

**2007 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB32)**

Received: **03/15/2007**

Received By: **gmalaise**

Wanted: **Soon**

Identical to LRB:

For: **Carol Owens (608) 267-7990**

By/Representing: **Pam Shannon, LC**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Discrimination**

Extra Copies: **Robert P. Nelson  
Pam Shannon, LC**

Submit via email: **YES**

Requester's email: **Rep.Owens@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Employment discrimination based on military service

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**Instructions:**

See Attached--1. change all references to "military status" to "military service". 2. Include service in the U.S. armed forces in the definition of "military service."

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**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 03/15/2007	jdyer 03/16/2007		_____			
/1			pgreensl 03/16/2007	_____	cduerst 03/16/2007	cduerst 03/16/2007	

FE Sent For:

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/?	gmalaise	1/3/10 jld	3/14 ps	3/16 ps mm			

FE Sent For:

<END>

**Nelson, Robert P.**

**From:** Shannon, Pam  
**Sent:** Wednesday, March 14, 2007 12:33 PM  
**To:** Nelson, Robert P.  
**Subject:** FW: AB 32 Revisions

*195  
To Pam*

Hi Bob,

These are the recommendations from Dave Dziobkowski for a sub. amdt. to AB 32, Rep. Owens' bill on employment discrimination. This is the bill I mentioned to you yesterday that you weren't given input into and is kind of a mess as currently drafted. Could you please take a look at Dave's suggestions and see what you think, recognizing that we can't refer to ch. 321 at this point, so we'll have to figure out what to do instead. I'm hoping maybe we can talk to Dave tomorrow in conjunction with our subcommittee meeting.

Thanks!

*Pam*

**From:** Dziobkowski David M Maj 115FW/JA [mailto:david.dziobkowski@WIMADI.ang.af.mil]  
**Sent:** Monday, March 12, 2007 2:33 PM  
**To:** Shannon, Pam  
**Subject:** AB 32 Revisions

*Not in ch 321/21  
Employers/Employees  
look in ch 111*

Pam:

My recommended revisions to AB 32 are as follows –

1. Change all references for Military Status to Military Service.
2. Change s. 111.32 (12g) to: "Military Service" means service as defined in s. 321.64 and s. 321.65.
3. Amend 111.321 to make it subject to s. 321.64 and 321.65.
4. The titles to Sections 321.64 and 321.65 should be changed to reflect "Employment and Reemployment ....."
5. Create a new subparagraph in both s. 321.64 and s. 321.65 which states: "Any person who is a member of, applies to be a members of, performs, has performed, applies to perform, or has an obligation to perform military service as specified in this section shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation."

*OK  
not defined  
No*

These are my initial thoughts.

v/r

**DAVID DZIOBKOWSKI**



MAJOR DAVID DZIOBKOWSKI

03/14/2007

Deputy Staff Judge Advocate  
Wisconsin National Guard  
2400 Wright Street  
Madison, Wisconsin 53708  
Tel: (608)242-3073  
DSN: 724-3073  
[david.dziobkowski@wimadi.ang.af.mil](mailto:david.dziobkowski@wimadi.ang.af.mil)

Soon

S 0042 / 1

2007 - 2008 LEGISLATURE

LRB-0342/LN  
GMM:jld/rs

Keep

Assembly Substitute Amendment,  
To **2007 ASSEMBLY BILL 32**

January 24, 2007 - Introduced by Representatives OWENS, ALBERS, GUNDERSON, GUNDRUM, HAHN, KERKMAN, F. LASEE, MEYER, MURSAU, MUSSER, NERISON, PETROWSKI, STRACHOTA, SUDER, TOWNSEND and VAN ROY, cosponsored by Senators LASSA, LEIBHAM, ROESSLER, SCHULTZ and SULLIVAN. Referred to Committee on Veterans and Military Affairs.

the U.S. armed forces,

Regen

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

U.S. armed forces

**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).

Substitute amendment prohibits

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

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 (military service) provides that such discrimination. The substitute amendment

**ASSEMBLY BILL 32**

the U.S. armed forces,

substitute amendment

plain

military

U.S. armed forces

member of the state defense force, the national guard of any state, or any reserve component of the ~~military forces of the United States~~, or because the individual performs, has performed, applies to perform, or has an obligation to perform service ~~in the armed forces, national guard, state defense force, or any other uniformed services.~~ The bill provides, however, 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 services,~~ and the circumstances of the discharge substantially relate to the circumstances of the particular job or licensed activity.

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

Service

military service

***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~~

Service

Service

**ASSEMBLY BILL 32**

1 employer's premises during nonworking hours deprive those individuals of the  
2 earnings 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, disability, 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~~ military status <sup>service</sup>  
10 or use or nonuse of lawful products off the employer's premises during nonworking  
11 hours, and to encourage the full, nondiscriminatory utilization of the productive  
12 resources of the state to the benefit of the state, the family, and all the people of the  
13 state. It is the intent of the legislature in promulgating this subchapter to encourage  
14 employers to evaluate an employee or applicant for employment based upon the  
15 employee's or applicant's individual qualifications rather than upon a particular  
16 class to which the individual may belong.

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

18 111.31 (3) In the interpretation and application of this subchapter, and  
19 otherwise, it is declared to be the public policy of the state to encourage and foster  
20 to the fullest extent practicable the employment of all properly qualified individuals  
21 regardless of age, race, creed, color, disability, marital status, sex, national origin,  
22 ancestry, sexual orientation, arrest record, conviction record, ~~membership in the~~  
23 ~~national guard, state defense force or any other reserve component of the military~~  
24 ~~forces of the United States or this state~~ military status <sup>service</sup> or use or nonuse of lawful  
25 products off the employer's premises during nonworking hours. Nothing in this

ASSEMBLY BILL 32

SECTION 3

1 subsection requires an affirmative action program to correct an imbalance in the  
2 work force. This subchapter shall be liberally construed for the accomplishment of  
3 this purpose.

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

5 111.32 (12g) "Military status" means membership in the state defense force,  
6 the national guard of any state, or any other reserve component of the military forces  
7 of the United States.

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

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

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

18 111.355 Military status; exceptions and special cases. (1) Employment  
19 discrimination because of military status includes an employer, labor organization,  
20 licensing agency, employment agency, or other person refusing to hire, employ,  
21 admit, or license an individual, barring or terminating an individual from  
22 employment, membership, or licensure, or discriminating against an individual in  
23 promotion, in compensation, or in the terms, conditions, or privileges of employment  
24 because the individual is or applies to be a member of the state defense force, the  
25 national guard of any state, or any reserve component of the military forces of the

**ASSEMBLY BILL 32**

~~U.S. Armed Forces~~

1 ~~United States~~ or because the individual performs, has performed, applies to perform,  
 2 or has an obligation to perform ~~active service, as defined in s. 21.80 (1) (a) 1. and 3.,~~  
 3 ~~or service in the uniformed services, as defined in 38 USC 4303 (18).~~ ~~U.S. Armed Forces~~ ~~national guard~~ ~~state defense~~ ~~force, or any other uniformed services,~~ ~~as defined in 38 USC 4303 (16)~~ ~~and the~~

4 (2) Notwithstanding s. 111.322, it is not employment discrimination because  
 5 of ~~military status~~ ~~for an employer, licensing agency, employment agency, or other~~  
 6 ~~person to refuse to hire, employ, or license an individual or to bar or terminate an~~  
 7 ~~individual from employment or licensure because the individual has been less than~~  
 8 ~~honorably discharged from the U.S. armed forces, national guard, state defense~~  
 9 ~~force, or any other uniformed services, as defined in 38 USC 4303 (16)~~ ~~and the~~  
 10 ~~circumstances of the discharge substantially relate to the circumstances of the~~  
 11 ~~particular job or licensed activity.~~

(END)