

ASSEMBLY BILL NO. 311—COMMITTEE ON COMMERCE AND LABOR

FEBRUARY 23, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing employment practices of certain employers to prohibit discrimination based upon sexual orientation. (BDR 53-1625)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to employment practices; revising the provisions governing the employment practices of certain employers to prohibit discrimination based upon sexual orientation; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 610.020 is hereby amended to read as follows:
2 610.020 The purposes of this chapter are:
3 1. To open to people, without regard to race, color, creed, sex, ***sexual***
4 ***orientation***, religion, disability or national origin, the opportunity to obtain
5 training that will equip them for profitable employment and citizenship.
6 2. To establish, as a means to this end, an organized program for the
7 voluntary training of persons under approved standards for apprenticeship,
8 providing facilities for their training and guidance in the arts and crafts of
9 industry and trade, with instruction in related and supplementary
10 education.
11 3. To promote opportunities for employment for all persons, without
12 regard to race, color, creed, sex, ***sexual orientation***, religion, disability or
13 national origin, under conditions providing adequate training and
14 reasonable earnings.
15 4. To regulate the supply of skilled workers in relation to the demand
16 for skilled workers.
17 5. To establish standards for the training of apprentices in approved
18 programs.

1 6. To establish a state apprenticeship council with the authority to
2 carry out the purposes of this chapter and provide for local joint
3 apprenticeship committees to assist in carrying out the purposes of this
4 chapter.

5 7. To provide for a state director of apprenticeship.

6 8. To provide for reports to the legislature and to the public regarding
7 the status of the training of apprentices in the state.

8 9. To establish procedures for regulating programs and deciding
9 controversies concerning programs and agreements.

10 10. To accomplish related ends.

11 **Sec. 2.** NRS 610.150 is hereby amended to read as follows:

12 610.150 Every agreement entered into under this chapter must contain:

13 1. The names and signatures of the contracting parties and the
14 signature of a parent or legal guardian if the apprentice is a minor.

15 2. The date of birth of the apprentice.

16 3. The name and address of the sponsor of the program.

17 4. A statement of the trade or craft in which the apprentice is to be
18 trained, and the beginning date and expected duration of the
19 apprenticeship.

20 5. A statement showing the number of hours to be spent by the
21 apprentice in work and the number of hours to be spent in related and
22 supplemental instruction, which instruction must not be less than 144 hours
23 per year.

24 6. A statement setting forth a schedule of the processes in the trade or
25 division of industry in which the apprentice is to be trained and the
26 approximate time to be spent at each process.

27 7. A statement of the graduated scale of wages to be paid the
28 apprentice and whether or not compensation is to be paid for the required
29 time in school.

30 8. Statements providing:

31 (a) For a specific period of probation during which the agreement may
32 be terminated by either party to the agreement upon written notice to the
33 state apprenticeship council; and

34 (b) That after the probationary period the agreement may be canceled at
35 the request of the apprentice, or suspended, canceled or terminated by the
36 sponsor for good cause, with due notice to the apprentice and a reasonable
37 opportunity for corrective action, and with written notice to the apprentice
38 and the state apprenticeship council of the final action taken.

39 9. A reference incorporating as part of the agreement the standards of
40 the program as it exists on the date of the agreement and as it may be
41 amended during the period of the agreement.

42 10. A statement that the apprentice will be accorded equal opportunity
43 in all phases of employment and training as an apprentice without

1 discrimination because of race, color, creed, sex, **sexual orientation**,
2 religion or disability.

3 11. A statement naming the state apprenticeship council as the
4 authority designated pursuant to NRS 610.180 to receive, process and
5 dispose of controversies or differences arising out of the agreement when
6 the controversies or differences cannot be adjusted locally or resolved in
7 accordance with the program or collective bargaining agreements.

8 12. Such additional terms and conditions as are prescribed or approved
9 by the state apprenticeship council not inconsistent with the provisions of
10 this chapter.

11 **Sec. 3.** NRS 610.185 is hereby amended to read as follows:

12 610.185 The state apprenticeship council shall suspend for 1 year the
13 right of any employer, association of employers or organization of
14 employees acting as agent for an employer to participate in a program
15 under the provisions of this chapter if the Nevada equal rights commission,
16 after notice and hearing, finds that the employer, association or
17 organization has discriminated against an apprentice because of race, color,
18 creed, sex, **sexual orientation**, religion, disability or national origin in
19 violation of this chapter.

20 **Sec. 4.** NRS 613.310 is hereby amended to read as follows:

21 613.310 As used in NRS 613.310 to 613.435, inclusive, unless the
22 context otherwise requires:

23 1. "Disability" means, with respect to a person:

24 (a) A physical or mental impairment that substantially limits one or
25 more of the major life activities of the person;

26 (b) A record of such an impairment; or

27 (c) Being regarded as having such an impairment.

28 2. "Employer" means any person who has 15 or more employees for
29 each working day in each of 20 or more calendar weeks in the current or
30 preceding calendar year, but does not include:

31 (a) The United States or any corporation wholly owned by the United
32 States.

33 (b) Any Indian tribe.

34 (c) Any private membership club exempt from taxation pursuant to
35 section 501(c) of the Internal Revenue Code of ~~1954.~~ **1986.**

36 3. "Employment agency" means any person regularly undertaking
37 with or without compensation to procure employees for an employer or to
38 procure for employees opportunities to work for an employer, but does not
39 include any agency of the United States.

40 4. "Labor organization" means any organization of any kind, or any
41 agency or employee representation committee or plan, in which employees
42 participate and which exists for the purpose, in whole or in part, of dealing

1 with employers concerning grievances, labor disputes, wages, rates of pay,
2 hours of employment or other conditions of employment.

3 5. "Person" includes the State of Nevada and any of its political
4 subdivisions.

5 **6. "Sexual orientation" means having or being perceived as having**
6 **an orientation for heterosexuality, homosexuality or bisexuality.**

7 **Sec. 5.** NRS 613.330 is hereby amended to read as follows:

8 613.330 1. Except as otherwise provided in NRS 613.350, it is an
9 unlawful employment practice for an employer:

10 (a) To fail or refuse to hire or to discharge any person, or otherwise to
11 discriminate against any person with respect to his compensation, terms,
12 conditions or privileges of employment, because of his race, color,
13 religion, sex, **sexual orientation**, age, disability or national origin; or

14 (b) To limit, segregate or classify ~~employees in any~~ **an employee in a**
15 way which would deprive or tend to deprive ~~any person~~ **him** of
16 employment opportunities or otherwise adversely affect his status as an
17 employee, because of his race, color, religion, sex, **sexual orientation**, age,
18 disability or national origin.

19 2. It is an unlawful employment practice for an employment agency to
20 ~~fail~~ :

21 (a) **Fail** or refuse to refer for employment, or otherwise to discriminate
22 against, any person because of ~~this~~ **the** race, color, religion, sex, **sexual**
23 **orientation**, age, disability or national origin ~~[- or to classify]~~ **of that**
24 **person or any other person with whom he associates;** or

25 (b) **Classify or** refer for employment any person on the basis of ~~this~~ **the**
26 race, color, religion, sex, **sexual orientation**, age, disability or national
27 origin ~~[-]~~ **of that person or any other person with whom he associates.**

28 3. It is an unlawful employment practice for a labor organization:

29 (a) To exclude or to expel from its membership, or otherwise to
30 discriminate against, any person because of his race, color, religion, sex,
31 **sexual orientation**, age, disability or national origin;

32 (b) To limit, segregate or classify its membership, or to classify or fail
33 or refuse to refer for employment any person, in any way which would
34 deprive or tend to deprive him of employment opportunities, or would
35 limit his employment opportunities or otherwise adversely affect his status
36 as an employee or as an applicant for employment, because of his race,
37 color, religion, sex, **sexual orientation**, age, disability or national origin; or

38 (c) To cause or attempt to cause an employer to discriminate against
39 any person in violation of this section.

40 4. It is an unlawful employment practice for any employer, labor
41 organization or joint labor-management committee controlling
42 apprenticeship or other training or retraining, including **, without**

43 **limitation**, on-the-job training programs, to discriminate against any

1 person

1 because of his race, color, religion, sex, **sexual orientation**, age, disability
2 or national origin in admission to, or employment in, any program
3 established to provide apprenticeship or other training.

4 5. It is an unlawful employment practice for any employer,
5 employment agency, labor organization or joint labor-management
6 committee to discriminate against ~~[persons]~~ **a person** with physical, aural
7 or visual disabilities by interfering, directly or indirectly, with the use of an
8 aid or appliance, including **, without limitation**, a guide dog, hearing dog,
9 helping dog or other service animal **,** by such a person.

10 6. It is an unlawful employment practice for an employer, directly or
11 indirectly, to refuse to permit an employee with a visual or aural disability
12 to keep his guide dog, hearing dog or other service animal with him at all
13 times in his place of employment.

14 7. For the purposes of this section, the terms "guide dog," "hearing
15 dog," "helping dog" and "service animal" have the meanings ascribed to
16 them respectively in NRS 426.075, 426.081, 426.083 and 426.097.

17 **Sec. 6.** NRS 613.340 is hereby amended to read as follows:

18 613.340 1. It is an unlawful employment practice for an employer to
19 discriminate against any of his employees or applicants for employment,
20 for an employment agency to discriminate against any person, or for a
21 labor organization to discriminate against any member thereof or applicant
22 for membership, because he has opposed any practice made an unlawful
23 employment practice by NRS 613.310 to 613.435, inclusive, or because he
24 has made a charge, testified, assisted or participated in any manner in an
25 investigation, proceeding or hearing under NRS 613.310 to 613.435,
26 inclusive.

27 2. It is an unlawful employment practice for an employer, labor
28 organization or employment agency to print or publish or cause to be
29 printed or published any notice or advertisement relating to employment
30 by such an employer or membership in or any classification or referral for
31 employment by such a labor organization, or relating to any classification
32 or referral for employment by such an employment agency, indicating any
33 preference, limitation, specification or discrimination, based on race, color,
34 religion, sex, **sexual orientation**, age, disability or national origin, except
35 that such a notice or advertisement may indicate a preference, limitation,
36 specification or discrimination based on religion, sex, **sexual orientation**,
37 age, physical, mental or visual condition or national origin when religion,
38 sex, **sexual orientation**, age, physical, mental or visual condition or
39 national origin is a bona fide occupational qualification for employment.

40 **3. It is an unlawful employment practice for an employer, labor**
41 **organization or employment agency to:**

1 (a) *Attempt to commit, or aid, abet, incite, compel or coerce another*
2 *person to commit, an unlawful employment practice described in NRS*
3 *613.310 to 613.435, inclusive; or*

4 (b) *Inquire into or investigate the sexual orientation of an employee or*
5 *prospective employee unless sexual orientation is a bona fide*
6 *occupational qualification for employment.*

7 **Sec. 7.** NRS 613.350 is hereby amended to read as follows:

8 613.350 1. It is not an unlawful employment practice for an
9 employer to hire and employ employees, for an employment agency to
10 classify or refer for employment any person, for a labor organization to
11 classify its membership or to classify or refer for employment any person,
12 or for an employer, labor organization or joint labor-management
13 committee controlling apprenticeship or other training or retraining
14 programs to admit or employ any person in any such program, on the basis
15 of his religion, sex, *sexual orientation*, age, disability or national origin in
16 those instances where religion, sex, *sexual orientation*, age, physical,
17 mental or visual condition or national origin is a bona fide occupational
18 qualification reasonably necessary to the normal operation of that
19 particular business or enterprise.

20 2. It is not an unlawful employment practice for an employer to fail or
21 refuse to hire and employ employees, for an employment agency to fail to
22 classify or refer any person for employment, for a labor organization to fail
23 to classify its membership or to fail to classify or refer any person for
24 employment, or for an employer, labor organization or joint labor-
25 management committee controlling apprenticeship or other training or
26 retraining programs to fail to admit or employ any person in any such
27 program, on the basis of his disability in those instances where physical,
28 mental or visual condition is a bona fide and relevant occupational
29 qualification necessary to the normal operation of that particular business
30 or enterprise, if it is shown that the particular disability would prevent
31 proper performance of the work for which the disabled person would
32 otherwise have been hired, classified, referred or prepared under a training
33 or retraining program.

34 3. It is not an unlawful employment practice for an employer to fail or
35 refuse to hire or to discharge a person, for an employment agency to fail to
36 classify or refer any person for employment, for a labor organization to fail
37 to classify its membership or to fail to classify or refer any person for
38 employment, or for an employer, labor organization or joint labor-
39 committee controlling apprenticeship or other training or retraining
40 programs to fail to admit or employ any person in any such program, on
41 the basis of his age if the person is less than 40 years of age.

1 4. It is not an unlawful employment practice for a school, college,
2 university or other educational institution or institution of learning to hire
3 and employ employees of a particular religion if the school or institution is,
4 in whole or in substantial part, owned, supported, controlled or managed
5 by a particular religion or by a particular religious corporation, association
6 or society, or if the curriculum of the school or institution is directed
7 toward the propagation of a particular religion.

8 5. It is not an unlawful employment practice for an employer to
9 observe the terms of any bona fide plan for employees' benefits, such as a
10 retirement, pension or insurance plan, which is not a subterfuge to evade
11 the provisions of NRS 613.310 to 613.435, inclusive, as they relate to
12 discrimination against a person because of age, except that no such plan
13 excuses the failure to hire any person who is at least 40 years of age.

14 **Sec. 8.** NRS 613.380 is hereby amended to read as follows:

15 613.380 Notwithstanding any other provision of NRS 613.310 to
16 613.435, inclusive, it is not an unlawful employment practice for an
17 employer to apply different standards of compensation, or different terms,
18 conditions or privileges of employment pursuant to a bona fide seniority or
19 merit system, or a system which measures earnings by quantity or quality
20 of production or to employees who work in different locations, if those
21 differences are not the result of an intention to discriminate because of
22 race, color, religion, sex, **sexual orientation**, age, disability or national
23 origin, nor is it an unlawful employment practice for an employer to give
24 and to act upon the results of any professionally developed ability test, if
25 the test, its administration or action upon the results is not designed,
26 intended or used to discriminate because of race, color, religion, sex,
27 **sexual orientation**, age, disability or national origin.

28 **Sec. 9.** NRS 613.400 is hereby amended to read as follows:

29 613.400 Nothing contained in NRS 613.310 to 613.435, inclusive,
30 requires any employer, employment agency, labor organization or joint
31 labor-management committee subject to NRS 613.310 to 613.435,
32 inclusive, to grant preferential treatment to any person or to any group
33 because of the race, color, religion, sex, **sexual orientation**, age, disability
34 or national origin of the individual or group on account of an imbalance
35 which exists with respect to the total number or percentage of persons of
36 any race, color, religion, sex, **sexual orientation**, age, disability or national
37 origin employed by any employer, referred or classified for employment
38 by any employment agency or labor organization, admitted to membership
39 or classified by any labor organization, or admitted to, or employed in, any
40 apprenticeship or other training program, in comparison with the total

1 number or percentage of persons of that race, color, religion, sex, **sexual**
2 **orientation**, age, disability or national origin in any community, section or
3 other area, or in the available work force in any community, section or
4 other area.

5 **Sec. 10.** NRS 613.405 is hereby amended to read as follows:

6 613.405 Any person injured by an unlawful employment practice
7 within the scope of NRS 613.310 to 613.435, inclusive, may file a
8 complaint to that effect with the Nevada equal rights commission if the
9 complaint is based on discrimination because of race, color, sex, **sexual**
10 **orientation**, age, disability, religion or national origin.

11 **Sec. 11.** NRS 281.370 is hereby amended to read as follows:

12 281.370 1. All personnel actions taken by state, county or municipal
13 departments, housing authorities, agencies, boards or appointing officers
14 thereof must be based solely on merit and fitness.

15 2. State, county or municipal departments, housing authorities,
16 agencies, boards or appointing officers thereof shall not refuse to hire a
17 person, discharge or bar any person from employment or discriminate
18 against any person in compensation or in other terms or conditions of
19 employment because of his race, creed, color, national origin, sex, **sexual**
20 **orientation**, age, political affiliation or disability, except when based upon
21 a bona fide occupational qualification.

22 3. As used in this section ~~{, “disability”}~~ :

23 (a) **“Disability”** means, with respect to a person:

24 ~~{(a)}~~ (1) A physical or mental impairment that substantially limits one
25 or more of the major life activities of the person;

26 ~~{(b)}~~ (2) A record of such an impairment; or

27 ~~{(c)}~~ (3) Being regarded as having such an impairment.

28 (b) **“Sexual orientation” means having or being perceived as having**
29 **an orientation for heterosexuality, homosexuality or bisexuality.**

30 **Sec. 12.** NRS 338.125 is hereby amended to read as follows:

31 338.125 1. It is unlawful for any contractor in connection with the
32 performance of work under a contract with the state, or any of its political
33 subdivisions, when payment of the contract price, or any part of such
34 payment, is to be made from public ~~{funds,}~~ **money**, to refuse to employ or
35 to discharge from employment any person because of his race, color,
36 creed, national origin, sex, **sexual orientation** or age, or to discriminate
37 against a person with respect to hire, tenure, advancement, compensation
38 or other terms, conditions or privileges of employment because of his race,
39 creed, color, national origin, sex, **sexual orientation** or age.

40 2. Contracts negotiated between contractors and the state, or any of its
41 political subdivisions, ~~{shall}~~ **must** contain the following contractual
42 provisions:

1 In connection with the performance of work under this contract, the
2 contractor agrees not to discriminate against any employee or applicant for
3 employment because of race, creed, color, national origin, sex , *sexual*
4 *orientation* or age ~~[. Such agreement shall include, but not be limited to,~~
5 ~~the following: Employment,]~~ , *including, without limitation, with regard*
6 *to employment*, upgrading, demotion or transfer, recruitment or
7 recruitment advertising, layoff or termination, rates of pay or other forms
8 of compensation, and selection for training, including , *without limitation*,
9 apprenticeship.

10 The contractor further agrees to insert this provision in all
11 subcontracts hereunder, except subcontracts for standard
12 commercial supplies or raw materials.
13

14 3. Any violation of such provision by a contractor ~~[shall constitute]~~
15 *constitutes* a material breach of contract.

16 **Sec. 13.** The amendatory provisions of this act do not apply to
17 offenses that were committed before October 1, 1999.

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