

HOUSE BILL No. 4648

April 24, 2001, Introduced by Reps. Quarles, Jamnick, Clark, Minore, Zelenko, Kolb, Waters, Dennis, Garza, Hale, Plakas, Rison, Woodward, Bogardus, Jacobs, Rivet, Gielegem, Godchaux and Lemmons and referred to the Committee on Employment Relations, Training and Safety.

A bill to amend 1976 PA 220, entitled "Persons with disabilities civil rights act," by amending sections 201 and 202 (MCL 37.1201 and 37.1202), as amended by 2000 PA 32.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 201. As used in this article:

2 (A) "COMPENSATION" MEANS ALL EARNINGS OF AN EMPLOYEE,
3 INCLUDING WAGES AND BENEFITS, WHETHER DETERMINED ON THE BASIS OF
4 TIME, TASK, PIECE, COMMISSION, OR OTHER METHOD OF CALCULATION FOR
5 LABOR, SERVICES, OR WORK PERFORMED.

6 (B) ~~(a)~~ "Employee" does not include an individual employed
7 in domestic service of ~~any~~ A person.

8 (C) ~~(b)~~ "Employer" means a person who has 1 or more
9 employees or a person who as A contractor or subcontractor ~~is~~
10 ~~furnishing~~ FURNISHES material or ~~performing~~ PERFORMS work for

1 the state or a governmental entity or agency of the state and
2 includes an agent of ~~such a~~ THAT person.

3 (D) ~~(c)~~ "Employment agency" means a person WHO regularly
4 ~~undertaking~~ UNDERTAKES with or without compensation to procure
5 employees for an employer or to procure for employees opportuni-
6 ties to work for an employer and includes an agent of ~~such a~~
7 THAT person.

8 (E) ~~(d)~~ "Genetic information" means information about a
9 gene, gene product, or inherited characteristic of an individual
10 derived from the individual's family history or a genetic test.

11 (F) ~~(e)~~ "Genetic test" means the analysis of human DNA,
12 RNA, chromosomes, and those proteins and metabolites used to
13 detect heritable or somatic disease-related genotypes or karyo-
14 types for clinical purposes. A genetic test must be generally
15 accepted in the scientific and medical communities as being spe-
16 cifically determinative for the presence, absence, or mutation of
17 a gene or chromosome in order to qualify under this definition.
18 Genetic test does not include a routine physical examination or a
19 routine analysis including, but not limited to, a chemical analy-
20 sis of body fluids unless conducted specifically to determine the
21 presence, absence, or mutation of a gene or chromosome.

22 (G) ~~(f)~~ "Labor organization" ~~includes~~ MEANS:

23 (i) An organization of any kind, an agency or employee rep-
24 resentation committee, group, association, or plan in which
25 employees participate and ~~which~~ THAT exists for the purpose, in
26 whole or in part, of dealing with employers concerning

1 grievances, labor disputes, wages, rates of pay, hours, or other
2 terms or conditions of employment.

3 (ii) A conference, general committee, joint or system board,
4 or joint council ~~which~~ THAT is subordinate to a national or
5 international labor organization.

6 (iii) An agent of a labor organization.

7 Sec. 202. (1) Except as otherwise required by federal law,
8 an employer shall not:

9 (a) Fail or refuse to hire, recruit, or promote an individ-
10 ual because of a disability or genetic information that is unre-
11 lated to the individual's ability to perform the duties of a par-
12 ticular job or position.

13 (b) Discharge or otherwise discriminate against an individ-
14 ual with respect to compensation or the terms, conditions, or
15 privileges of employment, because of a disability or genetic
16 information that is unrelated to the individual's ability to per-
17 form the duties of a particular job or position.

18 (c) Limit, segregate, or classify an employee or applicant
19 for employment in a way ~~which~~ THAT deprives or tends to deprive
20 an individual of AN employment ~~opportunities~~ OPPORTUNITY or
21 otherwise adversely affects the status of an employee because of
22 a disability or genetic information that is unrelated to the
23 individual's ability to perform the duties of a particular job or
24 position.

25 (d) Fail or refuse to hire, recruit, or promote an individ-
26 ual on the basis of A physical or mental ~~examinations~~

1 EXAMINATION that ~~are~~ IS not directly related to the
2 requirements of the specific job.

3 (e) Discharge or take other discriminatory action against an
4 individual on the basis of A physical or mental ~~examinations~~
5 EXAMINATION that ~~are~~ IS not directly related to the require-
6 ments of the specific job.

7 (f) Fail or refuse to hire, recruit, or promote an individ-
8 ual ~~when~~ IF AN adaptive ~~devices or aids~~ DEVICE OR AID may be
9 utilized ~~thereby enabling~~ TO ENABLE that individual to perform
10 the specific requirements of the job.

11 (g) Discharge or take other discriminatory action against an
12 individual ~~when~~ IF AN adaptive ~~devices or aids~~ DEVICE OR AID
13 may be utilized ~~thereby enabling~~ TO ENABLE that individual to
14 perform the specific requirements of the job.

15 (H) FAIL OR REFUSE TO PROVIDE COMPENSATION EQUALLY FOR WORK
16 OF COMPARABLE VALUE IN TERMS OF THE COMPOSITE SKILL, RESPONSIBIL-
17 ITY, EFFORT, HOURS WORKED, EXPERIENCE, SENIORITY, EDUCATION OR
18 TRAINING, AND WORKING CONDITIONS BECAUSE OF A DISABILITY THAT IS
19 UNRELATED TO THE INDIVIDUAL'S ABILITY TO PERFORM THE DUTIES OF A
20 PARTICULAR JOB OR POSITION.

21 (I) ~~(h)~~ Require an individual to submit to a genetic test
22 or to provide genetic information as a condition of employment or
23 promotion.

24 (2) Subsection (1) does not prohibit an individual from vol-
25 untarily providing to an employer genetic information that is
26 related to the employee's health or safety in the workplace.
27 Subsection (1) does not prohibit an employer from using genetic

1 information received from an employee under this subsection to
2 protect the employee's health or safety.

3 (3) This section shall not apply to the employment of an
4 individual by his or her parent, spouse, or child.

5 (4) Except as otherwise provided in subsection (2), no
6 employer may directly or indirectly acquire or have access to any
7 genetic information concerning an employee or applicant for
8 employment, or a member of the employee's or applicant's family.

9 Enacting section 1. This amendatory act does not take
10 effect unless Senate Bill No. _____ or House Bill No. 4649
11 (request no. 03556'01 *) of the 91st Legislature is enacted into
12 law.