



1999 ASSEMBLY BILL 168

March 4, 1999 - Introduced by Representatives AINSWORTH, HASENOHRL, ALBERS, GOETSCH, GRONEMUS, GUNDERSON, HAHN, KEDZIE, LASSA, M. LEHMAN, MUSSER, OTT, PETROWSKI, PORTER, POWERS, RYBA, SERATTI, SPILLNER, SYKORA, TURNER, SHERMAN, HUEBSCH, BRANDEMUEHL, KLUSMAN, FREESE, WASSERMAN, MEYER and COLON, cosponsored by Senators RUDE, PLACHE, BAUMGART, FARROW, FITZGERALD, ROESSLER, WIRCH, SCHULTZ, RISSER, ROBSON and DARLING. 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** 111.32 (4r), 111.32 (7g) and 111.365 of the statutes; **relating to:**
3 employment discrimination because of temporary absence from work while
4 responding to an emergency call as a volunteer fire fighter, emergency medical
5 technician, first responder or ambulance driver.

Analysis by the Legislative Reference Bureau

Current law prohibits discrimination in employment on the basis 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 military reserves or use or nonuse of a lawful product off the employer's premises during nonworking hours. Current law also specifies that employment discrimination because of creed or disability includes refusing to reasonably accommodate the religious observance or practice or disability 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, emergency medical technician, first responder or ambulance driver. The bill specifies that employment discrimination on that basis includes refusing to reasonably accommodate the temporary absence of an employe or prospective

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employe from work while responding to an emergency call as a volunteer fire fighter, emergency medical technician, first responder or ambulance driver 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 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 employer and of the facility involved in providing the accommodation, the number of persons employed by the employer and by the facility 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, 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 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, emergency medical technician, first

10 responder or ambulance driver substantially and adversely affects the general

11 welfare of the state. Employers, labor organizations, employment agencies and

12 licensing agencies that deny employment opportunities and discriminate in

13 employment against properly qualified individuals solely because of their age, race,

14 creed, color, disability, marital status, sex, national origin, ancestry, sexual

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1 orientation, arrest record, conviction record, membership in the national guard,
2 state defense force or any other reserve component of the military forces of the United
3 States or this state or, use or nonuse of lawful products off the employer's premises
4 during nonworking hours or temporary absence from work while responding to an
5 emergency call as a volunteer fire fighter, emergency medical technician, first
6 responder or ambulance driver deprive those individuals of the earnings that are
7 necessary to maintain a just and decent standard of living.

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

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

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

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1 111.31 (3) In the interpretation and application of this subchapter, and
2 otherwise, it is declared to be the public policy of the state to encourage and foster
3 to the fullest extent practicable the employment of all properly qualified individuals
4 regardless of age, race, creed, color, disability, marital status, sex, national origin,
5 ancestry, sexual orientation, arrest record, conviction record, membership in the
6 national guard, state defense force or any other reserve component of the military
7 forces of the United States or this state ~~or~~, use or nonuse of lawful products off the
8 employer's premises during nonworking hours or temporary absence from work
9 while responding to an emergency call as a volunteer fire fighter, emergency medical
10 technician, first responder or ambulance driver. Nothing in this subsection requires
11 an affirmative action program to correct an imbalance in the work force. This
12 subchapter shall be liberally construed for the accomplishment of this purpose.

13 **SECTION 4.** 111.32 (4r) of the statutes is created to read:

14 111.32 (4r) "Emergency medical technician" has the meaning given in s. 146.50
15 (1) (e).

16 **SECTION 5.** 111.32 (7g) of the statutes is created to read:

17 111.32 (7g) "First responder" has the meaning given in s. 146.53 (1) (d).

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

19 **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to ~~111.36~~
20 ~~111.365~~, no employer, labor organization, employment agency, licensing agency or
21 other person may engage in any act of employment discrimination as specified in s.
22 111.322 against any individual on the basis of age, race, creed, color, disability,
23 marital status, sex, national origin, ancestry, arrest record, conviction record,
24 membership in the national guard, state defense force or any reserve component of
25 the military forces of the United States or this state ~~or~~, use or nonuse of lawful

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1 products off the employer's premises during nonworking hours or temporary absence
2 from work while responding to an emergency call as a volunteer fire fighter,
3 emergency medical technician, first responder or ambulance driver.

4 **SECTION 7.** 111.322 (intro.) of the statutes is amended to read:

5 **111.322 Discriminatory actions prohibited.** (intro.) Subject to ss. 111.33
6 to ~~111.36~~ 111.365, it is an act of employment discrimination to do any of the following:

7 **SECTION 8.** 111.365 of the statutes is created to read:

8 **111.365 Volunteer fire fighters, emergency medical technicians, first**
9 **responders or ambulance drivers; exceptions and special cases. (1)** In this
10 section, "undue hardship" means, with respect to an accommodation required under
11 sub. (2), significant difficulty or expense, when considered in light of the following
12 factors:

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

14 (b) The overall financial resources of the facility involved in providing the
15 accommodation, the number of persons employed by the facility, the effect of
16 providing the accommodation on the resources and finances of the facility and any
17 other impact of the accommodation on the operation of the facility.

18 (c) The overall financial resources of the employer, the number of persons
19 employed by the employer and the number, type and location of the employer's
20 facilities.

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

