

By: Farrar

H.B. No. 307

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition of employment discrimination on the basis of sexual orientation or gender identity.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 2, Labor Code, is amended by adding Chapter 23 to read as follows:

CHAPTER 23. EMPLOYMENT DISCRIMINATION

BASED ON SEXUAL ORIENTATION OR GENDER IDENTITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 23.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Workforce Commission.

(2) "Covered entity" includes an employer, an employment agency, a labor organization, a joint labor-management committee, or another person.

(3) "Division" means the Texas Workforce Commission civil rights division.

(4) "Employer" has the meaning assigned by Section 21.002(8).

(5) "Employment agency" has the meaning assigned by Section 21.002(9).

(6) "Gender identity" means the actual or perceived gender of an individual.

(7) "Labor organization" has the meaning assigned by

Section 21.002(10).

(8) "Religious organization" means:

(A) a religious corporation, association, or society; or

(B) a school, institution of higher education, or other educational institution, not otherwise a religious organization, that:

(i) is wholly or substantially controlled, managed, owned, or supported by a religious organization; or

(ii) has a curriculum directed toward the propagation of a particular religion.

(9) "Sexual orientation" means the actual or perceived status of an individual with respect to the individual's sexuality.

Sec. 23.002. RULES. The commission may adopt rules as necessary to implement this chapter.

Sec. 23.003. NOTICES. Each covered entity shall post, in the form and manner prescribed by commission rule, notices to inform employees, applicants for employment, and members of the entity of the applicable provisions of this chapter.

Sec. 23.004. EFFECT ON OTHER LAW. This chapter does not limit or affect the rights, remedies, or procedures available to an individual who claims discrimination prohibited under federal law, another state law, or an order or ordinance of a political subdivision of this state.

Sec. 23.005. NO DISPARATE IMPACT. The fact that a particular employment practice has a disparate impact, as that term is used under Section 703(k), Civil Rights Act of 1964 (42 U.S.C.

Section 2000e-2(k)), on the basis of sexual orientation or gender identity does not establish a prima facie violation of this chapter.

[Sections 23.006-23.020 reserved for expansion]

SUBCHAPTER B. UNLAWFUL EMPLOYMENT PRACTICES

Sec. 23.021. DISCRIMINATION PROHIBITED. A covered entity may not:

(1) subject an individual to different standards or treatment on the basis of sexual orientation or gender identity;

(2) discriminate against an individual based on the sexual orientation or gender identity of persons with whom the individual is believed to associate or to have associated; or

(3) otherwise discriminate against an individual on the basis of sexual orientation or gender identity.

Sec. 23.022. RETALIATION AND COERCION PROHIBITED. (a) A covered entity may not discriminate against an individual because the individual:

(1) opposes any act or practice prohibited by this chapter;

(2) makes or files a charge; or

(3) assists, testifies, or participates in any manner in an investigation, proceeding, or hearing conducted under this chapter.

(b) A covered entity may not coerce, intimidate, threaten, or interfere with an individual in the exercise or enjoyment of, or because the individual has exercised, enjoyed, assisted, or encouraged the exercise or enjoyment of, a right granted or

protected by this chapter.

Sec. 23.023. PROHIBITION OF QUOTAS AND PREFERENTIAL
TREATMENT. A covered entity may not:

(1) adopt or implement a quota on the basis of sexual
orientation or gender identity; or

(2) give preferential treatment to an individual on
the basis of sexual orientation or gender identity.

[Sections 23.024-23.040 reserved for expansion]

SUBCHAPTER C. APPLICATION; EXCEPTIONS

Sec. 23.041. LIABILITY OF GOVERNMENTAL ENTITY. (a) The
state or a political subdivision of this state is liable for a
violation of this chapter.

(b) Sovereign immunity is waived and abolished to the extent
of liability created by this chapter.

Sec. 23.042. APPLICATION TO CERTAIN BENEFITS. This chapter
does not apply to the provision of employee benefits to an
individual for the benefit of the individual's partner.

Sec. 23.043. RELIGIOUS ORGANIZATION. (a) Except as
provided by Subsection (b), this chapter does not apply to a
religious organization.

(b) This chapter applies to activities conducted by a
religious organization for profit to the extent that those
activities are subject to federal taxation under Section 511(a),
Internal Revenue Code of 1986, as that section existed on September
1, 2007.

Sec. 23.044. VETERANS' PREFERENCE. This chapter does not
repeal or modify a state or local law that creates a special right

1 or preference in employment for a veteran of the armed forces of the
2 United States.

3 [Sections 23.045-23.060 reserved for expansion]

4 SUBCHAPTER D. ENFORCEMENT

5 Sec. 23.061. DIVISION AUTHORITY; ENFORCEMENT; PROCEDURES.

6 (a) The division has the same authority to administer and enforce
7 this chapter as it exercises under Chapter 21.

8 (b) The procedures and remedies applicable to a claim for a
9 violation of this chapter are the procedures and remedies
10 applicable to a claim brought under Chapter 21.

11 Sec. 23.062. ATTORNEY'S FEES. A prevailing party to an
12 action brought under this chapter is entitled to attorney's fees in
13 the manner provided by Section 21.259.

14 SECTION 2. This Act applies to conduct of a covered entity,
15 as that term is defined by Chapter 23, Labor Code, as added by this
16 Act, occurring on or after the effective date of this Act. Conduct
17 occurring before that date is governed by the law in effect on the
18 date the conduct occurred, and the former law is continued in effect
19 for that purpose.

20 SECTION 3. This Act takes effect September 1, 2007.