

By the Committee on Community Affairs; and Senators Thompson, Bullard, and Joyner

578-01645-14

2014220c1

1                                   A bill to be entitled  
2       An act relating to the Florida Civil Rights Act;  
3       amending s. 509.092, F.S.; prohibiting discrimination  
4       on the basis of pregnancy in public lodging and food  
5       service establishments; amending s. 760.01, F.S.;  
6       revising the general purpose of the Florida Civil  
7       Rights Act of 1992; amending s. 760.05, F.S.; revising  
8       the function of the Florida Commission on Human  
9       Relations; amending s. 760.07, F.S.; providing civil  
10      and administrative remedies for discrimination on the  
11      basis of pregnancy; amending s. 760.08, F.S.;  
12      prohibiting discrimination on the basis of pregnancy  
13      in places of public accommodation; amending s. 760.10,  
14      F.S.; prohibiting discrimination with regard to  
15      employment benefits; prohibiting employment  
16      discrimination on the basis of pregnancy; prohibiting  
17      discrimination on the basis of pregnancy by labor  
18      organizations, joint labor-management committees, and  
19      employment agencies; prohibiting discrimination on the  
20      basis of pregnancy in occupational licensing,  
21      certification, and membership organizations; providing  
22      an exception to unlawful employment practices based on  
23      pregnancy; reenacting s. 760.11(1), F.S., relating to  
24      administrative and civil remedies for violations of  
25      the Florida Civil Rights Act of 1992, to incorporate  
26      the amendments made to s. 760.10(5), F.S., in a  
27      reference thereto; providing an effective date.

28  
29   Be It Enacted by the Legislature of the State of Florida:

578-01645-14

2014220c1

30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58

Section 1. Section 509.092, Florida Statutes, is amended to read:

509.092 Public lodging establishments and public food service establishments; rights as private enterprises.—Public lodging establishments and public food service establishments are private enterprises, and the operator has the right to refuse accommodations or service to any person who is objectionable or undesirable to the operator, but such refusal may not be based upon race, creed, color, sex, pregnancy, physical disability, or national origin. A person aggrieved by a violation of this section or a violation of a rule adopted under this section has a right of action pursuant to s. 760.11.

Section 2. Subsection (2) of section 760.01, Florida Statutes, is amended to read:

760.01 Purposes; construction; title.—

(2) The general purposes of the Florida Civil Rights Act of 1992 are to secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state.

Section 3. Section 760.05, Florida Statutes, is amended to read:

760.05 Functions of the commission.—The commission shall

578-01645-14

2014220c1

59 promote and encourage fair treatment and equal opportunity for  
60 all persons regardless of race, color, religion, sex, pregnancy,  
61 national origin, age, handicap, or marital status and mutual  
62 understanding and respect among all members of all economic,  
63 social, racial, religious, and ethnic groups; and shall endeavor  
64 to eliminate discrimination against, and antagonism between,  
65 religious, racial, and ethnic groups and their members.

66 Section 4. Section 760.07, Florida Statutes, is amended to  
67 read:

68 760.07 Remedies for unlawful discrimination.—Any violation  
69 of any Florida statute making unlawful discrimination because of  
70 race, color, religion, gender, pregnancy, national origin, age,  
71 handicap, or marital status in the areas of education,  
72 employment, housing, or public accommodations gives rise to a  
73 cause of action for all relief and damages described in s.  
74 760.11(5), unless greater damages are expressly provided for. If  
75 the statute prohibiting unlawful discrimination provides an  
76 administrative remedy, the action for equitable relief and  
77 damages provided for in this section may be initiated only after  
78 the plaintiff has exhausted his or her administrative remedy.  
79 The term “public accommodations” does not include lodge halls or  
80 other similar facilities of private organizations which are made  
81 available for public use occasionally or periodically. The right  
82 to trial by jury is preserved in any case in which the plaintiff  
83 is seeking actual or punitive damages.

84 Section 5. Section 760.08, Florida Statutes, is amended to  
85 read:

86 760.08 Discrimination in places of public accommodation.—  
87 All persons are ~~shall be~~ entitled to the full and equal

578-01645-14

2014220c1

88 enjoyment of the goods, services, facilities, privileges,  
89 advantages, and accommodations of any place of public  
90 accommodation, ~~as defined in this chapter,~~ without  
91 discrimination or segregation on the ground of race, color,  
92 national origin, sex, pregnancy, handicap, familial status, or  
93 religion.

94 Section 6. Subsections (1) and (2), paragraphs (a) and (b)  
95 of subsection (3), subsections (4) through (6), and paragraph  
96 (a) of subsection (8) of section 760.10, Florida Statutes, are  
97 amended to read:

98 760.10 Unlawful employment practices.—

99 (1) It is an unlawful employment practice for an employer:

100 (a) To discharge or to fail or refuse to hire any  
101 individual, or otherwise to discriminate against any individual  
102 with respect to compensation, benefits, terms, conditions, or  
103 privileges of employment, because of such individual's race,  
104 color, religion, sex, pregnancy, national origin, age, handicap,  
105 or marital status.

106 (b) To limit, segregate, or classify employees or  
107 applicants for employment in any way which would deprive or tend  
108 to deprive any individual of employment opportunities, or  
109 adversely affect any individual's status as an employee, because  
110 of such individual's race, color, religion, sex, pregnancy,  
111 national origin, age, handicap, or marital status.

112 (2) It is an unlawful employment practice for an employment  
113 agency to fail or refuse to refer for employment, or otherwise  
114 to discriminate against, any individual because of race, color,  
115 religion, sex, pregnancy, national origin, age, handicap, or  
116 marital status or to classify or refer for employment any

578-01645-14

2014220c1

117 individual on the basis of race, color, religion, sex,  
118 pregnancy, national origin, age, handicap, or marital status.

119 (3) It is an unlawful employment practice for a labor  
120 organization:

121 (a) To exclude or to expel from its membership, or  
122 otherwise to discriminate against, any individual because of  
123 race, color, religion, sex, pregnancy, national origin, age,  
124 handicap, or marital status.

125 (b) To limit, segregate, or classify its membership or  
126 applicants for membership, or to classify or fail or refuse to  
127 refer for employment any individual, in any way which would  
128 deprive or tend to deprive any individual of employment  
129 opportunities, or adversely affect any individual's status as an  
130 employee or as an applicant for employment, because of such  
131 individual's race, color, religion, sex, pregnancy, national  
132 origin, age, handicap, or marital status.

133 (4) It is an unlawful employment practice for any employer,  
134 labor organization, or joint labor-management committee  
135 controlling apprenticeship or other training or retraining,  
136 including on-the-job training programs, to discriminate against  
137 any individual because of race, color, religion, sex, pregnancy,  
138 national origin, age, handicap, or marital status in admission  
139 to, or employment in, any program established to provide  
140 apprenticeship or other training.

141 (5) Whenever, in order to engage in a profession,  
142 occupation, or trade, it is required that a person receive a  
143 license, certification, or other credential, become a member or  
144 an associate of any club, association, or other organization, or  
145 pass any examination, it is an unlawful employment practice for

578-01645-14

2014220c1

146 any person to discriminate against any other person seeking such  
147 license, certification, or other credential, seeking to become a  
148 member or associate of such club, association, or other  
149 organization, or seeking to take or pass such examination,  
150 because of such other person's race, color, religion, sex,  
151 pregnancy, national origin, age, handicap, or marital status.

152 (6) It is an unlawful employment practice for an employer,  
153 labor organization, employment agency, or joint labor-management  
154 committee to print, or cause to be printed or published, any  
155 notice or advertisement relating to employment, membership,  
156 classification, referral for employment, or apprenticeship or  
157 other training, indicating any preference, limitation,  
158 specification, or discrimination, based on race, color,  
159 religion, sex, pregnancy, national origin, age, absence of  
160 handicap, or marital status.

161 (8) Notwithstanding any other provision of this section, it  
162 is not an unlawful employment practice under ss. 760.01-760.10  
163 for an employer, employment agency, labor organization, or joint  
164 labor-management committee to:

165 (a) Take or fail to take any action on the basis of  
166 religion, sex, pregnancy, national origin, age, handicap, or  
167 marital status in those certain instances in which religion,  
168 sex, condition of pregnancy, national origin, age, absence of a  
169 particular handicap, or marital status is a bona fide  
170 occupational qualification reasonably necessary for the  
171 performance of the particular employment to which such action or  
172 inaction is related.

173 Section 7. For the purpose of incorporating the amendment  
174 made by this act to section 760.10(5), Florida Statutes, in a

578-01645-14

2014220c1

175 reference thereto, subsection (1) of section 760.11, Florida  
176 Statutes, is reenacted to read:

177 760.11 Administrative and civil remedies; construction.—

178 (1) Any person aggrieved by a violation of ss. 760.01-  
179 760.10 may file a complaint with the commission within 365 days  
180 of the alleged violation, naming the employer, employment  
181 agency, labor organization, or joint labor-management committee,  
182 or, in the case of an alleged violation of s. 760.10(5), the  
183 person responsible for the violation and describing the  
184 violation. Any person aggrieved by a violation of s. 509.092 may  
185 file a complaint with the commission within 365 days of the  
186 alleged violation naming the person responsible for the  
187 violation and describing the violation. The commission, a  
188 commissioner, or the Attorney General may in like manner file  
189 such a complaint. On the same day the complaint is filed with  
190 the commission, the commission shall clearly stamp on the face  
191 of the complaint the date the complaint was filed with the  
192 commission. In lieu of filing the complaint with the commission,  
193 a complaint under this section may be filed with the federal  
194 Equal Employment Opportunity Commission or with any unit of  
195 government of the state which is a fair-employment-practice  
196 agency under 29 C.F.R. ss. 1601.70-1601.80. If the date the  
197 complaint is filed is clearly stamped on the face of the  
198 complaint, that date is the date of filing. The date the  
199 complaint is filed with the commission for purposes of this  
200 section is the earliest date of filing with the Equal Employment  
201 Opportunity Commission, the fair-employment-practice agency, or  
202 the commission. The complaint shall contain a short and plain  
203 statement of the facts describing the violation and the relief

578-01645-14

2014220c1

204 sought. The commission may require additional information to be  
205 in the complaint. The commission, within 5 days of the complaint  
206 being filed, shall by registered mail send a copy of the  
207 complaint to the person who allegedly committed the violation.  
208 The person who allegedly committed the violation may file an  
209 answer to the complaint within 25 days of the date the complaint  
210 was filed with the commission. Any answer filed shall be mailed  
211 to the aggrieved person by the person filing the answer. Both  
212 the complaint and the answer shall be verified.

213 Section 8. This act shall take effect July 1, 2014.