

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 249

Introduced by Pansing Brooks, 28; Cavanaugh, J., 9; Cavanaugh, M., 6;
Day, 49; Hansen, M., 26; Hunt, 8; McCollister, 20;
McKinney, 11; Vargas, 7.

Read first time January 11, 2021

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to the Nebraska Fair Employment Practice Act;
- 2 to amend section 48-1111, Revised Statutes Cumulative Supplement,
- 3 2020; to prohibit employers from inquiring about and using wage rate
- 4 history as prescribed; to harmonize provisions; and to repeal the
- 5 original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-1111, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 48-1111 (1) Except as otherwise provided in the Nebraska Fair
4 Employment Practice Act, it shall not be an unlawful employment practice
5 for an employer to apply different standards of compensation, or
6 different terms, conditions, or privileges of employment pursuant to a
7 bona fide seniority or merit system or a system which measures earnings
8 by quantity or quality of production or to employees who work in
9 different locations, if such differences are not the result of an
10 intention to discriminate because of race, color, religion, sex,
11 disability, marital status, or national origin, nor shall it be an
12 unlawful employment practice for an employer to give and to act upon the
13 results of any professionally developed ability test if such test, its
14 administration, or action upon the results is not designed, intended, or
15 used to discriminate because of race, color, religion, sex, disability,
16 marital status, or national origin.

17 (2) It shall not be an unlawful employment practice for a covered
18 entity to deny privileges of employment to an individual with a
19 disability when the qualification standards, tests, or selection criteria
20 that screen out or tend to screen out or otherwise deny a job or benefit
21 to an individual with a disability:

22 (a) Have been shown to be job-related and consistent with business
23 necessity and such performance cannot be accomplished by reasonable
24 accommodation, as required by the Nebraska Fair Employment Practice Act
25 and the federal Americans with Disabilities Act of 1990; or

26 (b) Include a requirement that an individual shall not pose a direct
27 threat, involving a significant risk to the health or safety of other
28 individuals in the workplace, that cannot be eliminated by reasonable
29 accommodation.

30 (3) It shall not be an unlawful employment practice to refuse
31 employment based on a policy of not employing both husband and wife if

1 such policy is equally applied to both sexes.

2 ~~(4) (2)~~ Except as otherwise provided in the Nebraska Fair Employment
3 Practice Act, women affected by pregnancy, childbirth, or related medical
4 conditions shall be treated the same for all employment-related purposes,
5 including receipt of employee benefits, as other persons not so affected
6 but similar in their ability or inability to work, and nothing in this
7 section shall be interpreted to provide otherwise.

8 (5)(a) It shall be an unlawful employment practice for an employer
9 to:

10 (i) Inquire about or seek from a job applicant or from the
11 applicant's current or former employer the wage rate history of the
12 applicant, except to confirm any wage rate history voluntarily provided
13 by the applicant as part of compensation negotiations;

14 (ii) Require disclosure of a job applicant's wage rate history or
15 condition employment or consideration for an interview or employment on
16 disclosure of wage rate history;

17 (iii) Retaliate against a job applicant for failing to comply with
18 any wage rate history inquiry; or

19 (iv) Rely on the wage rate history of a job applicant from any
20 current or former employer of the applicant in determining the wages for
21 such applicant at any stage in the employment process, including the
22 negotiation or drafting of any employment contract, unless such applicant
23 knowingly and willingly disclosed his or her wage rate history to the
24 employer.

25 (b) This subsection shall not:

26 (i) Apply to current employees who are applying for a position with
27 the same employer;

28 (ii) Be construed to prohibit a job applicant from voluntarily
29 sharing wage rate history with an employer; or

30 (iii) Apply to any actions taken by an employer pursuant to any
31 federal, state, or local law that specifically authorizes the disclosure

1 or verification of wage rate history for employment purposes.

2 (c) For purposes of this subsection, wage rate has the same meaning
3 as in section 48-1220.

4 (6) This section shall not require an employer to provide employee
5 benefits for abortion except when medical complications have arisen from
6 an abortion.

7 (7) Nothing in this section shall preclude an employer from
8 providing employee benefits for abortion under fringe benefit programs or
9 otherwise affect bargaining agreements in regard to abortion.

10 Sec. 2. Original section 48-1111, Revised Statutes Cumulative
11 Supplement, 2020, is repealed.