

LEGISLATIVE BILL 424

Approved by the Governor May 9, 1983

Introduced by Beutler, 28

AN ACT to amend sections 48-1002, 48-1008, and 48-1220, Reissue Revised Statutes of Nebraska, 1943, and section 48-1003, Revised Statutes Supplement, 1982, relating to labor; to redefine terms; to change limitations; to change provisions relating to filing of an action; to provide for actions against the state as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 48-1002, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1002. As used in sections 48-1001 to 48-1009 and section 4 of this act, unless the context otherwise requires:

(1) Person shall include one or more individuals, partnerships, associations, labor organizations, corporations, business trusts, legal representatives, or any organized group of persons;

(2) Employer shall mean a person having in his or her employ twenty-five or more individuals, and includes the State of Nebraska, governmental agencies, and political subdivisions, regardless of the number of employees, and any person acting for or in the interest of an employer, directly or indirectly, but such term does shall not include (a) the United States, or (b) a corporation wholly owned by the government of the United States; or (c) any person or political entity acting with respect to any peace officer or firefighter;

(3) Labor organization shall mean any organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or for other mutual aid or protection in connection with employment;

(4) Employee shall mean an individual employed by any employer; and

(5) Employment agency shall mean any person

regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, except that such terms term shall include the United States Employment Service and the system of state and local employment services receiving federal assistance.

Sec. 2. That section 48-1003, Revised Statutes Supplement, 1982, be amended to read as follows:

48-1003. (1) The prohibitions of sections 48-1001 to 48-1009 shall be limited to the employment of individuals who are at least forty years of age but less than seventy years of age.

(2) Nothing contained in sections 48-1001 to 48-1009 shall be construed as making it unlawful for an employer, employment agency, or labor organization (a) to take action otherwise prohibited under the provisions of sections 48-1001 to 48-1009 when age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or when the differentiation is based on reasonable factors other than age, such as physical conditions; or (b) to discharge or otherwise discipline an employee for good cause.

Sec. 3. That section 48-1008, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1008. Any person aggrieved by a suspected violation of the provisions of sections 48-1001 to 48-1009 shall file with the Equal Opportunity Commission a formal complaint in such manner and form prescribed by the commission. The commission shall have a period of thirty days to make an investigation and may initiate an action to enforce the rights of such employee under the provisions of sections 48-1001 to 48-1009. Any if the commission does not initiate an action within thirty days after receipt of a complaint, the person aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of sections 48-1001 to 48-1009. Filing of an action by either the commission or the person aggrieved shall be a bar to the filing of the action by the other.

Sec. 4. The state, governmental agencies, and political subdivisions may be sued upon claims arising under the Act Prohibiting Unjust Discrimination in Employment Because of Age in the same manner as provided by such act for suits against other employers.

Sec. 5. That section 48-1220, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1220. As used in sections 48-1219 to 48-1227 and section 6 of this act, unless the context otherwise requires:

(1) Employee shall mean any individual employed by an employer, including individuals employed by the state or any of its political subdivisions including public bodies;

(2) Employer shall mean a person engaged in an industry who has twenty-five or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year and any agent of such person, and includes the State of Nebraska, its governmental agencies, and political subdivisions, regardless of the number of employees, but such term does not include the United States, a corporation wholly owned by the government of the United States, or an Indian tribe;

(3) Wage rate shall mean all compensation for employment including payment in kind and amounts paid by employers for employee benefits as defined by the commission in regulations issued under the provisions of sections 48-1219 to 48-1227;

(4) Employ shall include to suffer or permit to work;

(5) Commission shall mean the Equal Opportunity Commission; and

(6) Person shall include one or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

Sec. 6. The state, governmental agencies, and political subdivisions may be sued upon claims arising under section 48-1219 to 48-1227 in the same manner as provided by such sections for suits against other employers.

Sec. 7. That original sections 48-1002, 48-1008, and 48-1220, Reissue Revised Statutes of Nebraska, 1943, and section 48-1003, Revised Statutes Supplement, 1982, are repealed.