

1 SB376
2 161869-1
3 By Senators Hightower and Glover
4 RFD: Veterans and Military Affairs
5 First Read: 14-APR-15

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8 SYNOPSIS: Currently, there is no specific state law
9 prohibiting discriminatory hiring practices against
10 veterans.

11 This bill would specifically prohibit
12 discriminatory hiring practices against veterans.
13 The bill would provide that the Department of
14 Veterans' Affairs would review complaints of
15 alleged discriminatory practices and issue, if
16 appropriate, administrative orders to provide
17 remedies for violations.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To amend Sections 31-5-4 and 31-5-7, Code of Alabama
24 1975, relating to the Department of Veterans' Affairs; to
25 prohibit discriminatory hiring practices against veterans; to
26 provide for complaints by veterans, hearings of alleged

1 violations, and administrative relief; and to provide for a
2 defense based on certain job-related criteria.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 31-5-4 and 31-5-7, Code of
5 Alabama 1975, are amended to read as follows:

6 "§31-5-4.

7 "(a) The State Department of Veterans' Affairs shall
8 assist every veteran of any war of the United States in
9 presenting and pursuing ~~such~~ any claim ~~as~~ the veteran may have
10 against the United States arising out of war service and in
11 establishing the veteran's right to any privilege, preference,
12 care, or compensation provided for by the laws of the United
13 States or of the State of Alabama, when the veteran requests
14 such assistance. Whenever the veteran applying to a
15 representative of the State Department of Veterans' Affairs
16 shall have executed a power of attorney to any veterans'
17 organization or the American Red Cross, the representative
18 shall accept any claim or information pertaining to any claim,
19 right, preference, privilege, compensation, or application for
20 care from the veteran and advise ~~with him~~ as to the proper
21 preparation of the same and then forward the same to the State
22 Department of Veterans' Affairs in order that it might make
23 contact with the organization to which the veteran has given a
24 power of attorney for the further handling, presenting, and
25 prosecuting of such claim. Should any veteran making
26 application to the State Department of Veterans' Affairs not
27 have given a power of attorney to any organization to

1 represent ~~him~~ the veteran in handling his or her affairs, the
2 department shall advise him or her of the organizations
3 recognized by the Veterans' Administration to represent ~~him~~
4 the veteran and allow the veteran to make ~~his~~ the choice of
5 the organization ~~he desires~~ to represent him.

6 "(b) As used in subdivisions (c) through (h) of this
7 section, a veteran is an individual who is a current or former
8 member of the Armed Forces of the United States or a reserve
9 component of the armed forces or a current or former member of
10 the Alabama National Guard or a reserve component of the
11 National Guard.

12 "(c) It is against the public policy of this state
13 and is an unlawful employment practice for an employer to
14 discriminate against a prospective employee solely on the
15 basis the prospective employee is a veteran.

16 "(d) It is a defense to a charge of discrimination
17 under this section that an alleged discriminatory application
18 of qualification standards, tests, or selection criteria that
19 screen out or tend to screen out or otherwise deny a job or a
20 benefit to a veteran with a disability has been shown to be
21 job-related and consistent with business necessity, and
22 performance cannot be accomplished by another reasonable
23 accommodation.

24 "(e) A veteran may file a complaint with the
25 department alleging a violation of this section. The
26 department shall investigate and attempt to resolve any
27 complaint. The department may hold an administrative hearing

1 on the complaint and after a hearing may issue an
2 administrative order or orders. An order may require an
3 employer to pay restitution for an aggrieved veteran, require
4 the hiring of the aggrieved veteran, and may order such other
5 administrative relief as is appropriate. Either the veteran or
6 the department may appeal the outcome of a hearing to the
7 circuit court in the county in which the veteran resides.

8 "(f) The department may adopt and enforce rules
9 necessary to administer subsections (b) to (h) of this
10 section. These rules shall not be in conflict with rules
11 adopted under the employment discrimination provisions of the
12 federal Uniformed Services Employment and Reemployment Rights
13 Act (USERRA), P.L.103-353 (38 U.S.C. §4301, et seq.).

14 "(g) This section shall not be construed to limit
15 any of the preferences for the hiring of, employment of, or
16 benefits for veterans that are contained in any other
17 provision of the Code of Alabama 1975.

18 "(h) Each employer subject to this section shall
19 provide notice of this section in a format accessible to
20 applicants, describing the applicable provisions of this
21 section. The department shall formulate language for the use
22 of an employer that complies with this section and any rules
23 adopted pursuant to this section.

24 "§31-5-7.

25 "(a) The State Service Commissioner shall submit to
26 the State Board of Veterans' Affairs for its approval an
27 annual budget of all funds appropriated by the Legislature to

1 the department for the specific purposes for which they are
2 appropriated, and also a budget of any federal funds which may
3 be allotted to the state by the federal government for the
4 purposes of the department according to the regulations of the
5 federal authorities. He shall publish annually a full report
6 of the operations and administration of the department,
7 together with recommendations and suggestions, and submit such
8 report to the state board.

9 "(b) It shall be the duty of the state commissioner
10 to:

11 "(1) Prepare detailed plans for, and fully develop,
12 a comprehensive statewide veterans' assistance program.

13 "(2) Cooperate with all other heads of the state
14 departments in coordinating the plans and programs of state
15 agencies which may properly be utilized in the administration
16 of various aspects of the problems of veterans, and dependents
17 of veterans, such as the office of the State Adjutant General,
18 the State Department of Education, the State Department of
19 Pensions and Security, the State Department of Industrial
20 Relations, the State Planning Board, the State Board of
21 Health, and any other state agencies furnishing services to
22 veterans.

23 "(3) Provide a central contact between federal
24 agencies dealing with the problems of veterans, such as the
25 United States Veterans' Administration, the Selective Service
26 System, the Social Security Administration, the Department of
27 Defense and other federal agencies on the one hand, and the

1 several state agencies which may administer the various
2 aspects of the veterans' services and benefits on the other.

3 "(4) Maintain central case records of all veterans
4 seeking services or benefits to facilitate the interchange of
5 information and case histories among the several state
6 administrative agencies and the federal agencies to provide a
7 clearinghouse of information.

8 "(c) Other duties of the state commissioner shall be
9 to:

10 "(1) Acquaint himself, his associates, and the
11 employees with the laws, federal, state, and local, enacted
12 for the benefit of members of the armed forces, veterans,
13 their families, and dependents.

14 "(2) Collect data and information as to the
15 facilities and services available to them, and cooperate with
16 information or service agencies throughout the state, to
17 inform members of the armed forces, veterans, their families,
18 and dependents, and the military and civil authorities
19 regarding the existence or availability of:

20 "a. Educational training and retraining facilities.

21 "b. Health, medical, rehabilitation, and housing
22 services and facilities.

23 "c. Employment and reemployment services.

24 "d. Provisions of federal, state, and local laws
25 affording rights, privileges and benefits to members of the
26 armed forces, veterans, their families, and dependents.

1 "e. Other matters of similar, relative, or
2 appropriate natures.

3 "(3) Aid all residents of the State of Alabama who
4 served in the military or naval forces or other armed services
5 of the United States during any war in which the United States
6 has been engaged, and members of the armed services during the
7 peace times who have been honorably discharged from such
8 service, their relatives, beneficiaries, and dependents, to
9 receive from the United States any and all compensation,
10 hospitalization, insurance, education, employment, loan
11 guarantees, or any other aid or benefit to which they may be
12 entitled under existing laws of the United States, or such as
13 may be hereafter enacted, and he shall perform such other
14 duties in connection therewith as may be assigned by the state
15 board.

16 "(4) Cooperate and negotiate with the federal
17 government, all national, state and local governmental, or
18 private agencies for securing additional services or benefits
19 for veterans, their families, and dependents who are residents
20 of the State of Alabama.

21 "(5) Develop and implement statewide plans for a
22 repatriation program for proper reinterment, with appropriate
23 honors, of the bodies of members of the armed services
24 returned from temporary overseas cemeteries.

25 "(6) Provide for and maintain an advisory,
26 counselling, and assistance service for dependents of present

1 members of the armed services in connection with dependency
2 allotments and allowances.

3 "(7) Disseminate information and instructions on a
4 statewide basis pertaining to such acts as may be enacted from
5 time to time by the Congress providing benefits for active
6 members of the armed forces, their beneficiaries and
7 dependents.

8 "(8) Assist former prisoners of war and civilian
9 internees to collect such indemnities and benefits as may be
10 authorized by Congress from seized assets of enemy nations.

11 "(9) Compile, publish, and distribute casualty lists
12 resulting from the Korean and Southeast Asian actions and any
13 subsequent hostilities and to aid survivors and dependents of
14 such survivors and dependents of such casualties to recover
15 all rightful benefits before or after termination of armed
16 service.

17 "(10) To maintain an information service to county
18 and city service officers for the necessary dissemination of
19 material pertaining to all phases of veterans' rehabilitation
20 and service work, including information necessary to inform
21 veterans of the protections provided by Section 31-5-4."

22 Section 2. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.