

2007 Assembly Bill 32

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2007 WISCONSIN ACT 159

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 U.S. armed forces, the state defense force, the national guard of any state, or any reserve component of the U.S. armed forces.

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 service, 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 service, or use or nonuse of lawful products off the employ-

er'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:

111.31 (2) It is the intent of the legislature to protect by law the rights of all individuals to obtain gainful employment and to enjoy privileges free from employment discrimination because of 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 service, or use or nonuse of lawful products off the employer's premises during nonworking hours, and to encourage the full, nondiscriminatory utilization of the productive resources of the state to the benefit of the state, the family, and all the people of the state. It is the intent of the legislature in promulgating this subchapter to encourage employers to evaluate an employee or applicant for employment based upon the employee's or applicant's individual qualifications rather than upon a particular class to which the individual may belong.

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

* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

111.31 (3) In the interpretation and application of this subchapter, and otherwise, it is declared to be the public policy of the state to encourage and foster to the fullest extent practicable the employment of all properly qualified individuals regardless of 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 service, or use or nonuse of lawful products off the employer's premises during nonworking hours. Nothing in this subsection requires an affirmative action program to correct an imbalance in the work force. This subchapter shall be liberally construed for the accomplishment of this purpose.

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

111.32 (12g) "Military service" means service in the U.S. armed forces, the state defense force, the national guard of any state, or any other reserve component of the U.S. armed forces.

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

111.321 Prohibited bases of discrimination. Subject to ss. 111.33 to 111.36, no employer, labor organization, employment agency, licensing agency, or other person may engage in any act of employment discrimination as specified in s. 111.322 against any individual on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, arrest record, conviction record, ~~membership in the national guard, state defense~~

~~force or any reserve component of the military forces of the United States or this state~~ military service, or use or nonuse of lawful products off the employer's premises during nonworking hours.

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

111.355 Military service; exceptions and special cases. (1) Employment discrimination because of military service 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 member of the U.S. armed forces, the state defense force, the national guard of any state, or any reserve component of the U.S. armed forces or because the individual performs, has performed, applies to perform, or has an obligation to perform military service.

(2) Notwithstanding s. 111.322, it is not employment discrimination because of military service 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 discharged from military service under a bad conduct, dishonorable, or other than honorable discharge, or under an entry-level separation, and the circumstances of the discharge or separation substantially relate to the circumstances of the particular job or licensed activity.