary absence from work while responding to an emergency call as a volunteer
12 fire fighter, and to encourage the full, nondiscriminatory utilization of the productive
13 resources of the state to the benefit of the state, the family and all the people of the
14 state. It is the intent of the legislature in promulgating this subchapter to encourage
15 employers to evaluate an employe or applicant for employment based upon the
16 employe's or applicant's individual qualifications rather than upon a particular class
17 to which the individual may belong.

18 **SECTION 3.** 111.31 (3) of the statutes is amended to read:

19 111.31 (3) In the interpretation and application of this subchapter, and
20 otherwise, it is declared to be the public policy of the state to encourage and foster
21 to the fullest extent practicable the employment of all properly qualified individuals
22 regardless of age, race, creed, color, handicap, marital status, sex, national origin,
23 ancestry, sexual orientation, arrest record, conviction record, membership in the
24 national guard, state defense force or any other reserve component of the military
25 forces of the United States or this state ~~or~~, use or nonuse of lawful products off the

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1 employer's premises during nonworking hours or temporary absence from work
2 while responding to an emergency call as a volunteer fire fighter. Nothing in this
3 subsection requires an affirmative action program to correct an imbalance in the
4 work force. This subchapter shall be liberally construed for the accomplishment of
5 this purpose.

6 **SECTION 4.** 111.321 of the statutes is amended to read:

7 **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to ~~111.36~~
8 ~~111.365~~, no employer, labor organization, employment agency, licensing agency or
9 other person may engage in any act of employment discrimination as specified in s.
10 111.322 against any individual on the basis of age, race, creed, color, handicap,
11 marital status, sex, national origin, ancestry, arrest record, conviction record,
12 membership in the national guard, state defense force or any reserve component of
13 the military forces of the United States or this state ~~or~~, use or nonuse of lawful
14 products off the employer's premises during nonworking hours or temporary absence
15 from work while responding to an emergency call as a volunteer fire fighter.

16 **SECTION 5.** 111.322 (intro.) of the statutes is amended to read:

17 **111.322 Discriminatory actions prohibited.** (intro.) Subject to ss. 111.33
18 to ~~111.36~~ 111.365, it is an act of employment discrimination to do any of the following:

19 **SECTION 6.** 111.365 of the statutes is created to read:

20 **111.365 Volunteer fire fighters; exceptions and special cases. (1)** In this
21 section, "undue hardship" means, with respect to an accommodation required under
22 sub. (2), significant difficulty or expense, when considered in light of the following
23 factors:

24 (a) The nature and cost of the accommodation.

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1 (b) The overall financial resources of the facility involved in providing the
2 accommodation, the number of persons employed by the facility, the effect of
3 providing the accommodation on the resources and finances of the facility and any
4 other impact of the accommodation on the operation of the facility.

5 (c) The overall financial resources of the employer, the number of persons
6 employed by the employer and the number, type and location of the employer's
7 facilities.

8 (d) The type of operation of the employer, including the composition, structure
9 and functions of the employer's workforce, the geographic separateness of the facility
10 involved in providing the accommodation from the employer and the administrative
11 and financial relationship of that facility to the employer.

12 **(2)** Employment discrimination because of temporary absence from work while
13 responding to an emergency call as a volunteer fire fighter includes refusing to
14 reasonably accommodate the temporary absence of an employe or prospective
15 employe from work while responding to an emergency call as a volunteer fire fighter
16 unless the employer can demonstrate that the accommodation would pose an undue
17 hardship on the employer's program, enterprise or business. An employer may
18 reasonably accommodate the temporary absence of an employe or prospective
19 employe from work while responding to an emergency call as a volunteer fire fighter
20 by temporarily reallocating job duties, adjusting or modifying the employer's
21 attendance policies or making other, similar accommodations for the employe or
22 prospective employe.

23 **SECTION 7. Initial applicability.**

