



HOUSE BILL No. 4385

March 2, 1993, Introduced by Reps. Joe Young, Sr., Harrison, Kilpatrick, DeMars and Joe Young, Jr. and referred to the Committee on Civil Rights and Women's Issues.

A bill to amend sections 102, 103, and 202 of Act No. 453 of the Public Acts of 1976, entitled as amended

"Elliott-Larsen civil rights act,"

sections 102 and 103 as amended by Act No. 124 of the Public Acts of 1992 and section 202 as amended by Act No. 11 of the Public Acts of 1991, being sections 37.2102, 37.2103, and 37.2202 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 102, 103, and 202 of Act No. 453 of the
2 Public Acts of 1976, sections 102 and 103 as amended by Act
3 No. 124 of the Public Acts of 1992 and section 202 as amended by
4 Act No. 11 of the Public Acts of 1991, being sections 37.2102,
5 37.2103, and 37.2202 of the Michigan Compiled Laws, are amended
6 to read as follows:

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.

8 (2) This section ~~shall not be construed to~~ DOES NOT pre-
9 vent an individual from bringing or continuing an action arising
10 out of sex discrimination before July 18, 1980 ~~which~~ IF THE
11 action is based on conduct similar to or identical to
12 harassment.

13 (3) This section ~~shall not be construed to~~ DOES NOT pre-
14 vent an individual from bringing or continuing an action arising
15 out of discrimination based on familial status before ~~the effec-~~
16 ~~tive date of the amendatory act that added this subsection~~ JUNE
17 29, 1992, which action is based on conduct similar to or identi-
18 cal to discrimination because of the age of persons residing with
19 the individual bringing or continuing the action.

20 (4) THIS SECTION DOES NOT PREVENT AN INDIVIDUAL FROM BRING-
21 ING OR CONTINUING AN ACTION ARISING OUT OF DISCRIMINATION BECAUSE
22 OF RELIGION, RACE, COLOR, NATIONAL ORIGIN, AGE, SEX, HEIGHT,
23 WEIGHT, OR MARITAL STATUS BEFORE THE EFFECTIVE DATE OF THE AMEN-
24 DATORY ACT THAT ADDED THIS SUBSECTION IF THE ACTION IS BASED ON
25 CONDUCT SIMILAR OR IDENTICAL TO CONDUCT PROHIBITED IN SECTION
26 202(1)(D).

1 Sec. 103. As used in this act:

2 (a) "Age" means chronological age except as otherwise
3 provided by law.

4 (b) "Commission" means the civil rights commission estab-
5 lished by section 29 of article ~~5~~ V of the state constitution
6 of 1963.

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

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

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

14 (F) ~~(e)~~ "Familial status" means 1 or more individuals
15 under the age of 18 residing with a parent or other person having
16 custody or in the process of securing legal custody of the indi-
17 vidual or individuals or residing with the designee of the parent
18 or other person having or securing custody, with the written per-
19 mission of the parent or other person. For purposes of this
20 ~~definition~~ SUBDIVISION, "parent" includes a person who is
21 pregnant.

22 (G) ~~(f)~~ "National origin" includes the national origin of
23 an ancestor.

24 (H) ~~(g)~~ "Person" means an individual, agent, association,
25 corporation, joint apprenticeship committee, joint stock company,
26 labor organization, legal representative, mutual company,
27 partnership, receiver, trust, trustee in bankruptcy,

1 unincorporated organization, the state or a political subdivision
2 of the state or an agency of the state, or any other legal or
3 commercial entity.

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

7 (J) ~~(i)~~ "Discrimination because of sex" includes sexual
8 harassment which means unwelcome sexual advances, requests for
9 sexual favors, and other verbal or physical conduct or communica-
10 tion of a sexual nature ~~when~~ IF:

11 (i) Submission to ~~such~~ THE conduct or communication is
12 made a term or condition either explicitly or implicitly to
13 obtain employment, public accommodations, ~~or~~ public services,
14 education, or housing.

15 (ii) Submission to or rejection of ~~such~~ THE conduct or
16 communication by an individual is used as a factor in decisions
17 affecting ~~such~~ THE individual's employment, public
18 accommodations, ~~or~~ public services, education, or housing.

19 (iii) ~~Such~~ THE conduct or communication has the purpose or
20 effect of substantially interfering with an individual's employ-
21 ment, public accommodations, ~~or~~ public services, education, or
22 housing, or creating an intimidating, hostile, or offensive
23 employment, public accommodations, public services, educational,
24 or housing environment.

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

1 (a) Fail or refuse to hire, ~~or~~ recruit, discharge, or
2 otherwise discriminate against an individual with respect to
3 employment, compensation, or a term, condition, or privilege of
4 employment ~~—~~ because of religion, race, color, national origin,
5 age, sex, height, weight, or marital status.

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

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

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

23 (E) FAIL OR REFUSE TO PROVIDE COMPENSATION EQUALLY FOR WORK
24 OF COMPARABLE VALUE IN TERMS OF THE COMPOSITE SKILL, RESPONSIBIL-
25 ITY, EFFORT, EDUCATION OR TRAINING, AND WORKING CONDITIONS
26 BECAUSE OF RELIGION, RACE, COLOR, NATIONAL ORIGIN, AGE, SEX,
27 HEIGHT, WEIGHT, OR MARITAL STATUS.

1 (2) This section ~~shall not be construed to~~ DOES NOT
2 prohibit the establishment or implementation of a bona fide
3 retirement policy or system that is not a subterfuge to evade the
4 purposes of this section.

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

7 Section 2. This amendatory act shall not take effect unless
8 Senate Bill No. _____ or House Bill No. ⁴³⁸⁴_____ (request
9 no. 02451'93) of the 87th Legislature is enacted into law.