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Title: A Local Law to amend the administrative code of the city of New York, in relation to prohibiting employment discrimination based on an individual's actual or perceived status as a nursing mother.

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Int. No. 60

By Council Members Ferreras-Copeland, Johnson, Koo, Mendez, Palma, Richards, Vallone, Williams and Rosenthal

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting employment discrimination based on an individual's actual or perceived status as a nursing mother.

Be it enacted by the Council as follows:

Section 1. Section 8-101 of chapter one of title eight of the administrative code of the city of New York, as amended by local law number 10 for the year 2008, is amended to read as follows:

§ 8-101 Policy.

In the city of New York, with its great cosmopolitan population, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups prejudiced against one another and antagonistic to each other because of their actual or perceived differences, including those based on race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability,

marital status, partnership status, status as a nursing mother, any lawful source of income, status as a victim of domestic violence or status as a victim of sex offenses or stalking, whether children are, may be or would be residing with a person, or conviction or arrest record. The council hereby finds and declares that prejudice, intolerance, bigotry, and discrimination, bias-related violence or harassment and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the institutions and foundation of a free democratic state. A city agency is hereby created with power to eliminate and prevent discrimination from playing any role in actions relating to employment, public accommodations, and housing and other real estate, and to take other actions against prejudice, intolerance, bigotry, discrimination and bias-related violence or harassment as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

§ 2. Section 8-102 of chapter one of title eight of the administrative code of the city of New York is amended by adding a new subdivision 28 to read as follows:

28. The term “nursing mother” means a mother who feeds a child directly from her breast or expresses milk from her breast for a child.

§ 3. Subparagraphs a, b, c and d of subdivision 1 of section 8-107 of chapter one of title eight of the administrative code of the city of New York are amended to read as follows:

1. Employment. It shall be an unlawful discriminatory practice:

(a) For an employer or an employee or agent thereof, because of the actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, status as a nursing mother, sexual orientation or alienage or citizenship status of any person, to refuse to hire or employ or to bar or to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

(b) For an employment agency or an employee or agent thereof to discriminate against any person because of such person’s actual or perceived age, race, creed, color, national origin, gender, disability, marital

status, partnership status, status as a nursing mother, sexual orientation or alienage or citizenship status in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants for its services to an employer or employers.

(c) For a labor organization or an employee or agent thereof, because of the actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, status as a nursing mother, sexual orientation or alienage or citizenship status of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.

(d) For any employer, labor organization or employment agency or an employee or agent thereof to declare, print or circulate or cause to be declared, 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 age, race, creed, color, national origin, gender, disability, marital status, partnership status, status as a nursing mother, sexual orientation or alienage or citizenship status, or any intent to make any such limitation, specification or discrimination.

§ 3. Subparagraphs b, c and d of subdivision 2 of section 8-107 of chapter one of title eight of the administrative code of the city of New York are amended to read as follows:

(b) To deny to or withhold from any person because of his or her actual or perceived race, creed, color, national origin, gender, age, disability, marital status, partnership status, status as a nursing mother, sexual orientation or alienage or citizenship status the right to be admitted to or participate in a guidance program, an apprentice training program, on-the-job training program, or other occupational training or retraining program.

(c) To discriminate against any person in his or her pursuit of such program or to discriminate against such a person in the terms, conditions or privileges of such program because of actual or perceived race, creed, color, national origin, gender, age, disability, marital status, partnership status, status as a nursing mother,

sexual orientation or alienage or citizenship status.

(d) To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for such program or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, gender, age, disability, marital status, partnership status, status as a nursing mother, sexual orientation or alienage or citizenship status, or any intent to make any such limitation, specification or discrimination.

Section 8-107 of chapter one of title eight of the administrative code of the city of New York is amended by adding a new subdivision 23 to read as follows:

(23) Employment; status as a nursing mother. a. Any person prohibited by this section from discriminating on the basis of status as a nursing mother shall make reasonable accommodation to enable a person who is a nursing mother to satisfy the essential requisites of a job, provided that such employee's status as a nursing mother is known or should have been known by the employer. In any case pursuant to this subdivision where the need for reasonable accommodation is placed in issue, it shall be an affirmative defense that the person aggrieved by the alleged discriminatory practice could not, with reasonable accommodation, satisfy the essential requisites of the job.

b. Notice of rights. An employer shall provide written notice in a form and manner to be determined by the commission of the right to be free from discrimination in relation to status as a nursing mother pursuant to this section to new employees at the commencement of employment and existing employees within one hundred twenty days after the effective date of the local law that added this subdivision.

§ 4. This local law shall take effect immediately upon enactment.

MWC
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