

By Senator Gruters

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1 A bill to be entitled
2 An act relating to prohibited discrimination;
3 providing a short title; amending s. 760.01, F.S.;
4 revising the purposes of the Florida Civil Rights Act
5 of 1992 to conform to changes made by the act;
6 reordering and amending s. 760.02, F.S.; defining the
7 terms "gender identity" and "sexual orientation";
8 amending s. 760.05, F.S.; revising the functions of
9 the Florida Commission on Human Relations to conform
10 to changes made by the act; amending s. 760.07, F.S.;
11 revising provisions regarding remedies for unlawful
12 discrimination to include discrimination based on
13 sexual orientation and gender identity in the area of
14 employment, to conform to changes made by the act;
15 amending s. 760.10, F.S.; adding sexual orientation
16 and gender identity as impermissible grounds for
17 discrimination with respect to specified unlawful
18 employment practices; providing an exception to
19 specified provisions for the constitutionally
20 protected free exercise of religion; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. This act may be cited as the "Florida Inclusive
26 Workforce Act."

27 Section 2. Subsection (1) of section 760.01, Florida
28 Statutes, is republished, and subsection (2) of that section is
29 amended, to read:

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30 760.01 Purposes; construction; title.—

31 (1) Sections 760.01-760.11 and 509.092 shall be cited as
32 the "Florida Civil Rights Act of 1992."

33 (2) The general purposes of the Florida Civil Rights Act of
34 1992 are to secure for all individuals within the state freedom
35 from discrimination because of race, color, religion, sex,
36 pregnancy, national origin, age, sexual orientation, gender
37 identity, handicap, or marital status and thereby to protect
38 their interest in personal dignity, to make available to the
39 state their full productive capacities, to secure the state
40 against domestic strife and unrest, to preserve the public
41 safety, health, and general welfare, and to promote the
42 interests, rights, and privileges of individuals within the
43 state.

44 Section 3. Section 760.02, Florida Statutes, is reordered
45 and amended to read:

46 760.02 Definitions.—For the purposes of ss. 760.01-760.11
47 and 509.092, the term:

48 (7)~~(1)~~ "Florida Civil Rights Act of 1992" means ss. 760.01-
49 760.11 and 509.092.

50 (2) "Commission" means the Florida Commission on Human
51 Relations created by s. 760.03.

52 (3) "Commissioner" or "member" means a member of the
53 commission.

54 (4) "Discriminatory practice" means any practice made
55 unlawful by the Florida Civil Rights Act of 1992.

56 (10)~~(5)~~ "National origin" includes ancestry.

57 (11)~~(6)~~ "Person" includes an individual, association,
58 corporation, joint apprenticeship committee, joint-stock

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59 company, labor union, legal representative, mutual company,
60 partnership, receiver, trust, trustee in bankruptcy, or
61 unincorporated organization; any other legal or commercial
62 entity; the state; or any governmental entity or agency.

63 (5)~~(7)~~ "Employer" means any person employing 15 or more
64 employees for each working day in each of 20 or more calendar
65 weeks in the current or preceding calendar year, and any agent
66 of such a person.

67 (6)~~(8)~~ "Employment agency" means any person regularly
68 undertaking, with or without compensation, to procure employees
69 for an employer or to procure for employees opportunities to
70 work for an employer, and includes an agent of such a person.

71 (8) "Gender identity" means gender-related identity,
72 appearance, or behavior, regardless of whether such gender-
73 related identity, appearance, or behavior is different from that
74 traditionally associated with the person's physiology or
75 assigned sex at birth, and which gender-related identity can be
76 shown by the person providing evidence, including, but not
77 limited to:

78 (a) Medical history, care, or treatment of the gender-
79 related identity;

80 (b) Consistent and uniform assertion of the gender-related
81 identity; or

82 (c) Other evidence that the gender-related identity is a
83 sincerely held part of a person's core identity and is not being
84 asserted for an improper purpose.

85 (9) "Labor organization" means any organization that ~~which~~
86 exists for the purpose, in whole or in part, of collective
87 bargaining or of dealing with employers concerning grievances,

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88 terms or conditions of employment, or other mutual aid or
89 protection in connection with employment.

90 (1)~~(10)~~ "Aggrieved person" means any person who files a
91 complaint with the Florida Commission on Human Relations
92 ~~Commission~~.

93 (12)~~(11)~~ "Public accommodations" means places of public
94 accommodation, lodgings, facilities principally engaged in
95 selling food for consumption on the premises, gasoline stations,
96 places of exhibition or entertainment, and other covered
97 establishments. Each of the following establishments which
98 serves the public is a place of public accommodation within the
99 meaning of this section:

100 (a) Any inn, hotel, motel, or other establishment that
101 ~~which~~ provides lodging to transient guests, other than an
102 establishment located within a building that ~~which~~ contains not
103 more than four rooms for rent or hire and that ~~which~~ is actually
104 occupied by the proprietor of such establishment as his or her
105 residence.

106 (b) Any restaurant, cafeteria, lunchroom, lunch counter,
107 soda fountain, or other facility principally engaged in selling
108 food for consumption on the premises, including, but not limited
109 to, any such facility located on the premises of any retail
110 establishment, or any gasoline station.

111 (c) Any motion picture theater, theater, concert hall,
112 sports arena, stadium, or other place of exhibition or
113 entertainment.

114 (d) Any establishment that ~~which~~ is physically located
115 within the premises of any establishment otherwise covered by
116 this subsection, or within the premises of which is physically

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117 located any such covered establishment, and that ~~which~~ holds
118 itself out as serving patrons of such covered establishment.

119 (13) "Sexual orientation" means an individual's
120 heterosexuality, homosexuality, or bisexuality.

121 Section 4. Section 760.05, Florida Statutes, is amended to
122 read:

123 760.05 Functions of the commission.—The commission shall
124 promote and encourage fair treatment and equal opportunity for
125 all persons regardless of race, color, religion, sex, pregnancy,
126 national origin, age, sexual orientation, gender identity,
127 handicap, or marital status and mutual understanding and respect
128 among all members of society. ~~The commission all economic,~~
129 ~~social, racial, religious, and ethnic groups;~~ and shall endeavor
130 to eliminate discrimination against, and antagonism between,
131 persons on the basis of race, color, religion, sex, pregnancy,
132 national origin, age, sexual orientation, gender identity,
133 handicap, or marital status ~~religious, racial, and ethnic groups~~
134 ~~and their members.~~

135 Section 5. Section 760.07, Florida Statutes, is amended to
136 read:

137 760.07 Remedies for unlawful discrimination.—Any violation
138 of any state law ~~Florida statute~~ making unlawful discrimination
139 because of race, color, religion, gender, pregnancy, national
140 origin, age, handicap, or marital status in the areas of
141 education, employment, housing, or public accommodations, or
142 because of sexual orientation or gender identity in the area of
143 employment, gives rise to a cause of action for all relief and
144 damages described in s. 760.11(5), unless greater damages are
145 expressly provided for. If the statute prohibiting unlawful

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146 discrimination provides an administrative remedy, the action for
147 equitable relief and damages provided for in this section may be
148 initiated only after the plaintiff has exhausted his or her
149 administrative remedy. The term "public accommodations" does not
150 include lodge halls or other similar facilities of private
151 organizations which are made available for public use
152 occasionally or periodically. The right to trial by jury is
153 preserved in any case in which the plaintiff is seeking actual
154 or punitive damages.

155 Section 6. Subsections (1) and (2), paragraphs (a) and (b)
156 of subsection (3), subsections (4), (5), and (6), paragraph (a)
157 of subsection (8), and subsection (9) of section 760.10, Florida
158 Statutes, are amended, and subsection (10) of that section is
159 republished, to read:

160 760.10 Unlawful employment practices.—

161 (1) It is an unlawful employment practice for an employer:

162 (a) To discharge or to fail or refuse to hire any
163 individual, or otherwise to discriminate against any individual
164 with respect to compensation, terms, conditions, or privileges
165 of employment, because of such individual's race, color,
166 religion, sex, pregnancy, national origin, age, sexual
167 orientation, gender identity, handicap, or marital status.

168 (b) To limit, segregate, or classify employees or
169 applicants for employment in any way that ~~which~~ would deprive or
170 tend to deprive any individual of employment opportunities, or
171 adversely affect any individual's status as an employee, because
172 of such individual's race, color, religion, sex, pregnancy,
173 national origin, age, sexual orientation, gender identity,
174 handicap, or marital status.

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175 (2) It is an unlawful employment practice for an employment
176 agency to fail or refuse to refer for employment, or otherwise
177 to discriminate against, any individual because of race, color,
178 religion, sex, pregnancy, national origin, age, sexual
179 orientation, gender identity, handicap, or marital status or to
180 classify or refer for employment any individual on the basis of
181 race, color, religion, sex, pregnancy, national origin, age,
182 sexual orientation, gender identity, handicap, or marital
183 status.

184 (3) It is an unlawful employment practice for a labor
185 organization:

186 (a) To exclude or to expel from its membership, or
187 otherwise to discriminate against, any individual because of
188 race, color, religion, sex, pregnancy, national origin, age,
189 sexual orientation, gender identity, handicap, or marital
190 status.

191 (b) To limit, segregate, or classify its membership or
192 applicants for membership, or to classify or fail or refuse to
193 refer for employment any individual, in any way that would
194 deprive or tend to deprive any individual of employment
195 opportunities, or adversely affect any individual's status as an
196 employee or as an applicant for employment, because of such
197 individual's race, color, religion, sex, pregnancy, national
198 origin, age, sexual orientation, gender identity, handicap, or
199 marital status.

200 (4) It is an unlawful employment practice for any employer,
201 labor organization, or joint labor-management committee
202 controlling apprenticeship or other training or retraining,
203 including on-the-job training programs, to discriminate against

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204 any individual because of race, color, religion, sex, pregnancy,
205 national origin, age, sexual orientation, gender identity,
206 handicap, or marital status in admission to, or employment in,
207 any program established to provide apprenticeship or other
208 training.

209 (5) Whenever, in order to engage in a profession,
210 occupation, or trade, it is required that a person receive a
211 license, certification, or other credential;; become a member or
212 an associate of any club, association, or other organization;;
213 or pass any examination, it is an unlawful employment practice
214 for any person to discriminate against any other person seeking
215 such license, certification, or other credential;; seeking to
216 become a member or associate of such club, association, or other
217 organization;; or seeking to take or pass such examination,
218 because of such other person's race, color, religion, sex,
219 pregnancy, national origin, age, sexual orientation, gender
220 identity, handicap, or marital status.

221 (6) It is an unlawful employment practice for an employer,
222 a labor organization, an employment agency, or a joint labor-
223 management committee to print, or cause to be printed or
224 published, any notice or advertisement relating to employment,
225 membership, classification, referral for employment, or
226 apprenticeship or other training which indicates,~~indicating~~ any
227 preference, limitation, specification, or discrimination~~;~~ based
228 on race, color, religion, sex, pregnancy, national origin, age,
229 sexual orientation, gender identity, absence of handicap, or
230 marital status.

231 (8) Notwithstanding any other provision of this section, it
232 is not an unlawful employment practice under ss. 760.01-760.10

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233 for an employer, employment agency, labor organization, or joint
234 labor-management committee to:

235 (a) Take or fail to take any action on the basis of
236 religion, sex, pregnancy, national origin, age, sexual
237 orientation, gender identity, handicap, or marital status in
238 those certain instances in which religion, sex, condition of
239 pregnancy, national origin, age, sexual orientation, gender
240 identity, absence of a particular handicap, or marital status is
241 a bona fide occupational qualification reasonably necessary for
242 the performance of the particular employment to which such
243 action or inaction is related.

244 (9) (a) This section does ~~shall~~ not apply to any religious
245 corporation, association, educational institution, or society
246 that ~~which~~ conditions opportunities in the area of employment or
247 public accommodation to members of that religious corporation,
248 association, educational institution, or society or to persons
249 who subscribe to its tenets or beliefs.

250 (b) This section does ~~shall~~ not prohibit a religious
251 corporation, association, educational institution, or society
252 from giving preference in employment to individuals of a
253 particular religion to perform work connected with the carrying
254 on by such corporations, associations, educational institutions,
255 or societies of its various activities.

256 (c) This section and s. 760.08 do not limit the free
257 exercise of religion guaranteed by the United States
258 Constitution and the State Constitution.

259 (10) Each employer, employment agency, and labor
260 organization shall post and keep posted in conspicuous places
261 upon its premises a notice provided by the commission setting

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262 forth such information as the commission deems appropriate to
263 effectuate the purposes of ss. 760.01-760.10.

264 Section 7. This act shall take effect July 1, 2019.