January 15, 2010

SENATE BILL No. 190

DIGEST OF SB 190 (Updated January 13, 2010 11:31 am - DI 102)

Citations Affected: IC 22-9.

Synopsis: Discriminatory practice definition. Provides that an adverse action against an employee because that employee opposed or attempted to oppose a practice that is unlawful under civil rights enforcement laws is a discriminatory practice.

Effective: July 1, 2010.

Boots

January 5, 2010, read first time and referred to Committee on Pensions and Labor.
January 14, 2010, amended, reported favorably — Do Pass.

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January 15, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

C o p y

SENATE BILL No. 190

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 22-9-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. As used in this chapter:

(a) "Person" means one (1) or more individuals, partnerships, associations, organizations, limited liability companies, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons.

(b) "Commission" means the civil rights commission created under section 4 of this chapter.

(c) "Director" means the director of the civil rights commission.

(d) "Deputy director" means the deputy director of the civil rights commission.

(e) "Commission attorney" means the deputy attorney general, such assistants of the attorney general as may be assigned to the commission, or such other attorney as may be engaged by the commission.

(f) "Consent agreement" means a formal agreement entered into in

lieu of adjudication.

(g) "Affirmative action" means those acts that the commission determines necessary to assure compliance with the Indiana civil rights law.

(h) "Employer" means the state or any political or civil subdivision thereof and any person employing six (6) or more persons within the state, except that the term "employer" does not include:

(1) any nonprofit corporation or association organized exclusively for fraternal or religious purposes;

(2) any school, educational, or charitable religious institution owned or conducted by or affiliated with a church or religious institution; or

(3) any exclusively social club, corporation, or association that is not organized for profit.

(i) "Employee" means any person employed by another for wages or salary. However, the term does not include any individual employed:

(1) by ~~his~~ **the individual's** parents, spouse, or child; or

(2) in the domestic service of any person.

(j) "Labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or for other mutual aid or protection in relation to employment.

(k) "Employment agency" means any person undertaking with or without compensation to procure, recruit, refer, or place employees.

(l) "Discriminatory practice" means:

(1) the exclusion of a person from equal opportunities because of race, religion, color, sex, disability, national origin, or ancestry;

(2) a system that excludes persons from equal opportunities because of race, religion, color, sex, disability, national origin, or ancestry;

(3) the promotion of racial segregation or separation in any manner, including but not limited to the inducing of or the attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry; ~~or~~

(4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is committed by a covered entity (as defined in IC 22-9-5-4); **or**

(5) taking adverse action against an employee because that employee opposed or attempted to oppose a practice that is unlawful under this chapter.

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Every discriminatory practice relating to the acquisition or sale of real estate, education, public accommodations, employment, or the extending of credit (as defined in IC 24-4.5-1-301) shall be considered unlawful unless it is specifically exempted by this chapter.

(m) "Public accommodation" means any establishment that caters or offers its services or facilities or goods to the general public.

(n) "Complainant" means:

(1) any individual charging on ~~his~~ **the individual's** own behalf to have been personally aggrieved by a discriminatory practice; or

(2) the director or deputy director of the commission charging that a discriminatory practice was committed against:

(A) a person other than ~~himself~~ **the director or deputy director of the commission;** or

(B) a class of people;

in order to vindicate the public policy of the state (as defined in section 2 of this chapter).

(o) "Complaint" means any written grievance that is:

(1) sufficiently complete and filed by a complainant with the commission; or

(2) filed by a complainant as a civil action in the circuit or superior court having jurisdiction in the county in which the alleged discriminatory practice occurred.

The original of any complaint filed under subdivision (1) shall be signed and verified by the complainant.

(p) "Sufficiently complete" refers to a complaint that includes:

(1) the full name and address of the complainant;

(2) the name and address of the respondent against whom the complaint is made;

(3) the alleged discriminatory practice and a statement of particulars thereof;

(4) the date or dates and places of the alleged discriminatory practice and if the alleged discriminatory practice is of a continuing nature the dates between which continuing acts of discrimination are alleged to have occurred; and

(5) a statement as to any other action, civil or criminal, instituted in any other form based upon the same grievance alleged in the complaint, together with a statement as to the status or disposition of the other action.

No complaint shall be valid unless filed within one hundred eighty (180) days from the date of the occurrence of the alleged discriminatory practice.

(q) "Sex" as it applies to segregation or separation in this chapter

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applies to all types of employment, education, public accommodations, and housing. However:

(1) it shall not be a discriminatory practice to maintain separate rest rooms;

(2) it shall not be 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, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and

(3) it shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one (1) sex only.

(r) "Disabled" or "disability" means the physical or mental condition of a person that constitutes a substantial disability. In reference to employment, under this chapter, "disabled or disability" also means the physical or mental condition of a person that constitutes a substantial disability unrelated to the person's ability to engage in a particular occupation.

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 190, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 40, delete "another person" and insert "**an employee**".

Page 2, line 41, delete "person" and insert "**employee opposed or**".

and when so amended that said bill do pass.

(Reference is to SB 190 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 11, Nays 0.

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