

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1935

By: Burrage

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5
6 AS INTRODUCED

7 An Act relating to employment; creating the
8 Unemployment Anti-Discrimination Act; providing short
9 title; defining terms; prohibiting unemployment
10 status discrimination; prohibiting restraint of
11 certain rights; construing violations; directing the
12 Department of Labor to investigate violations;
13 stating time for response to complaints; authorizing
14 certain administrative penalties for violations;
15 setting penalty amounts; directing promulgation of
16 rules; allowing civil suit for violations; setting
17 actual damages, liquidated damages, costs and
18 attorney fees; construing advertising job vacancies
19 and certain considerations for unemployment;
20 providing for codification; providing an effective
21 date; and declaring an emergency.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 210 of Title 40, unless there is
created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Unemployment
Anti-Discrimination Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 210.1 of Title 40, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Unemployment Anti-Discrimination Act:

5 1. "Employee" means a natural person employed in this state by
6 an employer including any natural person who is in receipt of or is
7 entitled to any compensation for labor performed in this state for
8 any employer;

9 2. "Employer" means a person, firm or corporation, agent,
10 manager, representative, contractor, subcontractor or principal, or
11 other person acting directly or indirectly in the interest of an
12 employer to offer employment or to suffer or permit another person
13 to work;

14 3. "Employment agency" means any person, firm, or corporation
15 regularly undertaking or attempting, with or without compensation,
16 to procure employees for an employer or to procure for employees
17 opportunities to work for an employer; and

18 4. "Unemployment status" means being without work and currently
19 being available for employment.

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 210.2 of Title 40, unless there
22 is created a duplication in numbering, reads as follows:

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1 A. It is an unlawful discriminatory practice for an employer or
2 employment agency, because of a natural person's unemployment
3 status, to refuse to hire or to employ such person.

4 B. It is an unlawful discriminatory practice for an employer or
5 an employment agency to discriminate against any natural person
6 because of unemployment status in receiving, classifying, disposing
7 or otherwise acting upon applications for its services or in
8 referring an applicant or applicants to an employer.

9 C. It is an unlawful discriminatory practice for an employer or
10 an employment agency to print or circulate or cause to be printed or
11 circulated any statement, advertisement or publication, or to use
12 any form of application for employment or to make any inquiry in
13 connection with prospective employment, which expresses directly or
14 indirectly, any limitation, specification or discrimination as to
15 unemployment status, or any intent to make any such limitation,
16 specification or discrimination, unless based upon a bona fide
17 occupational qualification.

18 SECTION 4. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 210.3 of Title 40, unless there
20 is created a duplication in numbering, reads as follows:

21 A. An employer or employment agency may not:

22 1. Interfere with, restrain or deny the exercise of, or the
23 attempted exercise of, any right provided under this act; or
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1 2. Fail or refuse to hire, discharge, or threaten any employee
2 or potential employee because the employee or potential employee:

3 a. opposed any practice made unlawful by this act,

4 b. has filed any charge, or has instituted or caused to
5 be instituted, any proceeding relating to any right
6 provided under this act,

7 c. has given, or is about to give, any information in
8 connection with any inquiry or proceeding relating to
9 any right provided under this act,

10 d. has testified, or is about to testify, in any inquiry
11 or proceeding relating to any right provided under
12 this act, or

13 e. provided assistance or information to any other
14 employee regarding this act.

15 B. An employee complaint or other communication need not make
16 explicit reference to any section or provision of this act to invoke
17 this act.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 210.4 of Title 40, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The Department of Labor shall receive, review, and
22 investigate complaints regarding violations of this act and shall
23 take appropriate enforcement action regarding the complaints.

1 B. The Department of Labor shall respond to a complaint arising
2 pursuant to this act no later than one month after the complaint is
3 filed.

4 C. The Department of Labor shall assess administrative
5 penalties in all cases where the Department determines that an
6 employer or employment agency has committed a violation of this act.

7 D. The Department of Labor shall promulgate rules to implement
8 the provisions of this act.

9 SECTION 6. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 210.5 of Title 40, unless there
11 is created a duplication in numbering, reads as follows:

12 A. An employer or employment agency that the Department of
13 Labor finds to have violated this act shall be subject to an
14 administrative penalty of One Thousand Dollars (\$1,000.00) per
15 claimant for a first violation, Five Thousand Dollars (\$5,000.00)
16 per claimant for a second violation, and Ten Thousand Dollars
17 (\$10,000.00) per claimant for each subsequent violation, but not to
18 exceed a total of Twenty Thousand Dollars (\$20,000.00) per fifty
19 employees employed by the firm.

20 B. Any person may also bring a civil suit for violations of
21 this act and any employer violating this act is liable for:

22 1. Actual damages equal to the amount of any wages, salary,
23 employment benefits or other compensation denied or lost to such
24 person by reason of the violation or other monetary damages or One

1 Thousand Dollars (\$1,000.00) per violation per day, whichever amount
2 is greatest;

3 2. An additional amount as liquidated damages equal to the sum
4 of wages, salary, employment benefits or other compensation denied
5 or lost to the person; and

6 3. All reasonable legal fees and costs associated with bringing
7 the action.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 210.6 of Title 40, unless there
10 is created a duplication in numbering, reads as follows:

11 A. This act does not prohibit an employer or employment agency
12 from publishing, in print, on the Internet, or in any other medium,
13 an advertisement for any job vacancy that contains any provision
14 setting forth any other qualifications for a job, as permitted by
15 law, including:

16 1. The holding of a current and valid professional or
17 occupational license;

18 2. A certificate, registration, permit, or other credential; or

19 3. A minimum level of education, training, or professional,
20 occupational, or field experience.

21 B. This act does not preclude an employer or employment agency
22 from examining the reasons underlying the status as unemployed in
23 assessing the ability of a natural person to perform a job or in
24 otherwise making employment decisions about the natural person.

1 C. This act does not prohibit an employer or employment agency
2 from publishing, in print, on the Internet, or in any other medium,
3 an advertisement for a job vacancy that contains a statement that
4 only applicants who are currently employed by the employer will be
5 considered for employment.

6 SECTION 8. This act shall become effective July 1, 2014.

7 SECTION 9. It being immediately necessary for the preservation
8 of the public peace, health and safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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