



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4625

Introduced 1/21/2022, by Rep. Suzanne Ness

SYNOPSIS AS INTRODUCED:

775 ILCS 5/2-102

from Ch. 68, par. 2-102

775 ILCS 5/5-102.3 new

Amends the Illinois Human Rights Act. Provides that it is a civil rights violation for employers, employment agencies, and labor organizations to take certain employment-related actions on the basis of an individual's weight and size. Provides that it is a civil rights violation for any person, being the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, because of the weight and size of any person, directly or indirectly, to refuse, withhold from, or deny to any individual any of the accommodations, advantages, facilities, or privileges thereof.

LRB102 23742 LNS 32931 b

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Human Rights Act is amended by
5 changing Sections 2-102 and by adding Section 5-102.3 as
6 follows:

7 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

8 Sec. 2-102. Civil rights violations - employment. It is a
9 civil rights violation:

10 (A) Employers. For any employer to refuse to hire, to
11 segregate, to engage in harassment as defined in
12 subsection (E-1) of Section 2-101, or to act with respect
13 to recruitment, hiring, promotion, renewal of employment,
14 selection for training or apprenticeship, discharge,
15 discipline, tenure or terms, privileges or conditions of
16 employment on the basis of unlawful discrimination,
17 citizenship status, or work authorization status. An
18 employer is responsible for harassment by the employer's
19 nonmanagerial and nonsupervisory employees only if the
20 employer becomes aware of the conduct and fails to take
21 reasonable corrective measures.

22 (A-5) Language. For an employer to impose a
23 restriction that has the effect of prohibiting a language

1 from being spoken by an employee in communications that
2 are unrelated to the employee's duties.

3 For the purposes of this subdivision (A-5), "language"
4 means a person's native tongue, such as Polish, Spanish,
5 or Chinese. "Language" does not include such things as
6 slang, jargon, profanity, or vulgarity.

7 (A-10) Harassment of nonemployees. For any employer,
8 employment agency, or labor organization to engage in
9 harassment of nonemployees in the workplace. An employer
10 is responsible for harassment of nonemployees by the
11 employer's nonmanagerial and nonsupervisory employees only
12 if the employer becomes aware of the conduct and fails to
13 take reasonable corrective measures. For the purposes of
14 this subdivision (A-10), "nonemployee" means a person who
15 is not otherwise an employee of the employer and is
16 directly performing services for the employer pursuant to
17 a contract with that employer. "Nonemployee" includes
18 contractors and consultants. This subdivision applies to
19 harassment occurring on or after the effective date of
20 this amendatory Act of the 101st General Assembly.

21 (B) Employment agency. For any employment agency to
22 fail or refuse to classify properly, accept applications
23 and register for employment referral or apprenticeship
24 referral, refer for employment, or refer for
25 apprenticeship on the basis of unlawful discrimination,
26 citizenship status, or work authorization status or to

1 accept from any person any job order, requisition or
2 request for referral of applicants for employment or
3 apprenticeship which makes or has the effect of making
4 unlawful discrimination or discrimination on the basis of
5 citizenship status or work authorization status a
6 condition of referral.

7 (C) Labor organization. For any labor organization to
8 limit, segregate or classify its membership, or to limit
9 employment opportunities, selection and training for
10 apprenticeship in any trade or craft, or otherwise to
11 take, or fail to take, any action which affects adversely
12 any person's status as an employee or as an applicant for
13 employment or as an apprentice, or as an applicant for
14 apprenticeships, or wages, tenure, hours of employment or
15 apprenticeship conditions on the basis of unlawful
16 discrimination, citizenship status, or work authorization
17 status.

18 (D) Sexual harassment. For any employer, employee,
19 agent of any employer, employment agency or labor
20 organization to engage in sexual harassment; provided,
21 that an employer shall be responsible for sexual
22 harassment of the employer's employees by nonemployees or
23 nonmanagerial and nonsupervisory employees only if the
24 employer becomes aware of the conduct and fails to take
25 reasonable corrective measures.

26 (D-5) Sexual harassment of nonemployees. For any

1 employer, employee, agent of any employer, employment
2 agency, or labor organization to engage in sexual
3 harassment of nonemployees in the workplace. An employer
4 is responsible for sexual harassment of nonemployees by
5 the employer's nonmanagerial and nonsupervisory employees
6 only if the employer becomes aware of the conduct and
7 fails to take reasonable corrective measures. For the
8 purposes of this subdivision (D-5), "nonemployee" means a
9 person who is not otherwise an employee of the employer
10 and is directly performing services for the employer
11 pursuant to a contract with that employer. "Nonemployee"
12 includes contractors and consultants. This subdivision
13 applies to sexual harassment occurring on or after the
14 effective date of this amendatory Act of the 101st General
15 Assembly.

16 (E) Public employers. For any public employer to
17 refuse to permit a public employee under its jurisdiction
18 who takes time off from work in order to practice his or
19 her religious beliefs to engage in work, during hours
20 other than such employee's regular working hours,
21 consistent with the operational needs of the employer and
22 in order to compensate for work time lost for such
23 religious reasons. Any employee who elects such deferred
24 work shall be compensated at the wage rate which he or she
25 would have earned during the originally scheduled work
26 period. The employer may require that an employee who

1 plans to take time off from work in order to practice his
2 or her religious beliefs provide the employer with a
3 notice of his or her intention to be absent from work not
4 exceeding 5 days prior to the date of absence.

5 (E-5) Religious discrimination. For any employer to
6 impose upon a person as a condition of obtaining or
7 retaining employment, including opportunities for
8 promotion, advancement, or transfer, any terms or
9 conditions that would require such person to violate or
10 forgo a sincerely held practice of his or her religion
11 including, but not limited to, the wearing of any attire,
12 clothing, or facial hair in accordance with the
13 requirements of his or her religion, unless, after
14 engaging in a bona fide effort, the employer demonstrates
15 that it is unable to reasonably accommodate the employee's
16 or prospective employee's sincerely held religious belief,
17 practice, or observance without undue hardship on the
18 conduct of the employer's business.

19 Nothing in this Section prohibits an employer from
20 enacting a dress code or grooming policy that may include
21 restrictions on attire, clothing, or facial hair to
22 maintain workplace safety or food sanitation.

23 (F) Training and apprenticeship programs. For any
24 employer, employment agency or labor organization to
25 discriminate against a person on the basis of age in the
26 selection, referral for or conduct of apprenticeship or

1 training programs.

2 (G) Immigration-related practices.

3 (1) for an employer to request for purposes of
4 satisfying the requirements of Section 1324a(b) of
5 Title 8 of the United States Code, as now or hereafter
6 amended, more or different documents than are required
7 under such Section or to refuse to honor documents
8 tendered that on their face reasonably appear to be
9 genuine or to refuse to honor work authorization based
10 upon the specific status or term of status that
11 accompanies the authorization to work; or

12 (2) for an employer participating in the E-Verify
13 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot
14 Programs for Employment Eligibility Confirmation
15 (enacted by PL 104-208, div. C title IV, subtitle A) to
16 refuse to hire, to segregate, or to act with respect to
17 recruitment, hiring, promotion, renewal of employment,
18 selection for training or apprenticeship, discharge,
19 discipline, tenure or terms, privileges or conditions
20 of employment without following the procedures under
21 the E-Verify Program.

22 (H) (Blank).

23 (H-5) Weight and size.

24 (1) For an employer or licensing agency, on the
25 basis of an individual's weight and size, to refuse to
26 hire or employ the individual, to bar or discharge the

1 individual from employment, or to discriminate against
2 the individual in compensation or in terms,
3 conditions, or privileges of employment.

4 (2) For an employment agency, on the basis of an
5 individual's weight and size, to discriminate in
6 receiving, classifying, disposing, or otherwise acting
7 upon an application for the employment agency's
8 services or in referring an individual to an employer.

9 (3) For a labor organization, on the basis of an
10 individual's weight and size, to exclude an
11 individual, to expel an individual from its
12 membership, or to discriminate in any way against any
13 of its members or against any employer or any
14 individual employed by an employer.

15 (4) For any employer or employment agency to print
16 or circulate, or cause to be printed or circulated,
17 any statement, advertisement, or publication, or to
18 use any form of application for employment or to make
19 any inquiry in connection with prospective employment
20 which expresses, directly or indirectly, any
21 limitation, specification, or discrimination as to
22 weight and size, or any intent to make a weight and
23 size limitation, specification, or discrimination,
24 unless based upon a bona fide occupational
25 qualification.

26 (I) Pregnancy. For an employer to refuse to hire, to

1 segregate, or to act with respect to recruitment, hiring,
2 promotion, renewal of employment, selection for training
3 or apprenticeship, discharge, discipline, tenure or terms,
4 privileges or conditions of employment on the basis of
5 pregnancy, childbirth, or medical or common conditions
6 related to pregnancy or childbirth. Women affected by
7 pregnancy, childbirth, or medical or common conditions
8 related to pregnancy or childbirth shall be treated the
9 same for all employment-related purposes, including
10 receipt of benefits under fringe benefit programs, as
11 other persons not so affected but similar in their ability
12 or inability to work, regardless of the source of the
13 inability to work or employment classification or status.

14 (J) Pregnancy; reasonable accommodations.

15 (1) If after a job applicant or employee,
16 including a part-time, full-time, or probationary
17 employee, requests a reasonable accommodation, for an
18 employer to not make reasonable accommodations for any
19 medical or common condition of a job applicant or
20 employee related to pregnancy or childbirth, unless
21 the employer can demonstrate that the accommodation
22 would impose an undue hardship on the ordinary
23 operation of the business of the employer. The
24 employer may request documentation from the employee's
25 health care provider concerning the need for the
26 requested reasonable accommodation or accommodations

1 to the same extent documentation is requested for
2 conditions related to disability if the employer's
3 request for documentation is job-related and
4 consistent with business necessity. The employer may
5 require only the medical justification for the
6 requested accommodation or accommodations, a
7 description of the reasonable accommodation or
8 accommodations medically advisable, the date the
9 reasonable accommodation or accommodations became
10 medically advisable, and the probable duration of the
11 reasonable accommodation or accommodations. It is the
12 duty of the individual seeking a reasonable
13 accommodation or accommodations to submit to the
14 employer any documentation that is requested in
15 accordance with this paragraph. Notwithstanding the
16 provisions of this paragraph, the employer may require
17 documentation by the employee's health care provider
18 to determine compliance with other laws. The employee
19 and employer shall engage in a timely, good faith, and
20 meaningful exchange to determine effective reasonable
21 accommodations.

22 (2) For an employer to deny employment
23 opportunities or benefits to or take adverse action
24 against an otherwise qualified job applicant or
25 employee, including a part-time, full-time, or
26 probationary employee, if the denial or adverse action

1 is based on the need of the employer to make reasonable
2 accommodations to the known medical or common
3 conditions related to the pregnancy or childbirth of
4 the applicant or employee.

5 (3) For an employer to require a job applicant or
6 employee, including a part-time, full-time, or
7 probationary employee, affected by pregnancy,
8 childbirth, or medical or common conditions related to
9 pregnancy or childbirth to accept an accommodation
10 when the applicant or employee did not request an
11 accommodation and the applicant or employee chooses
12 not to accept the employer's accommodation.

13 (4) For an employer to require an employee,
14 including a part-time, full-time, or probationary
15 employee, to take leave under any leave law or policy
16 of the employer if another reasonable accommodation
17 can be provided to the known medical or common
18 conditions related to the pregnancy or childbirth of
19 an employee. No employer shall fail or refuse to
20 reinstate the employee affected by pregnancy,
21 childbirth, or medical or common conditions related to
22 pregnancy or childbirth to her original job or to an
23 equivalent position with equivalent pay and
24 accumulated seniority, retirement, fringe benefits,
25 and other applicable service credits upon her
26 signifying her intent to return or when her need for

1 reasonable accommodation ceases, unless the employer
2 can demonstrate that the accommodation would impose an
3 undue hardship on the ordinary operation of the
4 business of the employer.

5 For the purposes of this subdivision (J), "reasonable
6 accommodations" means reasonable modifications or
7 adjustments to the job application process or work
8 environment, or to the manner or circumstances under which
9 the position desired or held is customarily performed,
10 that enable an applicant or employee affected by
11 pregnancy, childbirth, or medical or common conditions
12 related to pregnancy or childbirth to be considered for
13 the position the applicant desires or to perform the
14 essential functions of that position, and may include, but
15 is not limited to: more frequent or longer bathroom
16 breaks, breaks for increased water intake, and breaks for
17 periodic rest; private non-bathroom space for expressing
18 breast milk and breastfeeding; seating; assistance with
19 manual labor; light duty; temporary transfer to a less
20 strenuous or hazardous position; the provision of an
21 accessible worksite; acquisition or modification of
22 equipment; job restructuring; a part-time or modified work
23 schedule; appropriate adjustment or modifications of
24 examinations, training materials, or policies;
25 reassignment to a vacant position; time off to recover
26 from conditions related to childbirth; and leave

1 necessitated by pregnancy, childbirth, or medical or
2 common conditions resulting from pregnancy or childbirth.

3 For the purposes of this subdivision (J), "undue
4 hardship" means an action that is prohibitively expensive
5 or disruptive when considered in light of the following
6 factors: (i) the nature and cost of the accommodation
7 needed; (ii) the overall financial resources of the
8 facility or facilities involved in the provision of the
9 reasonable accommodation, the number of persons employed
10 at the facility, the effect on expenses and resources, or
11 the impact otherwise of the accommodation upon the
12 operation of the facility; (iii) the overall financial
13 resources of the employer, the overall size of the
14 business of the employer with respect to the number of its
15 employees, and the number, type, and location of its
16 facilities; and (iv) the type of operation or operations
17 of the employer, including the composition, structure, and
18 functions of the workforce of the employer, the geographic
19 separateness, administrative, or fiscal relationship of
20 the facility or facilities in question to the employer.
21 The employer has the burden of proving undue hardship. The
22 fact that the employer provides or would be required to
23 provide a similar accommodation to similarly situated
24 employees creates a rebuttable presumption that the
25 accommodation does not impose an undue hardship on the
26 employer.

1 No employer is required by this subdivision (J) to
2 create additional employment that the employer would not
3 otherwise have created, unless the employer does so or
4 would do so for other classes of employees who need
5 accommodation. The employer is not required to discharge
6 any employee, transfer any employee with more seniority,
7 or promote any employee who is not qualified to perform
8 the job, unless the employer does so or would do so to
9 accommodate other classes of employees who need it.

10 (K) Notice.

11 (1) For an employer to fail to post or keep posted
12 in a conspicuous location on the premises of the
13 employer where notices to employees are customarily
14 posted, or fail to include in any employee handbook
15 information concerning an employee's rights under this
16 Article, a notice, to be prepared or approved by the
17 Department, summarizing the requirements of this
18 Article and information pertaining to the filing of a
19 charge, including the right to be free from unlawful
20 discrimination, the right to be free from sexual
21 harassment, and the right to certain reasonable
22 accommodations. The Department shall make the
23 documents required under this paragraph available for
24 retrieval from the Department's website.

25 (2) Upon notification of a violation of paragraph
26 (1) of this subdivision (K), the Department may launch

1 a preliminary investigation. If the Department finds a
2 violation, the Department may issue a notice to show
3 cause giving the employer 30 days to correct the
4 violation. If the violation is not corrected, the
5 Department may initiate a charge of a civil rights
6 violation.

7 (Source: P.A. 101-221, eff. 1-1-20; 102-233, eff. 8-2-21.)

8 (775 ILCS 5/5-102.3 new)

9 Sec. 5-102.3. Public accommodations; weight and size. It
10 is a civil rights violation for any person, being the owner,
11 lessee, proprietor, manager, superintendent, agent, or
12 employee of any place of public accommodation, because of the
13 weight and size of any person, directly or indirectly, to
14 refuse, withhold from, or deny to any individual any of the
15 accommodations, advantages, facilities, or privileges thereof.