

2005 DRAFTING REQUEST

Bill

Received: 11/01/2004

Received By: gmalaise

Wanted: As time permits

Identical to LRB:

For: Carol Owens (608) 267-7990

By/Representing: Jacque Dicks

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Discrimination

Extra Copies:

Submit via email: YES

Requester's email: Rep.Owens@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Employment discrimination based on military status

Instructions:

See Attached--redraft 2003 AB 603 as affected by AA3 to AB 603

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 11/01/2004	jdyer 11/23/2004		_____			S&L
		jdyer 11/23/2004		_____			
/1			rschlue 11/24/2004	_____	lnorthro 11/24/2004	lnorthro 06/16/2005	

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Page 2

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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2003 ASSEMBLY BILL 603

LPS
PWF
please

October 21, 2003 - Introduced by Representatives OWENS, AINSWORTH, ALBERS, BIES, BOYLE, J. FITZGERALD, FREESE, HINES, KREIBICH, LADWIG, LEMAHIEU, MUSSER, NISCHKE, OLSEN, OTT, PETROWSKI, PETTIS, SERATTI, SUDER, VAN ROY, WEBER and GUNDRUM, cosponsored by Senators ROESSLER, BROWN, S. FITZGERALD and LASSA. Referred to Committee on Veterans and Military Affairs.

Regen

~~the armed forces, national guard, state defense force, or any other uniformed service~~

plain text

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AN ACT *to amend* 111.31 (1), 111.31 (2), 111.31 (3) and 111.321; and *to create* 111.32 (12g) and 111.355 of the statutes; **relating to:** prohibiting employment discrimination because an individual is or applies to be a member of, or performs, has performed, applies to perform, or has an obligation to perform ~~active~~ service in the national guard, state defense force, or any reserve component of the military forces of the United States or this state.

Analysis by the Legislative Reference Bureau

Under current law, no employer, labor organization, licensing agency, employment agency, or other person may refuse to hire, employ, admit, or license an individual, bar or terminate an individual from employment, membership, or licensure, or discriminate against an individual in promotion, in compensation, or in the terms, conditions, or privileges of employment on the basis of membership in the national guard, state defense force, or any reserve component of the military forces of the United States or this state (military status).¹

This bill provides that employment discrimination because of military status includes an employer, labor organization, licensing agency, employment agency, or other person refusing to hire, employ, admit, or license an individual, barring or terminating an individual from employment, membership, or licensure, or discriminating against an individual in promotion, in compensation, or in the terms, conditions, or privileges of employment because the individual is or applies to be a

ASSEMBLY BILL 603

Insert A ✓

armed forces, member of the national guard, state defense force, or any reserve component of the military forces of the United States or this state or because the individual performs, has performed, applies to perform, or has an obligation to perform active service in the national guard, state defense force ~~or any reserve component of the military forces of the United States or this state.~~

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:

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

111.31 (1) The legislature finds that the practice of unfair discrimination in employment against properly qualified individuals by reason of their age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, ~~membership in the national guard, state defense force or any other reserve component of the military forces of the United States or this state~~ military status, or use or nonuse of lawful products off the employer's premises during nonworking hours substantially and adversely affects the general welfare of the state. Employers, labor organizations, employment agencies, and licensing agencies that deny employment opportunities and discriminate in employment against properly qualified individuals solely because of their age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, ~~membership in the national guard, state defense force or any other reserve component of the military forces of the United States or this state~~ military status, or use or nonuse of lawful products off the employer's premises during nonworking hours deprive those individuals of the earnings that are necessary to maintain a just and decent standard of living.

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

ASSEMBLY BILL 603

1 111.31 (2) It is the intent of the legislature to protect by law the rights of all
2 individuals to obtain gainful employment and to enjoy privileges free from
3 employment discrimination because of age, race, creed, color, disability, marital
4 status, sex, national origin, ancestry, sexual orientation, arrest record, conviction
5 record, ~~membership in the national guard, state defense force or any other reserve~~
6 ~~component of the military forces of the United States or this state~~ military status,
7 or use or nonuse of lawful products off the employer's premises during nonworking
8 hours, and to encourage the full, nondiscriminatory utilization of the productive
9 resources of the state to the benefit of the state, the family, and all the people of the
10 state. It is the intent of the legislature in promulgating this subchapter to encourage
11 employers to evaluate an employee or applicant for employment based upon the
12 employee's or applicant's individual qualifications rather than upon a particular
13 class to which the individual may belong.

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

15 111.31 (3) In the interpretation and application of this subchapter, and
16 otherwise, it is declared to be the public policy of the state to encourage and foster
17 to the fullest extent practicable the employment of all properly qualified individuals
18 regardless of age, race, creed, color, disability, marital status, sex, national origin,
19 ancestry, sexual orientation, arrest record, conviction record, ~~membership in the~~
20 ~~national guard, state defense force or any other reserve component of the military~~
21 ~~forces of the United States or this state~~ military status, or use or nonuse of lawful
22 products off the employer's premises during nonworking hours. Nothing in this
23 subsection requires an affirmative action program to correct an imbalance in the
24 work force. This subchapter shall be liberally construed for the accomplishment of
25 this purpose.

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1 SECTION 4. 111.32 (12g) of the statutes is created to read:

2 111.32 (12g) "Military status" means membership in the national guard, state
3 defense force, or any other reserve component of the military forces of the United
4 States or this state.

5 SECTION 5. 111.321 of the statutes is amended to read:

6 **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to 111.36,
7 no employer, labor organization, employment agency, licensing agency, or other
8 person may engage in any act of employment discrimination as specified in s. 111.322
9 against any individual on the basis of age, race, creed, color, disability, marital
10 status, sex, national origin, ancestry, arrest record, conviction record, membership
11 ~~in the national guard, state defense force or any reserve component of the military~~
12 ~~forces of the United States or this state~~ military status, or use or nonuse of lawful
13 products off the employer's premises during nonworking hours.

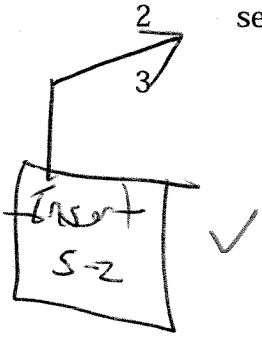
14 SECTION 6. 111.355 of the statutes is created to read:

15 **111.355 Military status; exceptions and special cases.** Employment
16 discrimination because of military status includes an employer, labor organization,
17 licensing agency, employment agency, or other person refusing to hire, employ,
18 admit, or license an individual, barring or terminating an individual from
19 employment, membership, or licensure, or discriminating against an individual in
20 promotion, in compensation, or in the terms, conditions, or privileges of employment
21 because the individual is or applies to be a member of the national guard, state
22 defense force, or any reserve component of the military forces of the United States
23 or this state or because the individual performs, has performed, applies to perform,

ASSEMBLY BILL 603

1 or has an obligation to perform active service, as defined in s. 21.80 (1) (a) 1., or
2 service in the uniformed services, as defined in 38 USC 4303 (13).

(END)



Insert 5-2

ASSEMBLY AMENDMENT 3,
TO 2003 ASSEMBLY BILL 603

February 19, 2004 Offered by Representatives OWENS and MUSSER.

At the locations indicated, amend the bill as follows:

1. Page 4, line 15: after "cases." insert "(1)".

2. Page 5, line 2: after that line insert:

(2) Notwithstanding s. 111.322, it is not employment discrimination because of military status for an employer, licensing agency, employment agency, or other person to refuse to hire, employ, or license an individual or to bar or terminate an individual from employment or licensure because the individual has been less than honorably discharged from the national guard, state defense force, any reserve component of the military forces of the United States or this state, or a uniformed service, as defined in 38 USC 4303 (16), and the circumstances of the discharge substantially relate to the circumstances of the particular job or licensed activity.

U.S. armed forces,

keep plain comma

(END)

(end of insert)

or any other uniformed services, as defined in 38 USC 4303 (16),

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2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0627/1
GMM.....

(INSERT A)

20 or any other uniformed services, ~~except that~~ it is not employment discrimination because of military status to refuse to hire, employ, or license an individual or to bar or terminate an individual from employment or licensure because the individual has been less than honorably discharged from the U.S. armed forces, national guard, state defense force, or any other uniformed service, and the circumstances of the discharge substantially relate to the circumstances of the particular job or licensed activity.

However, under the bill,

(END OF INSERT)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0627/1dn
GMM:.....

Representative Owens:

This redraft simplifies the language of AA3 to 2003 AB 603 by using the simple and straightforward term "U.S. armed forces" instead of the wordy and complex term "any reserve component of the military forces of the United States" because "U.S. armed forces" is broad enough to include the military reserves, but not overbroad in that the intent of the amendment is to capture a less than honorable discharge from any of the uniformed services, as defined in 38 USC 4303 (16).

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0627/1dn
GMM:jld:rs

November 23, 2004

Representative Owens:

This redraft simplifies the language of AA 3 to 2003 AB-603 by using the simple and straightforward term "U.S. armed forces" instead of the wordy and complex term "any reserve component of the military forces of the United States" because "U.S. armed forces" is broad enough to include the military reserves, but not overbroad in that the intent of the amendment is to capture a less than honorable discharge from any of the uniformed services, as defined in 38 USC 4303 (16).

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

Northrop, Lori

From: Tesch, Becky
Sent: Thursday, June 16, 2005 10:43 AM
To: LRB.Legal
Subject: Draft review: LRB 05-0627/1 Topic: Employment discrimination based on military status

It has been requested by <Tesch, Becky> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-0627/1 Topic: Employment discrimination based on military status