HLS 19RS-443 ORIGINAL

2019 Regular Session

HOUSE BILL NO. 302

BY REPRESENTATIVE BOUIE

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

DISCRIMINATION: Enacts the Louisiana Employment Non-Discrimination Act

1	AN ACT
2	To amend and reenact R.S. 23:332(A)(1) and (2), (B), (C)(1) and (2), (D), (E), (H)(1), (3)
3	and (4), R.S. 37:1025(B), 1107(C), 1360.23(H), 1437(D), 2719, 3425(C), 3447(C),
4	and R.S. 40:1133.1(C), and to enact R.S. 23:302(9) and (10), 332 (I) and (J), relative
5	to employment discrimination; to provide definitions; to provide for intentional
6	discrimination in employment; to provide exceptions for certain entities; to provide
7	requirements for certain programs; to provide regarding licensure for certain
8	professions; and to provide for related matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 23:332(A)(1) and (2), (B), (C)(1) and (2), (D), (E), (H)(1), (3), and
11	(4) are hereby amended and reenacted and R.S. 23:302(9) and (10) and R.S. 332(I) and (J)
12	are hereby enacted to read as follows:
13	§302. Definitions
14	For purposes of this Chapter and unless the context clearly indicates
15	otherwise, the following terms shall have the following meanings ascribed to them:
16	* * *
17	(9) "Sexual orientation" means an individual's actual or perceived
18	heterosexuality, homosexuality, or bisexuality.
19	(10) "Gender identity" means a gender-related identity, appearance, or
20	behavior, regardless of the individual's physiology or designated sex at birth

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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1	Gender-related identity may be shown by providing evidence, including, but no
2	limited to, medical history, care or treatment of the gender-related identity
3	consistent and uniform assertion of the gender-related identity, or any other evidence
4	that the gender-related identity is sincerely held as a part of a person's core identity
5	provided, however, that gender-related identity shall not be asserted for any imprope
6	purpose.
7	* * *
8	§332. Intentional discrimination in employment
9	A. It shall be unlawful discrimination in employment for an employer to
10	engage in any of the following practices:
11	(1) Intentionally fail or refuse to hire or to discharge any individual, or
12	otherwise to intentionally discriminate against any individual with respect to
13	compensation, or terms, conditions, or privileges of employment, because of the
14	individual's race, color, religion, sex, age, sexual orientation, gender identity, or
15	national origin.
16	(2) Intentionally limit, segregate, or classify employees or applicants for
17	employment in any way which would deprive or tend to deprive any individual or
18	employment opportunities, or otherwise adversely affect the individual's status as an
19	employee, because of the individual's race, color, religion, sex, age, sexua
20	orientation, gender identity, or national origin.
21	* * *
22	B. It shall be unlawful discrimination in employment for an employmen
23	agency to intentionally fail or refuse to refer for employment, or otherwise to
24	intentionally discriminate against, any individual because of his race, color, religion
25	sex, age, sexual orientation, gender identity, or national origin, or to intentionally
26	classify or refer for employment any individual on the basis of his race, color
27	religion, sex, age, sexual orientation, gender identity, or national origin.

to engage in any of the following practices:

C. It shall be unlawful discrimination in employment for a labor organization

(1) Intentionally exclude or intentionally expel from its membership, or otherwise intentionally discriminate against, any individual because of his race, color, religion, sex, age, sexual orientation, gender identity, or national origin.

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

11 * * *

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

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

based on religion, sex, <u>age</u>, <u>sexual orientation</u>, <u>gender identity</u>, or national origin when religion, sex, <u>age</u>, <u>sexual orientation</u>, <u>gender identity</u>, or national origin is a bona fide occupational qualification for employment.

* * *

- H. Notwithstanding any other provision of this Section, it shall not be unlawful discrimination in employment for:
- (1) An employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program on the basis of his religion, sex, age, sexual orientation, gender identity, or national origin in those certain instances where religion, sex, age, sexual orientation, and gender identity, or national origin is a bona fide occupational qualification reasonably necessary for the normal operation of that particular business or enterprise.

* * *

- (3) An employer to apply different standards of compensation or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production, or any other differential based on any factor other than sex, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, age, sexual orientation, gender identity, or national origin.
- (4) An employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, age, sexual orientation, gender identity, or national origin.

1	I. Nothing in this Section shall be interpreted to infringe upon the freedom
2	of expression, association, or the free exercise of religion protected by the First
3	Amendment of the United States Constitution and Article I, Section 8 of the
4	Constitution of Louisiana.
5	J. The provisions of this Section, relative to discrimination on the basis of
6	sexual orientation and gender identity, shall not apply to a religious corporation,
7	association, educational institution or institution of learning, or society that employs
8	an individual of a particular religion to perform work connected to the performance
9	of religious activities by the corporation, association, educational institution or
10	institution of learning or society.
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	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 license or
21	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, age, sexual orientation, gender identity,
25	disability, or physical impairment.
26	* * *
27	§1360.23. Powers and duties of the board
28	* * *

1	H. The board shall ensure that applicants for the program shall not be
2	discriminated against due to race, color, creed, age, sex, sexual orientation, gender
3	identity, disability, as defined in R.S. 51:2232(3), or national origin.
4	* * *
5	§1437. Application for license
6	* * *
7	D. Every applicant for a license shall submit a sworn statement attesting that
8	he has knowledge of and understands the provisions of the Fair Housing Act of 1968
9	and the Louisiana Equal Housing Opportunity Act, and any amendments thereto or
10	any successor legislation subsequently following, and that the applicant shall not
11	induce or attempt to induce any person to sell or rent any dwelling by representations
12	regarding the entry or prospective entry into an area, subdivision, or neighborhood
13	of a person or persons of a particular race, color, religion, sex, age, sexual
14	orientation, gender identity, or national origin.
15	* * *
16	§2719. Discrimination
17	No license, certificate, or registration shall be denied any applicant based
18	upon the applicant's race, religion, creed, national origin, sex, age, sexual orientation,
19	gender identity, disability, or physical impairment so long as the physical impairment
20	does not interfere with the performance of professional duties.
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, age, sexual orientation, gender identity,
26	disability, or physical impairment.
27	* * *

1 §3447. Requirements for licensed professional vocational counselor; 2 renewal of license 3 4 C. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, age, sexual orientation, gender identity, 5 6 disability, or physical impairment. 7 Section 3. R.S. 40:1133.1(C) is hereby amended and reenacted to read as follows: 8 §1133.1. Emergency medical personnel training; licensure 9 10 C. The bureau shall affirmatively provide that there is no discrimination 11 toward any individual in the licensure process on the basis of race, religion, creed, 12 national origin, sex, sexual orientation, gender identity, or age. 13 Section 4. This Act shall be known as and may be cited as the "Louisiana 14 Employment Non-Discrimination Act" or "LENDA".

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 302 Original

2019 Regular Session

Bouie

Abstract: Provides requirements for discrimination in employment and creates the Louisiana Employment Non-Discrimination Act.

<u>Present law</u> provides definitions for employee, employer, employment agency, genetic monitoring, genetic services, genetic test, labor organization, and protected genetic information.

<u>Proposed law</u> retains <u>present law</u> and adds definitions for sexual orientation and gender identity.

<u>Present law</u> provides that it shall be unlawful discrimination in employment if the employer discriminates against the individual based on race, color, religion, sex, or national origin.

<u>Proposed law</u> retains <u>present law</u> and adds that discrimination against an individual shall include age, sexual orientation, and gender identity.

<u>Present law</u> provides that application for licensure shall not be denied based on race, religion, creed, national origin, sex, or physical impairment.

<u>Proposed law</u> retains <u>present law</u> to add no application for licensure shall be denied for age, sexual orientation, gender identity, or disability.

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<u>Proposed law</u> provides that no provision of <u>present law</u> or <u>proposed law</u> regarding intentional discrimination in employment shall be interpreted to infringe upon the freedom of expression, association, or the free exercise of religion.

<u>Proposed law</u> exempts religious corporations, associations, educational institutions or in situations of learning or society that employs an individual of a particular religion to perform work connected to a religious activity.

<u>Proposed law</u> provides that <u>proposed law</u> shall be called the "Louisiana Employment Non-Discrimination Act" or "LENDA".

(Amends R.S. 23:332(A)(1) and (2), (B), (C)(1) and (2), (D), (E), (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))