



State of Wisconsin
2007 - 2008 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 32**

March 19, 2007 - Offered by Representative OWENS.

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

This substitute amendment prohibits employment discrimination because of 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). The substitute amendment provides that such discrimination 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. The substitute amendment provides, however, that it is not employment discrimination because of military service 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 military service and the circumstances of the discharge substantially relate to the circumstances of the particular job or licensed activity.

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, disability, 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~~ military service, or use or nonuse of lawful products off the
8 employer's premises during nonworking hours substantially and adversely affects
9 the general welfare of the state. Employers, labor organizations, employment
10 agencies, and licensing agencies that deny employment opportunities and
11 discriminate in employment against properly qualified individuals solely because of
12 their age, race, creed, color, disability, marital status, sex, national origin, ancestry,
13 sexual orientation, arrest record, conviction record, ~~membership in the national~~
14 ~~guard, state defense force or any other reserve component of the military forces of the~~

1 ~~United States or this state~~ military service, or use or nonuse of lawful products off
2 the employer's premises during nonworking hours deprive those individuals of the
3 earnings that are necessary to maintain a just and decent standard of living.

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

5 111.31 (2) It is the intent of the legislature to protect by law the rights of all
6 individuals to obtain gainful employment and to enjoy privileges free from
7 employment discrimination because of age, race, creed, color, disability, marital
8 status, sex, national origin, ancestry, sexual orientation, arrest record, conviction
9 record, ~~membership in the national guard, state defense force or any other reserve~~
10 ~~component of the military forces of the United States or this state~~ military service,
11 or use or nonuse of lawful products off the employer's premises during nonworking
12 hours, 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 employee or applicant for employment based upon the
16 employee's or applicant's individual qualifications rather than upon a particular
17 class 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, disability, 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~~ military service, or use or nonuse of lawful

1 products off the employer's premises during nonworking hours. Nothing in this
2 subsection requires an affirmative action program to correct an imbalance in the
3 work force. This subchapter shall be liberally construed for the accomplishment of
4 this purpose.

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

6 111.32 (12g) "Military service" means service in the U.S. armed forces, the
7 state defense force, the national guard of any state, or any other reserve component
8 of the U.S. armed forces.

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

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

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

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

1 defense force, the national guard of any state, or any reserve component of the U.S.
2 armed forces or because the individual performs, has performed, applies to perform,
3 or has an obligation to perform military service.

4 (2) Notwithstanding s. 111.322, it is not employment discrimination because
5 of military service 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 military service, and the circumstances of the discharge
9 substantially relate to the circumstances of the particular job or licensed activity.

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(END)