



2005 ASSEMBLY BILL 525

June 28, 2005 - Introduced by Representatives OWENS, AINSWORTH, BIES, FREESE, GRONEMUS, GUNDRUM, HINES, KLEEFISCH, KRAWCZYK, LEMAHIEU, MCCORMICK, MUSSER, PETROWSKI, PETTIS, PRIDEMORE, STRACHOTA, SUDER and TOWNSEND, cosponsored by Senators ROESSLER, S. FITZGERALD, LASSA, WIRCH and ZIEN. Referred to Committee on Military Affairs.

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 national guard, state defense force, or any reserve
6 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).

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

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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 service in the armed forces, national guard, state defense force or any other uniformed services. However, under the bill, 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.

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 status, 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~~
15 ~~United States or this state~~ military status, or use or nonuse of lawful products off the

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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,
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, or use or nonuse of lawful
25 products off the employer's premises during nonworking hours. Nothing in this

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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 national guard, state
6 defense force, or any other reserve component of the military forces of the United
7 States or this state.

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 national guard, state
25 defense force, or any reserve component of the military forces of the United States

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1 or this state 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., or
3 service in the uniformed services, as defined in 38 USC 4303 (13).

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.

12 (END)