

HOUSE BILL 387

By Freeman

AN ACT to amend Tennessee Code Annotated, Title 4 and
Title 50, relative to harassment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 21, Part 4, is amended by
adding the following new section:

(a) As used in this section:

(1) "Harassment" means sexual harassment and harassment based on
pregnancy, childbirth, or related medical conditions and does not need to be
motivated by sexual desire; and

(2) "Non-employee" means any individual, other than an employee, paid
directly by a person in exchange for the individual's labor or services and who
meets the following criteria:

(A) The individual has the right to control the performance of the
labor or services and discretion as to the manner of performance;

(B) The individual is customarily engaged in an independently
established business; and

(C) The individual has control over the time and place the labor or
services is performed, supplies the tools and instruments used in the
labor or services, and performs labor or services that requires a particular
skill not ordinarily used in the course of the work of the person paying the
individual in exchange for the labor or services.

(b) It is a discriminatory practice for a person who is paying a non-employee for labor or services to engage in harassment of the non-employee because of the non-employee's sex.

(c) Harassment of a non-employee by an employee of the person who is paying the non-employee for labor or services is deemed harassment by the person if the person knew or should have known of the employee's conduct and failed to take immediate and appropriate corrective action.

(d) This section applies to the following persons who are paying non-employees for labor or services:

(1) Any person with one (1) or more employees or with one (1) or more non-employees providing labor or services;

(2) Any person acting as an agent of another person, directly or indirectly;

(3) Any person employed by another person whose scope of employment includes supervising or managing employees;

(4) The state; or

(5) A county, including any county having a metropolitan form of government, or municipal government, or any agency or unit thereof, or any other political subdivision of the state.

(e) Nothing in this section establishes employment status for non-employees for any purposes other than as specified in this section.

SECTION 2. This act shall take effect July 1, 2019, the public welfare requiring it, and shall apply to all conduct that occurs on or after that date.