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COMMITTEE SUBSTITUTE

FOR

House Bill No. 4284

(By Delegates Perdue, Fleischauer, Barrett, Caputo, Guthrie, Kinsey, Lawrence, Manchin, Skinner, Sponaugle and Young)

Passed March 6, 2014

In effect ninety days from passage.
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-11B-1, §5-11B-2, §5-11B-3, §5-11B-4, §5-11B-5, §5-11B-6 and §5-11B-7, all relating to creating the Pregnant Workers' Fairness Act; defining unlawful employment practices; establishing remedies and enforcement for discriminatory conduct; authorizing rule-making by the West Virginia Human Rights Commission; establishing the relationship of the article to other laws; and requiring a report to the Joint Committee on Government and Finance.
Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §5-11B-1, §5-11B-2, §5-11B-3, §5-11B-4, §5-11B-5, §5-11B-6 and §5-11B-7, all to read as follows:

ARTICLE 11B. PREGNANT WORKERS' FAIRNESS ACT.

§5-11B-1. Short title.

This article may be cited as the Pregnant Workers Fairness Act.

§5-11B-2. Nondiscrimination with regard to reasonable accommodations related to pregnancy.

It shall be an unlawful employment practice for a covered entity to:

(1) Not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a job applicant or employee, following delivery by the applicant or employee of written documentation from the applicant’s or employee’s health care provider that specifies the applicant’s or employee’s limitations and suggesting what accommodations would address those limitations, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;

(2) Deny employment opportunities to a job applicant or employee, if such denial is based on the refusal of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of an employee or applicant;

(3) Require a job applicant or employee affected by pregnancy, childbirth, or related medical conditions to accept an
(4) Require an employee to take leave under any leave law
or policy of the covered entity if another reasonable accommoda-
tion can be provided to the known limitations related to the
pregnancy, childbirth, or related medical conditions of an
employee.

§5-11B-3. Remedies and enforcement.

(a) The powers, procedures, and remedies provided in article
eleven of this chapter to the Commission, the Attorney General,
or any person, alleging a violation of the West Virginia Human
Rights Act shall be the powers, procedures, and remedies this
article provides to the Commission, the Attorney General, or any
person, respectively, alleging an unlawful employment practice
in violation of this article against an employee or job applicant.

(b) No person shall discriminate against any individual
because such individual has opposed any act or practice made
unlawful by this article or because such individual made a
charge, testified, assisted, or participated in any manner in an
investigation, proceeding, or hearing under this article. The
remedies and procedures otherwise provided for under this
section shall be available to aggrieved individuals with respect
to violations of this subsection.

§5-11B-4. Rule-making.

Not later than two years after the date of enactment of this
article, the Commission shall propose legislative rules in
accordance with article three, chapter twenty-nine-A of this
code, to carry out this article. Such rules shall identify some
reasonable accommodations addressing known limitations
related to pregnancy, childbirth, or related medical conditions
that shall be provided to a job applicant or employee affected by
such known limitations unless the covered entity can demonstrate that doing so would impose an undue hardship.

§5-11B-5. Definitions.

As used in this article:

(1) "Attorney General" means the West Virginia Attorney General;

(2) "Commission" means the West Virginia Human Rights Commission;

(3) "Covered entity" has the meaning given the word employer in section three, article eleven of this chapter;

(4) "Person" has the meaning given the word in section three, article eleven of this chapter; and

(5) "Reasonable accommodation" and "undue hardship" have the meanings given those terms in section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111) and shall be construed as such terms have been construed under such Act and as set forth in the rules required by this article.

§5-11B-6. Relationship to other laws.

Nothing in this article shall be construed to invalidate or limit the remedies, rights, and procedures that provides greater or equal protection for workers affected by pregnancy, childbirth, or related medical conditions.

§5-11B-7. Reports.

The Commission shall annually on October 1 of each year report to the Joint Committee on Government and Finance on the number of complaints filed under this article during the previous year and their resolution.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 21st day of March, 2014.

Governor
PRESENTED TO THE GOVERNOR

MAR 17 2014

Time 3:30 pm