

2017 Regular Session

SENATE BILL NO. 155

BY SENATORS CARTER AND BISHOP

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

DISCRIMINATION. Enacts the Louisiana Employment Non-Discrimination Act. (See Act)

1 AN ACT

2 To amend and reenact R.S. 23:332(A), (B), (C) (1) and (2), (D), (E), (F)(1) and (2), (H) (1),
3 (3) and (4), R.S. 37:1025(B), 1107(C), 1360.23 (H), 1437(D), 2719, 3425(C),
4 3447(C), and 40:1133.1(C), and to enact R.S. 23:302 (9) and (10), 332 (I) and (J),
5 relative to employment discrimination; to provide definitions; to provide regarding
6 intentional discrimination in employment; to provide exceptions based upon the First
7 Amendment of the United States Constitution; to provide exceptions for certain
8 entities; to provide regarding applicants to certain programs; to provide regarding
9 requirements for certain programs; to provide regarding licensure for certain
10 professions; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 23:332(A), (B), (C) (1) and (2), (D), (E), (F)(1) and (2), (H) (1), (3)
13 and (4), are hereby amended and reenacted and R.S. 23:302(9) and (10) and R.S. 332 (I) and
14 (J) and hereby enacted to read as follows:

15 §302. Definitions

16 For purposes of this Chapter and unless the context clearly indicates
17 otherwise, the following terms shall have the following meanings ascribed to them:

* * *

(9) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, or bisexuality.

(10) "Gender identity or expression" means a gender-related identity, appearance, expression, or behavior of a person, regardless of the person's assigned sex at birth.

* * *

§332. Intentional discrimination in employment

A. It shall be unlawful discrimination in employment for an employer to engage in any of the following practices:

(1) Intentionally fail or refuse to hire or to discharge any individual, or otherwise to intentionally discriminate against any individual with respect to compensation, or terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, **age, sexual orientation, gender identity or expression**, or national origin.

(2) Intentionally limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, **age, sexual orientation, gender identity or expression**, or national origin.

B. It shall be unlawful discrimination in employment for an employment agency to intentionally fail or refuse to refer for employment, or otherwise to intentionally discriminate against, any individual because of his race, color, religion, sex, or national origin, or to intentionally classify or refer for employment any individual on the basis of his race, color, religion, sex, **age, sexual orientation, gender identity or expression**, or national origin.

C. It shall be unlawful discrimination in employment for a labor organization to engage in any of the following practices:

(1) Intentionally exclude or intentionally expel from its membership, or

1 otherwise intentionally discriminate against, any individual because of his race,
 2 color, religion, sex, **age, sexual orientation, gender identity or expression**, or
 3 national origin.

4 (2) Intentionally limit, segregate, or classify its membership or applicants for
 5 membership, or intentionally classify or fail or refuse to refer for employment any
 6 individual in any way which would deprive or tend to deprive any individual of
 7 employment opportunities, or would limit such employment opportunities, or
 8 otherwise adversely affect his status as an employee or as an applicant for
 9 employment, because of such individual's race, color, religion, sex, **age, sexual**
 10 **orientation, gender identity or expression**, or national origin.

11 * * *

12 D. It shall be unlawful discrimination in employment for any employer, labor
 13 organization, or joint labor-management committee controlling apprenticeship or
 14 other training or retraining, including on-the-job training programs, to discriminate
 15 against any individual because of his race, color, religion, sex, **age, sexual**
 16 **orientation, gender identity or expression**, or national origin in admission to, or
 17 employment in, any program established to provide apprenticeship or other training.

18 E. It shall be unlawful discrimination in employment for an employer,
 19 employment agency, labor organization, or joint labor-management committee
 20 controlling apprenticeship or other training or retraining, including on-the-job
 21 training programs, to print or publish, or cause to be printed or published, any notice
 22 or advertisement relating to employment by an employer or membership in or any
 23 classification or referral for employment by a labor organization, or relating to any
 24 classification or referral for employment by an employment agency, or relating to
 25 admission to, or employment in, any program established to provide apprenticeship
 26 or other training by a joint labor-management committee, indicating any preference,
 27 limitation, specification, or discrimination based on race, color, religion, sex, **age,**
 28 **sexual orientation, gender identity or expression**, or national origin. However, a
 29 notice or advertisement may indicate a preference, limitation, specification, or

1 discrimination based on religion, sex, **age, sexual orientation, gender identity or**
2 **expression**, or national origin when religion, sex, or national origin is a bona fide
3 occupational qualification for employment.

4 * * *

5 H. Notwithstanding any other provision of this Section, it shall not be
6 unlawful discrimination in employment for:

7 (1) An employer to hire and employ employees, for an employment agency
8 to classify or refer for employment any individual, for a labor organization to
9 classify its membership or to classify or refer for employment any individual, or for
10 an employer, labor organization, or joint labor-management committee controlling
11 apprenticeship or other training or retraining programs to admit or employ any
12 individual in any such program on the basis of his religion, sex, **age, sexual**
13 **orientation, gender identity or expression**, or national origin in those certain
14 instances where religion, sex, or national origin is a bona fide occupational
15 qualification reasonably necessary for the normal operation of that particular
16 business or enterprise.

17 * * *

18 (3) An employer to apply different standards of compensation or different
19 terms, conditions, or privileges of employment pursuant to a bona fide seniority or
20 merit system, or a system which measures earnings by quantity or quality of
21 production, or any other differential based on any factor other than sex, or to
22 employees who work in different locations, provided that such differences are not
23 the result of an intention to discriminate because of race, color, religion, sex, **age,**
24 **sexual orientation, gender identity or expression**, or national origin.

25 (4) An employer to give and to act upon the results of any professionally
26 developed ability test, provided that such test, its administration, or action upon the
27 results is not designed, intended, or used to discriminate because of race, color,
28 religion, sex, **age, sexual orientation, gender identity or expression**, or national
29 origin.

1 I. Nothing in this Section shall be interpreted to infringe upon the
2 freedom of expression, association, or the free exercise of religion protected by
3 the First Amendment of the United States Constitution and Article 1, Section
4 8 of the Constitution of Louisiana.

5 J. The provisions of this Section, relative to discrimination on the basis
6 of sexual orientation and gender identity or expression shall not apply to a
7 corporation, association, educational institution or institution of learning, or
8 society that is exempt from the religious discrimination provisions of 42 U.S.C.
9 2000(e)-1(a) or 2000(e)-2(e) (formerly Section 702(1) or 703(e)(2) of Title VII of
10 the Civil Rights Act of 1964).

11 Section 2. R.S. 37:1025(B), 1107(C), 1360.23(H), 1437(D), 2719, 3425(C), and
12 3447(C) are hereby amended and reenacted to read as follows:

13 §1025. Qualifications of applicants to the drug administration course
14 * * *
15 B. There will be no discrimination in selection of medication attendants for
16 reason of race, color, creed, religion, age, sex, sexual orientation, gender identity
17 or expression, or disability, as defined in R.S. 51:2232(11), or national origin.

18 * * *
19 §1107. Requirements for licensed professional counselor; provisional license;
20 temporary license or temporary provisional license; renewal of
21 license or temporary provisional license
22 * * *

23 C. No license shall be denied any applicant based upon the applicant's race,
24 religion, creed, national origin, sex, ~~or physical impairment.~~ age, sexual orientation,
25 gender identity or expression, or disability.

26 * * *
27 §1360.23. Powers and duties of the board.

28 * * *
29 H. The board shall ensure that applicants for the program shall not be

1 discriminated against due to race, color, creed, age, sex, **sexual orientation, gender**
2 **identity or expression**, disability, as defined in R.S. 51:2232(3), or national origin.

3 * * *

4 §1437. Application for license

5 * * *

6 D. Every applicant for a license shall submit a sworn statement attesting that
7 he has knowledge of and understands the provisions of the Fair Housing Act of 1968
8 and the Louisiana Equal Housing Opportunity Act, and any amendments thereto or
9 any successor legislation subsequently following, and that the applicant shall not
10 induce or attempt to induce any person to sell or rent any dwelling by representations
11 regarding the entry or prospective entry into an area, subdivision, or neighborhood
12 of a person or persons of a particular race, color, religion, **sex, age, sexual**
13 **orientation, gender identity or expression**, or national origin.

14 * * *

15 §2719. Discrimination

16 No license, certificate, or registration shall be denied any applicant based
17 upon the applicant's race, religion, creed, national origin, sex, ~~or physical impairment~~
18 ~~so long as the physical impairment does not interfere with the performance of~~
19 ~~professional duties.~~ **age, sexual orientation, gender identity or expression, or**
20 **disability.**

21 * * *

22 §3425. Qualifications for licensure; renewal

23 * * *

24 C. No license shall be denied any applicant based upon the applicant's race,
25 religion, creed, national origin, sex, ~~or physical impairment~~ **age, sexual orientation,**
26 **gender identity or expression, or** disability.

27 * * *

28 §3447. Requirements for licensed professional vocational counselor; renewal of a
29 license

* * *

C. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, ~~or physical impairment~~; **age, sexual orientation, gender identity or expression or disability.**

Section 3. R.S. 40:1133.1 is hereby amended and reenacted to read as follows:

§1133.1. Emergency Medical Personnel

* * *

C. The bureau shall affirmatively provide that there is no discrimination toward any individual in the licensure process on the basis of race, religion, creed, national origin, sex, **sexual orientation, gender identity or expression,** or age.

Section 4. This Act shall be known as and may be cited as the "Louisiana Employment Non-Discrimination Act" or "LENDA".

Section 5. This Act shall become effective on August 15, 2017; if vetoed by the governor and subsequently approved by the legislature, the Act shall become effective on June 30, 2017, or the day following such approval, whichever is later.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Mary Dozier O'Brien.

DIGEST

SB 155 Engrossed

2017 Regular Session

Carter

Present law contains no provisions declaring that no person should be discriminated against for reasons of their sexual orientation, gender identity or expression.

Present law is not consistent in its prohibition of discrimination based upon age.

Proposed law has made these consistent throughout the law, adding the language prohibiting discrimination on the basis of sexual orientation, gender identity or expression, but not all provisions needed to have the age language added.

Proposed law provides that where the prohibition of discrimination based upon age was added only where it had not previously appeared.

Proposed law provides language that certain provisions shall be interpreted to infringe upon the freedom of expression, association, or the free exercise of religion.

Proposed law exempts corporations, associations, educational institutions or institutions of learning or society in accordance with federal law re-enacted to authorize sections 702 and 703 of Title 7 of the Civil Rights Act of 1964 (current site: 41 U.S.C. 2000(e)-1(a) or 2000(e)-2(e)).

Effective August 15, 2017; if vetoed by the governor and subsequently approved by the

legislature, effective on June 30, 2017, or the day the legislature approved the Act, whichever is later.

(Amends R.S. 23:332(A), (B), (C) (1) and (2), (D), (E), (F)(1) and (2), (H) (1), (3) and (4), R.S. 37:1025(B), 1107(C), 1360.23(H), 1437(D), 2719, 3425(C), 3447(C), and R.S. 40:1133.1(C); adds R.S. 23:302(9) and (10) and 332 (I) and (J))