



HB 0025

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A bill to be entitled
An act relating to prevention of discrimination in prescription plans; requiring certain employers to ensure that prescription plans include certain coverage, are comprehensive, and do not discriminate on the basis of gender; providing for penalties; providing an effective date.

WHEREAS, Title VII of the United States Civil Rights Act makes it unlawful for an employer "to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his or her compensation, terms, conditions, and privileges of employment because of such individual's race, color, religion, sex, or national origin.", and

WHEREAS, the Pregnancy Discrimination Act of 1978 amended section 701 of the Civil Rights Act to provide that "The terms 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work....", and

WHEREAS, the United States Equal Employment Commission found that two employers' exclusions of prescription contraceptive drugs and devices in their respective health plans were discriminatory on the basis of sex and pregnancy in direct



HB 0025

2003

30 violation of Title VII of the Civil Rights Act as amended by the
 31 Pregnancy Discrimination Act, and

32 WHEREAS, the United States District Court Western District
 33 of Washington at Seattle found in Jennifer Erickson v. The
 34 Bartell Drug Company, 141 F. Supp. 2d 1266, that the employer's
 35 exclusion of prescription contraception from its prescription
 36 plan is inconsistent with the requirements of Title VII as
 37 amended by the Pregnancy Discrimination Act, and

38 WHEREAS, the Supreme Court of the United States has held in
 39 Shaw v. Delta Airlines, 463 US 85 (1983), that the states play a
 40 significant role in the enforcement of Title VII and therefore,
 41 under Shaw, state fair employment laws governing employment
 42 benefits are not preempted by ERISA insofar as such laws prevent
 43 conduct that is also unlawful under Title VII, NOW, THEREFORE,

44
 45 Be It Enacted by the Legislature of the State of Florida:

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 47 Section 1. Any employer that offers employees a
 48 comprehensive prescription benefit plan in connection with
 49 providing health care coverage shall ensure that the
 50 prescription benefit plan includes coverage for contraceptive
 51 drugs and devices, provides comprehensive coverage for employees
 52 of both genders, and does not discriminate based upon sex-based
 53 characteristics of the employees. Any employer who fails to
 54 comply with the requirements of this section shall be subject to
 55 the administrative and civil remedies provided in s. 760.11,
 56 Florida Statutes.

57 Section 2. This act shall take effect upon becoming a law.