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HOUSE BILL 288

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Jose A. Campos

AN ACT

RELATING TO HUMAN RIGHTS; PROVIDING A DEFINITION IN THE HUMAN RIGHTS ACT TO CLARIFY DISCRIMINATION IN MATTERS OF COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 28-1-2 NMSA 1978 (being Laws 1969, Chapter 196, Section 2, as amended) is amended to read:

"28-1-2. DEFINITIONS.--As used in the Human Rights Act:

A. "person" means one or more individuals, a partnership, association, organization, corporation, joint venture, legal representative, trustees, receivers or the state and all of its political subdivisions;

B. "employer" means any person employing four or more persons and any person acting for an employer;

C. "commission" means the human rights commission;

underscoring material = new
[bracketed material] = delete

1 D. "director" or "bureau" means the human rights
2 bureau of the labor relations division of the workforce
3 solutions department;

4 E. "employee" means any person in the employ of an
5 employer or an applicant for employment;

6 F. "labor organization" means any organization that
7 exists for the purpose in whole or in part of collective
8 bargaining or of dealing with employers concerning grievances,
9 terms or conditions of employment or of other mutual aid or
10 protection in connection with employment;

11 G. "employment agency" means any person regularly
12 undertaking with or without compensation to procure
13 opportunities to work or to procure, recruit or refer
14 employees;

15 H. "public accommodation" means any establishment
16 that provides or offers its services, facilities,
17 accommodations or goods to the public, but does not include a
18 bona fide private club or other place or establishment that is
19 by its nature and use distinctly private;

20 I. "housing accommodation" means any building or
21 portion of a building that is constructed or to be constructed,
22 which is used or intended for use as the residence or sleeping
23 place of any individual;

24 J. "real property" means lands, leaseholds or
25 commercial or industrial buildings, whether constructed or to

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1 be constructed, offered for sale or rent, and any land rented
2 or leased for the use, parking or storage of house trailers;

3 K. "secretary" means the secretary of workforce
4 solutions;

5 L. "unlawful discriminatory practices" means those
6 unlawful practices and acts specified in Section 28-1-7 NMSA
7 1978;

8 M. "physical or mental handicap" means a physical
9 or mental impairment that substantially limits one or more of a
10 person's major life activities. A person is also considered to
11 be physically or mentally handicapped if the person has a
12 record of a physical or mental handicap or is regarded as
13 having a physical or mental handicap;

14 N. "major life activities" means functions such as
15 caring for one's self, performing manual tasks, walking,
16 seeing, hearing, speaking, breathing, learning and working;

17 O. "applicant for employment" means a person
18 applying for a position as an employee;

19 P. "sexual orientation" means heterosexuality,
20 homosexuality or bisexuality, whether actual or perceived;
21 [and]

22 Q. "gender identity" means a person's
23 self-perception, or perception of that person by another, of
24 the person's identity as a male or female based upon the
25 person's appearance, behavior or physical characteristics that

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underscoring material = new
[bracketed material] = delete

1 are in accord with or opposed to the person's physical anatomy,
2 chromosomal sex or sex at birth; and

3 R. "to discriminate in matters of compensation"
4 means to discriminate between employees on the basis of race,
5 age, religion, color, national origin, ancestry, sex, physical
6 or mental handicap or serious medical condition, or, if the
7 employer has fifty or more employees, spousal affiliation,
8 within the same place of employment by providing a rate of
9 compensation to employees of a group within one of these
10 categories that is different than the rate of compensation
11 provided to a different or opposite group within the same
12 category for equal work that requires equal skill, effort and
13 responsibility and that is performed under similar working
14 conditions except where compensation is provided pursuant to:

15 (1) a seniority system;

16 (2) a merit system;

17 (3) a system that measures compensation by the
18 quantity or quality of work; or

19 (4) a differential based on a factor other
20 than one of the categories in this subsection."

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