

By Senator Braynon

35-00896A-20

2020644__

1 A bill to be entitled
2 An act relating to the Florida Civil Rights Act;
3 amending s. 509.092, F.S.; prohibiting discrimination
4 on the basis of height or weight in public lodging and
5 food service establishments; amending s. 760.01, F.S.;
6 revising the general purpose of the Florida Civil
7 Rights Act of 1992; amending s. 760.05, F.S.; revising
8 the function of the Florida Commission on Human
9 Relations; amending s. 760.07, F.S.; providing civil
10 and administrative remedies for discrimination on the
11 basis of height or weight; amending s. 760.08, F.S.;
12 prohibiting discrimination on the basis of height or
13 weight in places of public accommodation; amending s.
14 760.10, F.S.; prohibiting employment discrimination on
15 the basis of height or weight; prohibiting
16 discrimination on the basis of height or weight by
17 employment agencies, labor organizations, and joint
18 labor-management committees; prohibiting
19 discrimination on the basis of height or weight in
20 occupational licensing, certification, and membership
21 organizations; providing an exception to unlawful
22 employment practices based on height or weight;
23 reenacting s. 760.11(1), F.S., relating to
24 administrative and civil remedies for violations of
25 the Florida Civil Rights Act of 1992, to incorporate
26 the amendments made to s. 760.10(5), F.S., in a
27 reference thereto; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

35-00896A-20

2020644__

30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

Section 1. Section 509.092, Florida Statutes, is amended to read:

509.092 Public lodging establishments and public food service establishments; rights as private enterprises.—Public lodging establishments and public food service establishments are private enterprises, and the operator has the right to refuse accommodations or service to any person who is objectionable or undesirable to the operator, but such refusal may not be based upon race, creed, color, sex, height, weight, pregnancy, physical disability, or national origin. A person aggrieved by a violation of this section or a violation of a rule adopted under this section has a right of action pursuant to s. 760.11.

Section 2. Subsection (2) of section 760.01, Florida Statutes, is amended to read:

760.01 Purposes; construction; title.—

(2) The general purposes of the Florida Civil Rights Act of 1992 are to secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, height, weight, pregnancy, national origin, age, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state.

Section 3. Section 760.05, Florida Statutes, is amended to read:

35-00896A-20

2020644__

59 760.05 Functions of the commission.—The commission shall
60 promote and encourage fair treatment and equal opportunity for
61 all persons regardless of race, color, religion, sex, height,
62 weight, pregnancy, national origin, age, handicap, or marital
63 status and mutual understanding and respect among all members of
64 all economic, social, racial, religious, and ethnic groups; and
65 shall endeavor to eliminate discrimination against, and
66 antagonism between, religious, racial, and ethnic groups and
67 their members.

68 Section 4. Section 760.07, Florida Statutes, is amended to
69 read:

70 760.07 Remedies for unlawful discrimination.—Any violation
71 of any Florida statute making unlawful discrimination because of
72 race, color, religion, gender, height, weight, pregnancy,
73 national origin, age, handicap, or marital status in the areas
74 of education, employment, housing, or public accommodations
75 gives rise to a cause of action for all relief and damages
76 described in s. 760.11(5), unless greater damages are expressly
77 provided for. If the statute prohibiting unlawful discrimination
78 provides an administrative remedy, the action for equitable
79 relief and damages provided for in this section may be initiated
80 only after the plaintiff has exhausted his or her administrative
81 remedy. The term “public accommodations” does not include lodge
82 halls or other similar facilities of private organizations which
83 are made available for public use occasionally or periodically.
84 The right to trial by jury is preserved in any case in which the
85 plaintiff is seeking actual or punitive damages.

86 Section 5. Section 760.08, Florida Statutes, is amended to
87 read:

35-00896A-20

2020644__

88 760.08 Discrimination in places of public accommodation.—
89 All persons are entitled to the full and equal enjoyment of the
90 goods, services, facilities, privileges, advantages, and
91 accommodations of any place of public accommodation without
92 discrimination or segregation on the ground of race, color,
93 national origin, sex, height, weight, pregnancy, handicap,
94 familial status, or religion.

95 Section 6. Subsections (1) and (2), paragraphs (a) and (b)
96 of subsection (3), subsections (4), (5), and (6), and paragraph
97 (a) of subsection (8) of section 760.10, Florida Statutes, are
98 amended to read:

99 760.10 Unlawful employment practices.—

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

101 (a) To discharge or to fail or refuse to hire any
102 individual, or otherwise to discriminate against any individual
103 with respect to compensation, terms, conditions, or privileges
104 of employment, because of such individual's race, color,
105 religion, sex, height, weight, pregnancy, national origin, age,
106 handicap, or marital status.

107 (b) To limit, segregate, or classify employees or
108 applicants for employment in any way which would deprive or tend
109 to deprive any individual of employment opportunities, or
110 adversely affect any individual's status as an employee, because
111 of such individual's race, color, religion, sex, height, weight,
112 pregnancy, national origin, age, handicap, or marital status.

113 (2) It is an unlawful employment practice for an employment
114 agency to fail or refuse to refer for employment, or otherwise
115 to discriminate against, any individual because of race, color,
116 religion, sex, height, weight, pregnancy, national origin, age,

35-00896A-20

2020644__

117 handicap, or marital status or to classify or refer for
118 employment any individual on the basis of race, color, religion,
119 sex, height, weight, pregnancy, national origin, age, handicap,
120 or marital status.

121 (3) It is an unlawful employment practice for a labor
122 organization:

123 (a) To exclude or to expel from its membership, or
124 otherwise to discriminate against, any individual because of
125 race, color, religion, sex, height, weight, pregnancy, national
126 origin, age, handicap, or marital status.

127 (b) To limit, segregate, or classify its membership or
128 applicants for membership, or to classify or fail or refuse to
129 refer for employment any individual, in any way that would
130 deprive or tend to deprive any individual of employment
131 opportunities, or adversely affect any individual's status as an
132 employee or as an applicant for employment, because of such
133 individual's race, color, religion, sex, height, weight,
134 pregnancy, national origin, age, handicap, or marital status.

135 (4) It is an unlawful employment practice for any employer,
136 labor organization, or joint labor-management committee
137 controlling apprenticeship or other training or retraining,
138 including on-the-job training programs, to discriminate against
139 any individual because of race, color, religion, sex, height,
140 weight, pregnancy, national origin, age, handicap, or marital
141 status in admission to, or employment in, any program
142 established to provide apprenticeship or other training.

143 (5) Whenever, in order to engage in a profession,
144 occupation, or trade, it is required that a person receive a
145 license, certification, or other credential, become a member or

35-00896A-20

2020644__

146 an associate of any club, association, or other organization, or
147 pass any examination, it is an unlawful employment practice for
148 any person to discriminate against any other person seeking such
149 license, certification, or other credential, seeking to become a
150 member or associate of such club, association, or other
151 organization, or seeking to take or pass such examination,
152 because of such other person's race, color, religion, sex,
153 height, weight, pregnancy, national origin, age, handicap, or
154 marital status.

155 (6) It is an unlawful employment practice for an employer,
156 labor organization, employment agency, or joint labor-management
157 committee to print, or cause to be printed or published, any
158 notice or advertisement relating to employment, membership,
159 classification, referral for employment, or apprenticeship or
160 other training, indicating any preference, limitation,
161 specification, or discrimination, based on race, color,
162 religion, sex, height, weight, pregnancy, national origin, age,
163 absence of handicap, or marital status.

164 (8) Notwithstanding any other provision of this section, it
165 is not an unlawful employment practice under ss. 760.01-760.10
166 for an employer, employment agency, labor organization, or joint
167 labor-management committee to:

168 (a) Take or fail to take any action on the basis of
169 religion, sex, height, weight, pregnancy, national origin, age,
170 handicap, or marital status in those certain instances in which
171 religion, sex, height, weight, condition of pregnancy, national
172 origin, age, absence of a particular handicap, or marital status
173 is a bona fide occupational qualification reasonably necessary
174 for the performance of the particular employment to which such

35-00896A-20

2020644__

175 action or inaction is related.

176 Section 7. For the purpose of incorporating the amendment
177 made by this act to section 760.10(5), Florida Statutes, in a
178 reference thereto, subsection (1) of section 760.11, Florida
179 Statutes, is reenacted to read:

180 760.11 Administrative and civil remedies; construction.—

181 (1) Any person aggrieved by a violation of ss. 760.01-
182 760.10 may file a complaint with the commission within 365 days
183 of the alleged violation, naming the employer, employment
184 agency, labor organization, or joint labor-management committee,
185 or, in the case of an alleged violation of s. 760.10(5), the
186 person responsible for the violation and describing the
187 violation. Any person aggrieved by a violation of s. 509.092 may
188 file a complaint with the commission within 365 days of the
189 alleged violation naming the person responsible for the
190 violation and describing the violation. The commission, a
191 commissioner, or the Attorney General may in like manner file
192 such a complaint. On the same day the complaint is filed with
193 the commission, the commission shall clearly stamp on the face
194 of the complaint the date the complaint was filed with the
195 commission. In lieu of filing the complaint with the commission,
196 a complaint under this section may be filed with the federal
197 Equal Employment Opportunity Commission or with any unit of
198 government of the state which is a fair-employment-practice
199 agency under 29 C.F.R. ss. 1601.70-1601.80. If the date the
200 complaint is filed is clearly stamped on the face of the
201 complaint, that date is the date of filing. The date the
202 complaint is filed with the commission for purposes of this
203 section is the earliest date of filing with the Equal Employment

35-00896A-20

2020644__

204 Opportunity Commission, the fair-employment-practice agency, or
205 the commission. The complaint shall contain a short and plain
206 statement of the facts describing the violation and the relief
207 sought. The commission may require additional information to be
208 in the complaint. The commission, within 5 days of the complaint
209 being filed, shall by registered mail send a copy of the
210 complaint to the person who allegedly committed the violation.
211 The person who allegedly committed the violation may file an
212 answer to the complaint within 25 days of the date the complaint
213 was filed with the commission. Any answer filed shall be mailed
214 to the aggrieved person by the person filing the answer. Both
215 the complaint and the answer shall be verified.

216 Section 8. This act shall take effect July 1, 2020.