

CHAPTER 64

AN ACT to amend the title of "An act to protect all persons in their civil rights; to prevent and eliminate practices of discrimination against persons because of race, creed, color, national origin or ancestry; to create a division in the Department of Education to effect such prevention and elimination; and making an appropriation therefor," approved April sixteenth, one thousand nine hundred and forty-five (P. L. 1945, c. 169), as said title was amended by chapter eleven of the laws of one thousand nine hundred and forty-nine, so that the same shall read "An act to protect all persons in their civil rights; to prevent and eliminate practices of discrimination against persons because of race, creed, color, national origin or ancestry or because of their liability for service in the armed forces of the United States; to create a division in the Department of Education to effect such prevention and elimination; and making an appropriation therefor," and to amend the body of said act.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Title amended.

1. The title of "An act to protect all persons in their civil rights; to prevent and eliminate practices of discrimination against persons because of race, creed, color, national origin or ancestry; to create a division in the Department of Education to effect such prevention and elimination; and making an appropriation therefor," approved April sixteenth, one thousand nine hundred and forty-five (P. L. 1945, c. 169), as said title was amended by chapter eleven of the laws of one thousand nine

hundred and forty-nine, is amended to read "An act to protect all persons in their civil rights; to prevent and eliminate practices of discrimination against persons because of race, creed, color, national origin or ancestry or because of their liability for service in the armed forces of the United States; to create a division in the Department of Education to effect such prevention and elimination; and making an appropriation therefor." New title.

2. Section three of the act of which this act is amendatory is amended to read as follows: Section amended.

3. The Legislature finds and declares that practices of discrimination against any of its inhabitants, because of race, creed, color, national origin or ancestry or because of their liability for service in the armed forces of the United States, are a matter of concern to the government of the State, and that such discrimination threatens not only the rights and proper privileges of the inhabitants of the State but menaces the institutions and foundation of a free democratic State. C. 18:25-3. Declaration of legislature.

3. Section five of the act of which this act is amendatory is amended to read as follows: Section amended.

5. As used in this act, unless a different meaning clearly appears from the context: C. 18:25-5. Terms defined.

a. "Person" includes one or more individuals, partnerships, associations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and fiduciaries.

b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.

c. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

d. "Unlawful employment practice" and "unlawful discrimination" includes only those unlaw-

ful practices and acts specified in section eleven of this act.

e. "Employer" does not include a club exclusively social or a fraternal, charitable, educational or religious association or corporation, if such club, association or corporation is not organized and operated for private profit, nor does it include any employer with fewer than six persons in his employ.

f. "Employee" does not include any individual employed by his parents, spouse or child, or in the domestic service of any person.

ff. "Liability for service in the armed forces of the United States" means subject to being ordered, as an individual, or member of an organized unit, into active service in the armed forces of the United States by reason of membership in the National Guard, naval militia or a reserve component of the armed forces of the United States or subject to being inducted into such armed forces through a system of national selective service.

g. "Division" means the State "Division Against Discrimination" created by this act.

h. "Commissioner" means the State Commissioner of Education.

i. "Commission" means the Commission on Civil Rights created by this act.

j. "A place of public accommodation" shall include any tavern, roadhouse, or hotel, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any retail shop or store; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air, and stations and terminals thereof; any public bathhouse, public boardwalk, public seashore accommodation; any auditorium, meeting place, or public hall; any

theatre, or other place of public amusement, motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor; any comfort station; any dispensary, clinic or hospital; and any public library, any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey. Nothing herein contained shall be construed to include, or to apply to, any institution, bona fide club, or place of accommodation, which is in its nature distinctly private; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution, and the right of a natural parent or one in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall anything herein contained be construed to bar any private secondary or post-secondary school from using in good faith criteria other than race, creed, color, national origin or ancestry, in the admission of students.

4. Section six of the act of which this act is amendatory is amended to read as follows:

Section
amended.

6. There is created in the State Department of Education a division to be known as "The Division Against Discrimination" with power to prevent and eliminate discrimination in employment against persons because of race, creed, color, national origin or ancestry or because of their liability for service in the armed forces of the United States, by employers, labor organizations, employment agencies or other persons and to take other actions against discrimination because of race, creed, color, national origin or ancestry or because of their liability for service in the armed forces of the United States, as herein provided; and the di-

C. 18:25-6.
The division
against
discrimination
created.

vision created hereunder is given general jurisdiction and authority for such purposes.

Section
amended.

5. Section eight of the act of which this act is amendatory is amended to read as follows:

C. 18:25-8.

Powers and
duties of
commissioner.

8. The commissioner shall

a. Exercise all powers of the division not vested in the commission.

b. Administer the work of the division.

c. Organize the division into two sections, one of which shall receive, investigate, and act upon complaints alleging discrimination in employment against persons because of race, creed, color, national origin or ancestry or because of their liability for service in the armed forces of the United States, and the other of which shall receive, investigate, and act upon complaints alleging other unlawful acts of discrimination against persons because of race, creed, color, national origin or ancestry; prescribe the organization of said sections and the duties of his subordinates and assistants.

d. Subject to the approval of the commission and the Governor, appoint an assistant Commissioner of Education, who shall act for the commissioner, in his place and with his powers, and such other directors, field representatives and assistants as may be necessary for the proper administration of the division and fix their compensation within the limits of available appropriations. The assistant commissioner, directors, field representatives, and assistants shall not be subject to the civil service act and shall be removable by the commissioner at will.

e. Appoint such clerical force and employees as he may deem necessary and fix their duties, all of whom shall be subject to the civil service act.

f. Maintain liaison with local and State officials and agencies concerned with matters related to the work of the division.

g. Subject to the approval of the commission adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this act.

h. Receive, investigate, and pass upon complaints alleging acts in violation of the provisions of this act.

i. Hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person, under oath, and, in connection therewith, require the production for examination of any books or papers relating to any subject matter under investigation or in question before the commissioner. The commissioner may make rules as to the issuance of subpoenas by the assistant commissioner.

j. Issue such publications and such results of investigations and research tending to promote good will and to minimize or eliminate discrimination because of race, creed, color, national origin or ancestry, as the commission shall direct.

k. Render each year to the Governor and Legislature a full written report of all the activities of the division.

6. Section eleven of the act of which this act is amendatory is amended to read as follows:

Section amended.

11. It shall be an unlawful employment practice, or, as the case may be, an unlawful discrimination:

C. 18:25-12.
Unlawful employment practice.

a. For an employer, because of the race, creed, color, national origin or ancestry, of any individual, or because of the liability for service in the armed forces of the United States, of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces.

b. For a labor organization, because of the race, creed, color, national origin or ancestry, of any individual, or because of the liability for service in the armed forces of the United States, of any individual, to exclude or to expel from its member-

ship such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer.

c. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin or ancestry or liability of any applicant for employment for service in the armed forces of the United States, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

d. For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices or acts forbidden under this act or because he has filed a complaint, testified or assisted in any proceeding under this act.

e. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.

f. For any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post or mail any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of the race, creed, color, national origin, or ancestry of such person, or that the patronage or custom thereat of any person of any particular race, creed, color, national

origin or ancestry is unwelcome, objectionable or not acceptable, desired or solicited, and the production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any owner, lessee, proprietor, superintendent, or manager thereof, shall be presumptive evidence in any action that the same was authorized by such person.

7. Section twenty-six of the act of which this act is amendatory is amended to read as follows:

Section
amended.

26. The provisions of this act shall be construed fairly and justly with due regard to the interests of all parties. Nothing contained in this act shall be deemed to repeal any of the provisions of the civil rights law or of any other law of this State relating to discrimination because of race, creed, color, national origin or ancestry or liability for service in the armed forces of the United States; except that, as to practices and acts declared unlawful by section eleven of this act, the procedure herein provided shall, while pending, be exclusive; and the final determination therein shall exclude any other action, civil or criminal, based on the same grievance of the individual concerned. Nothing herein contained shall bar, exclude, or otherwise affect any right or action, civil or criminal, which may exist independently of any right to redress against or specific relief from an unlawful employment practice or unlawful discrimination.

C. 18:25-27.
Construing.

8. This act shall take effect immediately.

Approved May 8, 1951.