

HOUSE BILL No. 4649

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

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending sections 102, 103, and 202 (MCL 37.2102, 37.2103, and 37.2202), section 102 as amended by 1992 PA 124, section 103 as amended by 1999 PA 202, and section 202 as amended by 1991 PA 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. (1) The opportunity to obtain employment, housing
2 and other real estate, and the full and equal utilization of
3 public accommodations, public service, and educational facilities
4 without discrimination because of religion, race, color, national
5 origin, age, sex, height, weight, familial status, or marital
6 status as prohibited by this act — is recognized and declared
7 to be a civil right.

1 (2) This section ~~shall not be construed to~~ DOES NOT
2 prevent an individual from bringing or continuing an action
3 arising out of sex discrimination before July 18, 1980 ~~which~~ IF
4 THE action is based on conduct similar to or identical to
5 harassment.

6 (3) This section ~~shall not be construed to~~ DOES NOT pre-
7 vent an individual from bringing or continuing an action arising
8 out of discrimination based on familial status before ~~the effec-~~
9 ~~tive date of the amendatory act that added this subsection which~~
10 JUNE 29, 1992, IF THE action is based on conduct similar to or
11 identical to discrimination because of the age of persons resid-
12 ing with the individual bringing or continuing the action.

13 (4) THIS SECTION DOES NOT PREVENT AN INDIVIDUAL FROM BRING-
14 ING OR CONTINUING AN ACTION ARISING OUT OF DISCRIMINATION BECAUSE
15 OF RELIGION, RACE, COLOR, NATIONAL ORIGIN, AGE, SEX, HEIGHT,
16 WEIGHT, OR MARITAL STATUS BEFORE THE EFFECTIVE DATE OF THE AMEN-
17 DATORY ACT THAT ADDED THIS SUBSECTION IF THE ACTION IS BASED ON
18 CONDUCT SIMILAR OR IDENTICAL TO CONDUCT PROHIBITED IN SECTION
19 202(1)(D).

20 Sec. 103. As used in this act:

21 (a) "Age" means chronological age except as otherwise pro-
22 vided by law.

23 (b) "Commission" means the civil rights commission estab-
24 lished by section 29 of article V of the state constitution of
25 1963.

26 (c) "Commissioner" means a member of the commission.

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

5 (E) ~~(d)~~ "Department" means the department of civil rights
6 or its employees.

7 (F) ~~(e)~~ "Familial status" means 1 or more individuals
8 under the age of 18 residing with a parent or other person having
9 custody or in the process of securing legal custody of the indi-
10 vidual or individuals or residing with the designee of the parent
11 or other person having or securing custody, with the written per-
12 mission of the parent or other person. For purposes of this
13 ~~definition~~ SUBDIVISION, "parent" includes a person who is
14 pregnant.

15 (G) ~~(f)~~ "National origin" includes the national origin of
16 an ancestor.

17 (H) ~~(g)~~ "Person" means an individual, agent, association,
18 corporation, joint apprenticeship committee, joint stock company,
19 labor organization, legal representative, mutual company, part-
20 nership, receiver, trust, trustee in bankruptcy, unincorporated
21 organization, the state or a political subdivision of the state
22 or an agency of the state, or any other legal or commercial
23 entity.

24 (I) ~~(h)~~ "Political subdivision" means a county, city, vil-
25 lage, township, school district, or special district or authority
26 of the state.

1 (J) ~~(i)~~ Discrimination because of sex includes sexual
2 harassment. Sexual harassment means unwelcome sexual advances,
3 requests for sexual favors, and other verbal or physical conduct
4 or communication of a sexual nature under the following
5 conditions:

6 (i) Submission to the conduct or communication is made a
7 term or condition either explicitly or implicitly to obtain
8 employment, public accommodations or public services, education,
9 or housing.

10 (ii) Submission to or rejection of the conduct or communica-
11 tion by an individual is used as a factor in decisions affecting
12 the individual's employment, public accommodations or public
13 services, education, or housing.

14 (iii) The conduct or communication has the purpose or effect
15 of substantially interfering with an individual's employment,
16 public accommodations or public services, education, or housing,
17 or creating an intimidating, hostile, or offensive employment,
18 public accommodations, public services, educational, or housing
19 environment.

20 Sec. 202. (1) An employer shall not do any of the
21 following:

22 (a) Fail or refuse to hire, ~~or~~ recruit, discharge, or oth-
23 erwise discriminate against an individual with respect to employ-
24 ment, compensation, or a term, condition, or privilege of employ-
25 ment ~~—~~ because of religion, race, color, national origin, age,
26 sex, height, weight, or marital status.

1 (b) Limit, segregate, or classify an employee or applicant
2 for employment in a way that deprives or tends to deprive the
3 employee or applicant of an employment opportunity ~~—~~ or other-
4 wise adversely affects the status of an employee or applicant
5 because of religion, race, color, national origin, age, sex,
6 height, weight, or marital status.

7 (c) Segregate, classify, or otherwise discriminate against
8 ~~a person~~ AN INDIVIDUAL on the basis of sex with respect to a
9 term, condition, or privilege of employment, including, but not
10 limited to, a benefit plan or system.

11 ~~(d) Until January 1, 1994, require an employee of an insti-~~
12 ~~tution of higher education who is serving under a contract of~~
13 ~~unlimited tenure, or similar arrangement providing for unlimited~~
14 ~~tenure, to retire from employment on the basis of the employee's~~
15 ~~age. As used in this subdivision, "institution of higher~~
16 ~~education" means a public or private university, college, commu-~~
17 ~~nity college, or junior college located in this state.~~

18 (D) FAIL OR REFUSE TO PROVIDE COMPENSATION EQUALLY FOR WORK
19 OF COMPARABLE VALUE IN TERMS OF THE COMPOSITE SKILL, RESPONSIBIL-
20 ITY, EFFORT, HOURS WORKED, EXPERIENCE, SENIORITY, EDUCATION OR
21 TRAINING, AND WORKING CONDITIONS BECAUSE OF RELIGION, RACE,
22 COLOR, NATIONAL ORIGIN, AGE, SEX, HEIGHT, WEIGHT, OR MARITAL
23 STATUS.

24 (2) This section ~~shall not be construed to~~ DOES NOT pro-
25 hibit the establishment or implementation of a bona fide retire-
26 ment policy or system that is not a subterfuge to evade the
27 purposes of this section.

1 (3) THE COMMISSION ON PAY EQUITY IS CREATED IN THE MICHIGAN
2 DEPARTMENT OF CIVIL RIGHTS AND IS RESPONSIBLE FOR THE DEVELOPMENT
3 OF DEFINITIONS OF COMPARABLE WAGES, USING THE CRITERIA ESTAB-
4 LISHED IN THIS SECTION.

5 (4) THE GOVERNOR SHALL APPOINT THE MEMBERS OF THE COMMISSION
6 ON PAY EQUITY. THE COMMISSION IS COMPOSED OF THE FOLLOWING
7 MEMBERS:

8 (A) THE DIRECTOR OF THE MICHIGAN DEPARTMENT OF CIVIL RIGHTS
9 OR HIS OR HER DESIGNEE.

10 (B) THE DIRECTOR OF THE MICHIGAN JOBS COMMISSION OR HIS OR
11 HER DESIGNEE.

12 (C) A REPRESENTATIVE OF THE MICHIGAN WOMEN'S COMMISSION.

13 (D) A REPRESENTATIVE OF THE MICHIGAN CHAMBER OF COMMERCE.

14 (E) A REPRESENTATIVE OF THE MICHIGAN AFL-CIO.

15 (F) A REPRESENTATIVE OF THE UNITED AUTO WORKERS.

16 (G) A REPRESENTATIVE OF THE MICHIGAN SMALL BUSINESS
17 ASSOCIATION.

18 (H) A REPRESENTATIVE OF THE NATIONAL ORGANIZATION FOR WOMEN,
19 MICHIGAN.

20 (I) A REPRESENTATIVE OF THE MICHIGAN WOMEN'S STUDIES
21 ASSOCIATION.

22 (5) THE DIRECTOR OF THE MICHIGAN DEPARTMENT OF CIVIL RIGHTS
23 OR HIS OR HER DESIGNEE SERVES AS THE CHAIRPERSON OF THE COMMIS-
24 SION ON PAY EQUITY AND HAS RESPONSIBILITY FOR CONVENING THE MEET-
25 INGS OF THE COMMISSION, SETTING THE AGENDA FOR ALL MEETINGS, AND
26 PREPARING ALL MINUTES AND REPORTS OF THE WORK OF THE COMMISSION.

1 (6) THE COMMISSION ON PAY EQUITY SHALL HOLD MEETINGS AND
2 HEARINGS AS NECESSARY TO DEVELOP DEFINITIONS, MODELS, AND
3 GUIDELINES FOR EMPLOYERS AND EMPLOYEES ON PAY EQUITY AS DESCRIBED
4 IN SUBSECTION (1)(D).

5 (7) THE COMMISSION ON PAY EQUITY SHALL PRESENT ITS FINDINGS
6 AND RECOMMENDATIONS TO THE LEGISLATURE, THE GOVERNOR, AND THE
7 PUBLIC BY A DATE NOT LATER THAN 1 YEAR AFTER THE GOVERNOR
8 APPOINTS ITS MEMBERS.

9 (8) ALL MEETINGS OF THE COMMISSION ON PAY EQUITY ARE SUBJECT
10 TO THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275, AND
11 THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
12 15.246.

13 (9) ~~-(3)-~~ This section does not apply to the employment of
14 an individual by his or her parent, spouse, or child.

15 Enacting section 1. This amendatory act does not take
16 effect unless Senate Bill No. _____ or House Bill No. 4648
17 (request no. 03615'01 *) of the 91st Legislature is enacted into
18 law.