

1 AN ACT concerning veterans.

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

4 Section 1. Short title. This Act may be cited as the
5 Veterans Preference in Private Employment Act.

6 Section 5. Purpose. The General Assembly intends to
7 establish a permissive preference in private employment for
8 certain veterans.

9 Section 10. Definitions. As used in this Act:

10 "Armed forces of the United States" means the United States
11 Army, Marine Corps, Navy, Air Force, and Coast Guard, or the
12 reserve component of any of those, and includes the Illinois
13 National Guard.

14 "Private employer" means any non-public sole proprietor,
15 corporation, partnership, limited liability company, or other
16 private, non-public entity employing one or more employees
17 within Illinois.

18 "Veteran" means an individual who meets one or more of the
19 following:

20 (1) has served on active duty with the armed forces of
21 the United States for a period of more than 180 days and
22 was discharged or released from active duty under

1 conditions other than dishonorable;

2 (2) was discharged or released from active duty with
3 the armed forces of the United States because of a
4 service-connected disability; or

5 (3) is a member of the Illinois National Guard who has
6 never been deployed but separated under conditions other
7 than dishonorable as noted on the individual's NGB-22
8 discharge form.

9 "Veterans' preference employment policy" means a private
10 employer's voluntary preference for hiring, promoting, or
11 retaining a veteran over another equally qualified applicant or
12 employee.

13 Section 15. Veterans' preference employment policy. A
14 private employer may adopt and apply a voluntary veterans'
15 preference employment policy if:

16 (1) the veterans' preference employment policy is in
17 writing;

18 (2) the veterans' preference employment policy is
19 publicly posted by the private employer at the place of
20 employment or on any website maintained by the private
21 employer;

22 (3) the private employer's job application informs all
23 applicants of the veterans' preference employment policy
24 and where the policy may be obtained; and

25 (4) the private employer applies the veterans'

1 preference employment policy uniformly for all employment
2 decisions regarding the hiring or promotion of veterans or
3 the retention of veterans during a reduction in force.

4 Section 20. Verification of eligibility. A private
5 employer who maintains a veterans' preference employment
6 policy pursuant to Section 15 of this Act may require and rely
7 on an applicant's or employee's Department of Defense
8 DD214/DD215 forms or their predecessor or successor forms, an
9 applicant's or employee's NGB-22 discharge form or its
10 predecessor or successor forms (if a member of the National
11 Guard), and a U.S. Department of Veterans Affairs award letter
12 (if the applicant or employee is claiming a service-connected
13 disability) to establish eligibility for such policy.

14 Section 25. The Illinois Human Rights Act is amended by
15 changing Section 2-104 as follows:

16 (775 ILCS 5/2-104) (from Ch. 68, par. 2-104)

17 Sec. 2-104. Exemptions.

18 (A) Nothing contained in this Act shall prohibit an
19 employer, employment agency or labor organization from:

20 (1) Bona Fide Qualification. Hiring or selecting
21 between persons for bona fide occupational qualifications
22 or any reason except those civil-rights violations
23 specifically identified in this Article.

1 (2) Veterans. Giving preferential treatment to
2 veterans and their relatives as required by the laws or
3 regulations of the United States or this State or a unit of
4 local government, or pursuant to a private employer's
5 voluntary veterans' preference employment policy
6 authorized by the Veterans Preference in Private
7 Employment Act.

8 (3) Unfavorable Discharge From Military Service. Using
9 unfavorable discharge from military service as a valid
10 employment criterion when authorized by federal law or
11 regulation or when a position of employment involves the
12 exercise of fiduciary responsibilities as defined by rules
13 and regulations which the Department shall adopt.

14 (4) Ability Tests. Giving or acting upon the results of
15 any professionally developed ability test provided that
16 such test, its administration, or action upon the results,
17 is not used as a subterfuge for or does not have the effect
18 of unlawful discrimination.

19 (5) Merit and Retirement Systems.

20 (a) Applying different standards of compensation,
21 or different terms, conditions or privileges of
22 employment pursuant to a merit or retirement system
23 provided that such system or its administration is not
24 used as a subterfuge for or does not have the effect of
25 unlawful discrimination.

26 (b) Effecting compulsory retirement of any

1 employee who has attained 65 years of age and who, for
2 the 2-year period immediately preceding retirement, is
3 employed in a bona fide executive or a high
4 policymaking position, if such employee is entitled to
5 an immediate nonforfeitable annual retirement benefit
6 from a pension, profit-sharing, savings, or deferred
7 compensation plan, or any combination of such plans of
8 the employer of such employee, which equals, in the
9 aggregate, at least \$44,000. If any such retirement
10 benefit is in a form other than a straight life annuity
11 (with no ancillary benefits) or if the employees
12 contribute to any such plan or make rollover
13 contributions, the retirement benefit shall be
14 adjusted in accordance with regulations prescribed by
15 the Department, so that the benefit is the equivalent
16 of a straight life annuity (with no ancillary benefits)
17 under a plan to which employees do not contribute and
18 under which no rollover contributions are made.

19 (c) Until January 1, 1994, effecting compulsory
20 retirement of any employee who has attained 70 years of
21 age, and who is serving under a contract of unlimited
22 tenure (or similar arrangement providing for unlimited
23 tenure) at an institution of higher education as
24 defined by Section 1201(a) of the Higher Education Act
25 of 1965.

26 (6) Training and Apprenticeship programs. Establishing

1 an educational requirement as a prerequisite to selection
2 for a training or apprenticeship program, provided such
3 requirement does not operate to discriminate on the basis
4 of any prohibited classification except age.

5 (7) Police and Firefighter/Paramedic Retirement.
6 Imposing a mandatory retirement age for
7 firefighters/paramedics or law enforcement officers and
8 discharging or retiring such individuals pursuant to the
9 mandatory retirement age if such action is taken pursuant
10 to a bona fide retirement plan provided that the law
11 enforcement officer or firefighter/paramedic has attained:

12 (a) the age of retirement in effect under
13 applicable State or local law on March 3, 1983; or

14 (b) if the applicable State or local law was
15 enacted after the date of enactment of the federal Age
16 Discrimination in Employment Act Amendments of 1996
17 (P.L. 104-208), the age of retirement in effect on the
18 date of such discharge under such law.

19 This paragraph (7) shall not apply with respect to any
20 cause of action arising under the Illinois Human Rights Act
21 as in effect prior to the effective date of this amendatory
22 Act of 1997.

23 (8) Police and Firefighter/Paramedic Appointment.
24 Failing or refusing to hire any individual because of such
25 individual's age if such action is taken with respect to
26 the employment of an individual as a firefighter/paramedic

1 or as a law enforcement officer and the individual has
2 attained:

3 (a) the age of hiring or appointment in effect
4 under applicable State or local law on March 3, 1983;
5 or

6 (b) the age of hiring in effect on the date of such
7 failure or refusal to hire under applicable State or
8 local law enacted after the date of enactment of the
9 federal Age Discrimination in Employment Act
10 Amendments of 1996 (P.L. 104-208).

11 As used in paragraph (7) or (8):

12 "Firefighter/paramedic" means an employee, the duties
13 of whose position are primarily to perform work directly
14 connected with the control and extinguishment of fires or
15 the maintenance and use of firefighting apparatus and
16 equipment, or to provide emergency medical services,
17 including an employee engaged in this activity who is
18 transferred to a supervisory or administrative position.

19 "Law enforcement officer" means an employee, the
20 duties of whose position are primarily the investigation,
21 apprehension, or detention of individuals suspected or
22 convicted of criminal offenses, including an employee
23 engaged in this activity who is transferred to a
24 supervisory or administrative position.

25 (9) Citizenship Status. Making legitimate distinctions
26 based on citizenship status if specifically authorized or

1 required by State or federal law.

2 (B) With respect to any employee who is subject to a
3 collective bargaining agreement:

4 (a) which is in effect on June 30, 1986,

5 (b) which terminates after January 1, 1987,

6 (c) any provision of which was entered into by a labor
7 organization as defined by Section 6(d)(4) of the Fair
8 Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

9 (d) which contains any provision that would be
10 superseded by this amendatory Act of 1987 (Public Act
11 85-748),

12 such amendatory Act of 1987 shall not apply until the
13 termination of such collective bargaining agreement or January
14 1, 1990, whichever occurs first.

15 (C)(1) For purposes of this Act, the term "disability"
16 shall not include any employee or applicant who is currently
17 engaging in the illegal use of drugs, when an employer acts on
18 the basis of such use.

19 (2) Paragraph (1) shall not apply where an employee or
20 applicant for employment:

21 (a) has successfully completed a supervised drug
22 rehabilitation program and is no longer engaging in the
23 illegal use of drugs, or has otherwise been rehabilitated
24 successfully and is no longer engaging in such use;

25 (b) is participating in a supervised rehabilitation
26 program and is no longer engaging in such use; or

1 (c) is erroneously regarded as engaging in such use,
2 but is not engaging in such use.

3 It shall not be a violation of this Act for an employer to
4 adopt or administer reasonable policies or procedures,
5 including but not limited to drug testing, designed to ensure
6 that an individual described in subparagraph (a) or (b) is no
7 longer engaging in the illegal use of drugs.

8 (3) An employer:

9 (a) may prohibit the illegal use of drugs and the use
10 of alcohol at the workplace by all employees;

11 (b) may require that employees shall not be under the
12 influence of alcohol or be engaging in the illegal use of
13 drugs at the workplace;

14 (c) may require that employees behave in conformance
15 with the requirements established under the federal
16 Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.) and
17 the Drug Free Workplace Act;

18 (d) may hold an employee who engages in the illegal use
19 of drugs or who is an alcoholic to the same qualification
20 standards for employment or job performance and behavior
21 that such employer holds other employees, even if any
22 unsatisfactory performance or behavior is related to the
23 drug use or alcoholism of such employee; and

24 (e) may, with respect to federal regulations regarding
25 alcohol and the illegal use of drugs, require that:

26 (i) employees comply with the standards

1 established in such regulations of the United States
2 Department of Defense, if the employees of the employer
3 are employed in an industry subject to such
4 regulations, including complying with regulations (if
5 any) that apply to employment in sensitive positions in
6 such an industry, in the case of employees of the
7 employer who are employed in such positions (as defined
8 in the regulations of the Department of Defense);

9 (ii) employees comply with the standards
10 established in such regulations of the Nuclear
11 Regulatory Commission, if the employees of the
12 employer are employed in an industry subject to such
13 regulations, including complying with regulations (if
14 any) that apply to employment in sensitive positions in
15 such an industry, in the case of employees of the
16 employer who are employed in such positions (as defined
17 in the regulations of the Nuclear Regulatory
18 Commission); and

19 (iii) employees comply with the standards
20 established in such regulations of the United States
21 Department of Transportation, if the employees of the
22 employer are employed in a transportation industry
23 subject to such regulations, including complying with
24 such regulations (if any) that apply to employment in
25 sensitive positions in such an industry, in the case of
26 employees of the employer who are employed in such

1 positions (as defined in the regulations of the United
2 States Department of Transportation).

3 (4) For purposes of this Act, a test to determine the
4 illegal use of drugs shall not be considered a medical
5 examination. Nothing in this Act shall be construed to
6 encourage, prohibit, or authorize the conducting of drug
7 testing for the illegal use of drugs by job applicants or
8 employees or making employment decisions based on such test
9 results.

10 (5) Nothing in this Act shall be construed to encourage,
11 prohibit, restrict, or authorize the otherwise lawful exercise
12 by an employer subject to the jurisdiction of the United States
13 Department of Transportation of authority to:

14 (a) test employees of such employer in, and applicants
15 for, positions involving safety-sensitive duties for the
16 illegal use of drugs and for on-duty impairment by alcohol;
17 and

18 (b) remove such persons who test positive for illegal
19 use of drugs and on-duty impairment by alcohol pursuant to
20 subparagraph (a) from safety-sensitive duties in
21 implementing paragraph (3).

22 (Source: P.A. 97-877, eff. 8-2-12.)