

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 610.010 is hereby amended to read as follows:
2 610.010 As used in this chapter, unless the context otherwise requires:
3 1. “Agreement” means a written and signed agreement of indenture as
4 an apprentice.
5 2. “Apprentice” means a person who is covered by a written
6 agreement, issued pursuant to a program with an employer, or with an
7 association of employers or an organization of employees acting as agent
8 for an employer.
9 3. “Disability” means, with respect to a person:
10 (a) A physical or mental impairment that substantially limits one or
11 more of the major life activities of the person;
12 (b) A record of such an impairment; or
13 (c) Being regarded as having such an impairment.
14 4. “Program” means a program of training and instruction as an
15 apprentice in an occupation in which a person may be apprenticed.
16 5. ***“Sexual orientation” means having or being perceived as having***
17 ***an orientation for heterosexuality, homosexuality or bisexuality.***

1 **Sec. 2.** 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 education.

10 3. To promote opportunities for employment for all persons, without
11 regard to race, color, creed, sex, **sexual orientation**, religion, disability or
12 national origin, under conditions providing adequate training and
13 reasonable earnings.

14 4. To regulate the supply of skilled workers in relation to the demand
15 for skilled workers.

16 5. To establish standards for the training of apprentices in approved
17 programs.

18 6. To establish a state apprenticeship council with the authority to carry
19 out the purposes of this chapter and provide for local joint apprenticeship
20 committees to assist in carrying out the purposes of this chapter.

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

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

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

26 10. To accomplish related ends.

27 **Sec. 3.** NRS 610.150 is hereby amended to read as follows:

28 610.150 Every agreement entered into under this chapter must contain:

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

31 2. The date of birth of the apprentice.

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

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

35 5. A statement showing the number of hours to be spent by the
36 apprentice in work and the number of hours to be spent in related and
37 supplemental instruction, which instruction must not be less than 144 hours
38 per year.

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

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

4 8. Statements providing:

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

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

13 9. A reference incorporating as part of the agreement the standards of
14 the program as it exists on the date of the agreement and as it may be
15 amended during the period of the agreement.

16 10. A statement that the apprentice will be accorded equal opportunity
17 in all phases of employment and training as an apprentice without
18 discrimination because of race, color, creed, sex, **sexual orientation**,
19 religion or disability.

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

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

28 **Sec. 4.** NRS 610.185 is hereby amended to read as follows:

29 610.185 The state apprenticeship council shall suspend for 1 year the
30 right of any employer, association of employers or organization of
31 employees acting as agent for an employer to participate in a program
32 under the provisions of this chapter if the Nevada equal rights commission,
33 after notice and hearing, finds that the employer, association or
34 organization has discriminated against an apprentice because of race, color,
35 creed, sex, **sexual orientation**, religion, disability or national origin in
36 violation of this chapter.

37 **Sec. 5.** NRS 613.310 is hereby amended to read as follows:

38 613.310 As used in NRS 613.310 to 613.435, inclusive, unless the
39 context otherwise requires:

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

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

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

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

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

5 (a) The United States or any corporation wholly owned by the United
6 States.

7 (b) Any Indian tribe.

8 (c) Any private membership club exempt from taxation pursuant to
9 ~~{section 501(c) of the Internal Revenue Code of 1954.}~~ **26 U.S.C. § 501(c).**

10 3. "Employment agency" means any person regularly undertaking with
11 or without compensation to procure employees for an employer or to
12 procure for employees opportunities to work for an employer, but does not
13 include any agency of the United States.

14 4. "Labor organization" means any organization of any kind, or any
15 agency or employee representation committee or plan, in which employees
16 participate and which exists for the purpose, in whole or in part, of dealing
17 with employers concerning grievances, labor disputes, wages, rates of pay,
18 hours of employment or other conditions of employment.

19 5. "Person" includes the State of Nevada and any of its political
20 subdivisions.

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

23 **Sec. 6.** NRS 613.320 is hereby amended to read as follows:

24 613.320 **1. The provisions of** NRS 613.310 to 613.435, inclusive, do
25 not apply to:

26 ~~{1.}~~ **(a)** Any employer with respect to employment outside this state.

27 ~~{2.}~~ **(b)** Any religious corporation, association or society with respect to
28 the employment of individuals of a particular religion to perform work
29 connected with the carrying on of its religious activities.

30 **2. The provisions of NRS 613.310 to 613.435, inclusive, concerning**
31 **unlawful employment practices related to sexual orientation do not apply**
32 **to an organization that is exempt from taxation pursuant to 26 U.S.C. §**
33 **501(c)(3).**

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

35 613.330 1. Except as otherwise provided in NRS 613.350, it is an
36 unlawful employment practice for an employer:

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

41 (b) To limit, segregate or classify ~~{employees in any}~~ **an employee in a**
42 way which would deprive or tend to deprive ~~{any person}~~ **him** of
43 employment opportunities or otherwise adversely affect his status as an

1 employee, because of his race, color, religion, sex, **sexual orientation**, age,
2 disability or national origin.

3 2. It is an unlawful employment practice for an employment agency to
4 ~~fail~~ :

5 (a) **Fail** or refuse to refer for employment, or otherwise to discriminate
6 against, any person because of ~~his~~ **the** race, color, religion, sex, **sexual**
7 **orientation**, age, disability or national origin ~~[, or to classify]~~ **of that**
8 **person**; or

9 (b) **Classify or** refer for employment any person on the basis of ~~his~~ **the**
10 race, color, religion, sex, **sexual orientation**, age, disability or national
11 origin ~~[]~~ **of that person**.

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

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

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

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

24 4. It is an unlawful employment practice for any employer, labor
25 organization or joint labor-management committee controlling
26 apprenticeship or other training or retraining, including , **without**
27 **limitation**, on-the-job training programs, to discriminate against any person
28 because of his race, color, religion, sex, **sexual orientation**, age, disability
29 or national origin in admission to, or employment in, any program
30 established to provide apprenticeship or other training.

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

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

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

1 **Sec. 8.** NRS 613.340 is hereby amended to read as follows:

2 613.340 1. It is an unlawful employment practice for an employer to
3 discriminate against any of his employees or applicants for employment, for
4 an employment agency to discriminate against any person, or for a labor
5 organization to discriminate against any member thereof or applicant for
6 membership, because he has opposed any practice made an unlawful
7 employment practice by NRS 613.310 to 613.435, inclusive, or because he
8 has made a charge, testified, assisted or participated in any manner in an
9 investigation, proceeding or hearing under NRS 613.310 to 613.435,
10 inclusive.

11 2. It is an unlawful employment practice for an employer, labor
12 organization or employment agency to print or publish or cause to be
13 printed or published any notice or advertisement relating to employment by
14 such an employer or membership in or any classification or referral for
15 employment by such a labor organization, or relating to any classification
16 or referral for employment by such an employment agency, indicating any
17 preference, limitation, specification or discrimination, based on race, color,
18 religion, sex, **sexual orientation**, age, disability or national origin, except
19 that such a notice or advertisement may indicate a preference, limitation,
20 specification or discrimination based on religion, sex, **sexual orientation**,
21 age, physical, mental or visual condition or national origin when religion,
22 sex, **sexual orientation**, age, physical, mental or visual condition or
23 national origin is a bona fide occupational qualification for employment.

24 **Sec. 9.** NRS 613.350 is hereby amended to read as follows:

25 613.350 1. It is not an unlawful employment practice for an employer
26 to hire and employ employees, for an employment agency to classify or
27 refer for employment any person, for a labor organization to classify its
28 membership or to classify or refer for employment any person, or for an
29 employer, labor organization or joint labor-management committee
30 controlling apprenticeship or other training or retraining programs to admit
31 or employ any person in any such program, on the basis of his religion, sex,
32 **sexual orientation**, age, disability or national origin in those instances
33 where religion, sex, **sexual orientation**, age, physical, mental or visual
34 condition or national origin is a bona fide occupational qualification
35 reasonably necessary to the normal operation of that particular business or
36 enterprise.

37 2. It is not an unlawful employment practice for an employer to fail or
38 refuse to hire and employ employees, for an employment agency to fail to
39 classify or refer any person for employment, for a labor organization to fail
40 to classify its membership or to fail to classify or refer any person for
41 employment, or for an employer, labor organization or joint labor-
42 management committee controlling apprenticeship or other training or
43 retraining programs to fail to admit or employ any person in any such

1 program, on the basis of his disability in those instances where physical,
2 mental or visual condition is a bona fide and relevant occupational
3 qualification necessary to the normal operation of that particular business
4 or enterprise, if it is shown that the particular disability would prevent
5 proper performance of the work for which the disabled person would
6 otherwise have been hired, classified, referred or prepared under a training
7 or retraining program.

8 3. It is not an unlawful employment practice for an employer to fail or
9 refuse to hire or to discharge a person, for an employment agency to fail to
10 classify or refer any person for employment, for a labor organization to fail
11 to classify its membership or to fail to classify or refer any person for
12 employment, or for an employer, labor organization or joint labor-
13 committee controlling apprenticeship or other training or retraining
14 programs to fail to admit or employ any person in any such program, on the
15 basis of his age if the person is less than 40 years of age.

16 4. It is not an unlawful employment practice for a school, college,
17 university or other educational institution or institution of learning to hire
18 and employ employees of a particular religion if the school or institution is,
19 in whole or in substantial part, owned, supported, controlled or managed by
20 a particular religion or by a particular religious corporation, association or
21 society, or if the curriculum of the school or institution is directed toward
22 the propagation of a particular religion.

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

29 **Sec. 10.** NRS 613.380 is hereby amended to read as follows:

30 613.380 Notwithstanding any other provision of NRS 613.310 to
31 613.435, inclusive, it is not an unlawful employment practice for an
32 employer to apply different standards of compensation, or different terms,
33 conditions or privileges of employment pursuant to a bona fide seniority or
34 merit system, or a system which measures earnings by quantity or quality of
35 production or to employees who work in different locations, if those
36 differences are not the result of an intention to discriminate because of race,
37 color, religion, sex, **sexual orientation**, age, disability or national origin,
38 nor is it an unlawful employment practice for an employer to give and to
39 act upon the results of any professionally developed ability test, if the test,
40 its administration or action upon the results is not designed, intended or
41 used to discriminate because of race, color, religion, sex, **sexual**
42 **orientation**, age, disability or national origin.

1 **Sec. 11.** NRS 613.400 is hereby amended to read as follows:

2 613.400 Nothing contained in NRS 613.310 to 613.435, inclusive,
3 requires any employer, employment agency, labor organization or joint
4 labor-management committee subject to NRS 613.310 to 613.435,
5 inclusive, to grant preferential treatment to any person or to any group
6 because of the race, color, religion, sex, *sexual orientation*, age, disability
7 or national origin of the individual or group on account of an imbalance
8 which exists with respect to the total number or percentage of persons of
9 any race, color, religion, sex, *sexual orientation*, age, disability or national
10 origin employed by any employer, referred or classified for employment by
11 any employment agency or labor organization, admitted to membership or
12 classified by any labor organization, or admitted to, or employed in, any
13 apprenticeship or other training program, in comparison with the total
14 number or percentage of persons of that race, color, religion, sex, *sexual*
15 *orientation*, age, disability or national origin in any community, section or
16 other area, or in the available work force in any community, section or
17 other area.

18 **Sec. 12.** NRS 613.405 is hereby amended to read as follows:

19 613.405 Any person injured by an unlawful employment practice
20 within the scope of NRS 613.310 to 613.435, inclusive, may file a
21 complaint to that effect with the Nevada equal rights commission if the
22 complaint is based on discrimination because of race, color, sex, *sexual*
23 *orientation*, age, disability, religion or national origin.

24 **Sec. 13.** NRS 281.370 is hereby amended to read as follows:

25 281.370 1. All personnel actions taken by state, county or municipal
26 departments, housing authorities, agencies, boards or appointing officers
27 thereof must be based solely on merit and fitness.

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

35 3. As used in this section ~~[(“disability”)]~~ :

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

37 ~~[(a)]~~ (1) A physical or mental impairment that substantially limits one or
38 more of the major life activities of the person;

39 ~~[(b)]~~ (2) A record of such an impairment; or

40 ~~[(c)]~~ (3) Being regarded as having such an impairment.

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

1 **Sec. 14.** NRS 338.125 is hereby amended to read as follows:

2 338.125 1. It is unlawful for any contractor in connection with the
3 performance of work under a contract with the state, or any of its political
4 subdivisions, when payment of the contract price, or any part of such
5 payment, is to be made from public ~~{funds,}~~ **money**, to refuse to employ or
6 to discharge from employment any person because of his race, color, creed,
7 national origin, sex , **sexual orientation** or age, or to discriminate against a
8 person with respect to hire, tenure, advancement, compensation or other
9 terms, conditions or privileges of employment because of his race, creed,
10 color, national origin, sex , **sexual orientation** or age.

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

14
15 In connection with the performance of work under this contract, the
16 contractor agrees not to discriminate against any employee or
17 applicant for employment because of race, creed, color, national
18 origin, sex , **sexual orientation** or age ~~{- Such agreement shall include,~~
19 ~~but not be limited to, the following: Employment,}~~ , **including,**
20 **without limitation, with regard to employment**, upgrading, demotion
21 or transfer, recruitment or recruitment advertising, layoff or
22 termination, rates of pay or other forms of compensation, and selection
23 for training, including , **without limitation**, apprenticeship.

24 The contractor further agrees to insert this provision in all
25 subcontracts hereunder, except subcontracts for standard commercial
26 supplies or raw materials.

27
28 3. Any violation of such provision by a contractor ~~{shall constitute}~~
29 **constitutes** a material breach of contract.

30 **4. As used in this section, "sexual orientation" means having or**
31 **being perceived as having an orientation for heterosexuality,**
32 **homosexuality or bisexuality.**

33 **Sec. 15.** The amendatory provisions of this act do not apply to
34 offenses that were committed before October 1, 1999.