

LAWS OF DELAWARE
VOLUME 85
CHAPTER 104
153rd GENERAL ASSEMBLY
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 55

AN ACT TO AMEND THE DELAWARE CODE RELATING TO PROHIBITED DISCRIMINATION ON THE BASIS OF MILITARY STATUS.

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

Section 1. Amend Chapter 45, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 4501. Purpose and construction.

This chapter is intended to prevent, in places of public accommodations, practices of discrimination against any person because of race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity, military status, or national origin. This chapter shall be liberally construed to the end that the rights herein provided for all people, without regard to race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity, military status, or national origin, may be effectively safeguarded. Furthermore, it is appropriate for the Commission to consult with, consider, and apply higher or more comprehensive obligations established by otherwise applicable federal, state, or local law in defining the scope or extent of any duty imposed by this chapter.

§ 4502. Definitions.

For purposes of this chapter:

(1) "Automatic door" ~~shall mean~~ means a door equipped with a power-operated mechanism and controls that open and close the door automatically upon receipt of a momentary actuating signal. The switch that begins the automatic cycle may be a photoelectric device, floor mat, or manual switch.

(16) "Military status" means status as any of the following:

- a. A member of the uniformed forces, as defined in 10 U.S.C. § 101, or a reserve component thereof listed under 10 U.S.C. § 10101.
- b. A veteran as defined in 38 U.S.C. § 101.
- c. A dependent of a servicemember as defined in 50 U.S.C. § 3911.

§ 4503. Persons entitled to protection.

All persons within the jurisdiction of this State are entitled to the full and equal accommodations, facilities, advantages and privileges of any place of public accommodation regardless of the race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity, military status, or national origin of such persons.

§ 4504. Unlawful practices.

(a) (1) a. No person being the owner, lessee, proprietor, manager, director, supervisor, superintendent, agent, or employee of any place of public accommodation, may directly or indirectly refuse, withhold from, or deny to any person, on account of race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity, military status, or national origin, any of the accommodations, facilities, advantages, or privileges of the public accommodation.

(b) (1) No person, being the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, shall directly or indirectly publish, issue, circulate, post, or display any written, typewritten, mimeographed, printed, television, Internet, or radio communications notice or advertisement to the effect that any of the accommodations, facilities, advantages, and privileges of any place of public accommodation shall be refused, withheld from or denied to any person on account of race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity, military status, or national origin, or that the patronage or custom thereof of any person belonging to or purporting to be or appearing to be of any particular race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity, military status, or national origin is unlawful, objectionable, or not acceptable, desired, accommodated, or solicited, or that the patronage of persons of any particular race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity, military status, or national origin is preferred or is particularly welcomed, desired, or solicited.

Section 2. Amend Chapter 46, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 4601. Declaration of purpose and construction.

(a) *Purpose.* — This chapter is intended to eliminate, as to housing offered to the public for sale, rent or exchange, discrimination based upon race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, disability, military status, or housing status and to provide an administrative procedure through which disputes concerning the same may effectively and expeditiously be resolved with fairness and due process for all parties concerned.

(b) *Construction.* — This chapter shall be liberally construed to the end that its purposes may be accomplished and all persons may fully enjoy equal rights and access to housing for themselves and their families. Furthermore, in defining the scope or extent of any duty imposed by this chapter, including the duty of reasonable accommodation, higher or more comprehensive obligations established by otherwise applicable federal, ~~state~~ state, or local enactments may be considered.

§ 4602. Definitions.

For purposes of this chapter:

(20) "Military status" means status as any of the following:

a. A member of the uniformed forces, as defined in 10 U.S.C. § 101, or a reserve component thereof listed under 10 U.S.C. § 10101.

b. A veteran as defined in 38 U.S.C. § 101.

c. A dependent of a servicemember as defined in 50 U.S.C. § 3911.

§ 4603. Discrimination in sale or rental of housing and other prohibited practices.

(a) For purposes of paragraphs (b)(1)-(5) of this section, the unlawful discrimination against a person on the basis of a specified protected status refers to the protected status ~~of~~ of any of the following:

(1) ~~That~~ A buyer, renter ~~renter,~~ or aggrieved ~~person;~~ person.

(2) A person residing in or intending to reside in that dwelling after it is sold, ~~rented~~ rented, or made ~~available;~~ or available.

(3) ~~Any~~ A person associated with that buyer or renter.

(b) Except as exempted by § 4607 of this title, it ~~shall be~~ is unlawful:

(1) To discriminate in the sale or rental, to refuse to sell or rent, to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity, disability, military status, or housing status.

(2) To discriminate against any person in the terms, ~~conditions~~ conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity, disability, military status, or housing status.

(3) To make, ~~print~~ print, or publish, or cause to be made, ~~printed~~ printed, or published any notice, ~~statement~~ statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, ~~limitation~~ limitation, or discrimination based on race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity, disability, military status, or housing status, or an intention to make any such preference, ~~limitation~~ limitation, or discrimination. However, nothing in this chapter restricts the inclusion of information about the availability of housing accessible to persons with a disability in advertising of dwellings.

(4) To represent to any person because of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity, disability, military status, or housing status that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity, disability, military status, or housing status.

§ 4604. Discrimination in residential real estate-related transactions.

(a) *In general.* —

It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity, disability, military status, or housing status.

(b) *Appraisal exemption.* —

Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity, disability, military status, or housing status.

§ 4605. Discrimination in provision of brokerage services.

It ~~shall be~~ is unlawful to deny ~~any a~~ person access to or membership or participation in any multiple-listing service, real estate brokers' ~~organization~~ organization, or other service, ~~organization~~ organization, or facility relating to the business of selling, ~~exchanging~~ exchanging, or renting dwellings, or to discriminate against the person in the terms or conditions of such access, membership, or participation, on account of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity, disability, military status, or housing status.

§ 4607. Exemptions in certain situations [For application of this section, see 84 Del. Laws, c. 358, § 4] [Effective until Dec. 31, 2028].

(c) Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling as long as they are applied to all occupants and do not operate to discriminate or have the effect of discriminating on the basis of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity, disability, military status, or housing status. Nor does any provision in this chapter regarding familial status or age apply with respect to housing for older persons as defined in § 4602(17) of this title.

(l) Nothing in this chapter prohibits a distinction or differential treatment on the basis of military status that is expressly allowed by State law or regulation, federal law or regulation, or government contract.

§ 4607. Exemptions in certain situations [For application of this section, see 84 Del. Laws, c. 358, § 4] [Effective Dec. 31, 2028].

(c) Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling as long as they are applied to all occupants and do not operate to discriminate or have the effect of discriminating on the basis of race, color, national origin, religion, creed, sex, marital status, familial status, source of income, age, sexual orientation, gender identity, disability, military status, or housing status. Nor does any provision in this chapter regarding familial status or age apply with respect to housing for older persons as defined in § 4602(17) of this title.

(l) Nothing in this chapter prohibits a distinction or differential treatment on the basis of military status that is expressly allowed by State law or regulation, federal law or regulation, or government contract.

Section 3. Amend § 506, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 506. Restrictions.

(a) A charter school may not do any of the following:

(4) a. Discriminate against any student in the admissions process because of race, creed, color, sex (except in the case of a same-gender school), ~~handicap~~, disability, military status, or national origin, or because the student's school district of residence has a per student local expenditure lower than another student seeking admission.

b. For the purposes of this subsection:

1. "Military status" means status as any of the following:

A. A member of the uniformed forces, as defined in 10 U.S.C. § 101, or a reserve component thereof listed under 10 U.S.C. § 10101.

B. A veteran as defined in 38 U.S.C. § 101.

C. A dependent of a servicemember as defined in 50 U.S.C. § 3911.

a. 2. "Protective hairstyle" includes braids, locks, and twists.

~~b.~~ 3. "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 4. Amend § 2304, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 2304. Unfair methods of competition and unfair or deceptive acts or practices defined.

The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(22) *Unfair discrimination in the value of insurance policies and premiums based on race, color, religion, sexual orientation, gender ~~identity~~ identity, military status, or national origin; penalty.* — a. It is an unlawful practice for any insurance company licensed to do business in this State to discriminate in any way because of the insured’s race, color, religion, sexual orientation, gender identity, military status, or national origin, or to make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, to include the writing of any policy or the application therefor, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which discriminates in any way because of the insured’s race, color, religion, sexual orientation, gender identity, military status, or national origin or to classify or refer to any individual on the basis of race, color, religion, sexual orientation, gender identity, military status, or national origin.

b. For purposes of this paragraph (22):

2. “Military status” means status as any of the following:

A. A member of the uniformed forces, as defined in 10 U.S.C. § 101, or a reserve component thereof listed under 10 U.S.C. § 10101.

B. A veteran as defined in 38 U.S.C. § 101.

C. A dependent of a servicemember as defined in 50 U.S.C. § 3911.

c. ~~[Repealed.]~~ Nothing in this section is intended to prohibit a distinction or differential treatment based on military status that is allowed by state law or regulation, federal law or regulation, or government contract, including military discounts.

e. Whenever a charge is filed with the Department by or on behalf of a person claiming to have been discriminated against in the purchase of insurance because of race, religion, sexual orientation, gender identity, ~~color~~ color, military status, or national origin, the Department shall serve a copy of the charge on such insurance company and shall make an investigation thereof. Charges shall be in writing and shall contain such information and be in such form as the Department requires. Such charges shall not be made public by the Department. If the Department determines after such investigation that there is reasonable cause to believe that the charge is not true, it shall dismiss the charge and promptly notify the person claiming to have been discriminated against and the respondent of its action. Such notice shall be in writing and shall set forth the facts upon which the decision is based.

Section 5. Amend Chapter 7, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and redesignating accordingly:

§ 710. Definitions.

For the purposes of this subchapter:

(1) ~~“Age” as used in this subchapter~~ means the age of 40 or more years of age.

(2) ~~“Charging party”~~ means any individual or the Department who initiates proceedings by the filing of a verified charge of discrimination, and who preserves a cause of action in Superior Court by exhausting the administrative remedies pursuant to the provisions of § 714 of this title.

(3) ~~“Conciliation” for the purposes of this chapter refers to~~ means a process which requires the appearance of the parties after a full investigation resulting in a final determination of reasonable cause.

(4) ~~“Delaware Right to Sue Notice” for the purposes of this chapter refers to~~ means a final acknowledgement of the charging party’s exhaustion of the administrative remedies provided herein and written notification to the charging party of a corresponding right to commence a lawsuit in Superior Court.

(11) ~~“Genetic information” for the purpose of this chapter~~ means the results of a genetic test as defined in § 2317(a)(3) of Title 18.

(15) “Mediation” ~~for the purposes of this chapter refers to~~ means an expedited process for settling employment disputes with the assistance of an impartial third party prior to a full investigation.

(16) “Military status” means status as any of the following:

a. A member of the uniformed forces, as defined in 10 U.S.C. § 101, or a reserve component thereof listed under 10 U.S.C. § 10101.

b. A veteran as defined in 38 U.S.C. § 101.

c. A dependent of a servicemember as defined in 50 U.S.C. § 3911.

(24) “Religion” ~~as used in this subchapter~~ includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that the employer is unable to reasonably accommodate an employee’s or prospective employee’s religious observance or practice without undue hardship on the conduct of the employer’s business.

§ 711. Unlawful employment practices; employer practices.

(b) It ~~shall be~~ is an unlawful employment practice for an employer ~~to~~ to do any of the following:

(1) Fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to compensation, terms, ~~conditions~~ conditions, or privileges of employment because of such individual’s race, marital status, genetic information, color, age, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, military status, or housing status.

(2) Limit, segregate or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual’s status as an employee because of such individual’s race, marital status, genetic information, color, age, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, military status, or housing status.

(c) It ~~shall be~~ is an unlawful employment practice for an employment agency to fail or refuse to refer for employment or otherwise to discriminate against any individual because of race, marital status, genetic information, color, age, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, military status, or housing status or to classify or refer for employment any individual on the basis of race, marital status, genetic information, color, religion, age, sex (including pregnancy), sexual orientation, gender identity, national origin, military status, or housing status.

(d) It ~~shall be~~ is an unlawful employment practice for a labor organization ~~to~~ to do any of the following:

(1) Exclude or expel from its membership or otherwise to discriminate against any individual because of race, marital status, genetic information, color, age, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, military status, or housing ~~status~~; status.

(2) Limit, ~~segregate~~ segregate, or classify its ~~membership~~ membership, or to 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 the individual’s status as an employee or as an applicant for employment because of such individual’s race, marital status, genetic information, color, age, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, military status, or housing ~~status~~; or status.

(e) It ~~shall be~~ is an unlawful employment practice for any employer, labor ~~organization~~ 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 race, marital status, genetic information, color, age, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, military status, or housing status in admission to or employment in any program established to provide apprenticeship or other training.

(g) It ~~shall be~~ is an unlawful employment practice for any employer, employment agency, labor ~~organization~~ organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discharge, refuse to hire or otherwise discriminate against any individual or applicant for employment or membership on the basis of such person’s race, marital status, color, age, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, military status, or housing status or because such person has opposed any practice prohibited by this subchapter or because such person has testified, assisted or participated in any manner in an investigation, proceeding, or hearing to enforce the provisions of this subchapter.

(n) Notwithstanding any other provision of this subchapter:

(1) It ~~shall not be~~ is not an unlawful employment practice for 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~~ 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 religion, genetic information, age, sex (including pregnancy), sexual orientation, gender identity, military status, or national origin in those certain instances where religion, genetic information, age, sex (including pregnancy), sexual orientation, gender identity, national origin, military status, or housing status is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or ~~enterprise; and enterprise~~.

(o) Notwithstanding any other provision of this subchapter, it ~~shall not be~~ is not an unlawful employment practice for an employer to apply different standards of compensation or different terms, ~~conditions~~ 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 to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, marital status, genetic information, color, age, religion, sex (including pregnancy), sexual orientation, gender identity, military status, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its ~~administration~~ administration, or action upon the results is not designed, ~~intended~~ intended, or used to discriminate because of race, marital status, genetic information, color, religion, age, sex (including pregnancy), sexual orientation, gender identity, military status, or national origin.

(t) Notwithstanding any other provision of this subchapter, it is not an unlawful employment practice to make a distinction or engage in differential treatment on the basis of military status that is allowed by State law or regulation, federal law or regulation, or government contract.

Section 6. Amend § 5116, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5116. Fair housing provisions [Effective until Dec. 31, 2028].

(a) No person, being an owner or agent of any real estate, house, apartment or other premises, shall refuse or decline to rent, subrent, sublease, assign or cancel any existing rental agreement to or of any tenant or any person by reason of race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, age, source of income, occupation, military status, housing status or because the tenant or person has a child or children in the family.

(b) No person shall demand or receive a greater sum as rent for the use and occupancy of any premises because the person renting or desiring to rent the premises is of a particular race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, age, source of income, occupation, military status, housing status or has a child or children in the family.

(d) Notwithstanding subsection (a) of this section relating to age discrimination, and consistent with federal and state fair housing acts, a landlord may make rental units available exclusively for rental by senior citizens. A senior citizen rental unit shall be available for rent solely to senior citizens, without regard to race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, source of income, occupation, military status, or housing status of the senior citizen and without regard to whether or not the senior citizen has a dependent child or children in the residence.

§ 5116. Fair housing provisions [Effective Dec. 31, 2028].

(a) No person, being an owner or agent of any real estate, house, apartment or other premises, shall refuse or decline to rent, subrent, sublease, assign or cancel any existing rental agreement to or of any tenant or any person by reason of race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, age, source of income, occupation, military status, housing status or because the tenant or person has a child or children in the family.

(b) No person shall demand or receive a greater sum as rent for the use and occupancy of any premises because the person renting or desiring to rent the premises is of a particular race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, age, source of income, occupation, military status, housing status or has a child or children in the family.

(d) Notwithstanding subsection (a) of this section relating to age discrimination, and consistent with federal and state fair housing acts, a landlord may make rental units available exclusively for rental by senior citizens. A senior citizen rental unit shall be available for rent solely to senior citizens, without regard to race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, source of income, occupation, military status, or housing status of the senior citizen and without regard to whether or not the senior citizen has a dependent child or children in the residence.

(h) A distinction or differential treatment on the basis of military status that is allowed by State law or regulation, federal law or regulation, or government contract is not a violation of this section.

Section 7. Amend § 5141, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 5141. Definitions.

For purposes of Part III of this title:

(21) “Military status” means status as any of the following:

a. A member of the uniformed forces, as defined in 10 U.S.C. § 101, or a reserve component thereof listed under 10 U.S.C. § 10101.

b. A veteran as defined in 38 U.S.C. § 101.

c. A dependent of a servicemember as defined in 50 U.S.C. § 3911.

Section 8. Amend § 5953, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5953. Discrimination prohibited.

(a) For purposes of this section:

(1) “Military status” means status as any of the following:

a. A member of the uniformed forces, as defined in 10 U.S.C. § 101, or a reserve component thereof listed under 10 U.S.C. § 10101.

b. A veteran as defined in 38 U.S.C. § 101.

c. A dependent of a servicemember as defined in 50 U.S.C. § 3911.

(b) A person may not be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or be in any way favored or discriminated against with respect to employment in the classified service, because of political or religious opinions or affiliations, sexual orientation, gender identity, sex, military status, or race.

(c) The veterans’ and members’ preference in § 5935 of this title and any other distinction or differential treatment on the basis of military status that is allowed by State law or regulation, federal law, or regulation, or government contract is not a violation of this section.

Approved July 23, 2025