

Ordinance No. 1446-13

Council Member Cimperman

AN EMERGENCY ORDINANCE

To amend Sections 667.01 and 663.04 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1260-08, passed November 30, 2009, Section 667.99 as amended by Ordinance No. 128-97, passed January 27, 1997, and Section 663.99 as amended by Ordinance No 133-64, passed May 17, 1965, to strengthen the unlawful discriminatory public accommodations practices and unlawful employment practices based on gender identity and expression, and to increase penalties.

WHEREAS, the City of Cleveland and employers should allow full access to facilities without qualification to all citizens and employees, including those denied access to bathrooms, showers, locker rooms or dressing facilities consistent with their gender identity or expression; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Sections 667.01 and 663.04 of the Codified Ordinances of Cleveland, Ohio 1976, as amended by Ordinance No. 1260-08, passed November 30, 2009, Section 667.99 as amended by Ordinance No. 128-97, passed January 27, 1997, and Section 663.99 as amended by Ordinance No 133-64, passed May 17, 1965, are amended as follows:

Section 667.01 Unlawful Discriminatory Public Accommodations Practices

It shall be an unlawful discriminatory practice in a place of public accommodation for any person who is the owner, operator, lessee, manager, administrator, servant, agent or employee of any place of public accommodation:

- (a) To refuse, deny, segregate, discriminate or make a distinction, directly or indirectly, in offering its goods, services, facilities or accommodations to any person because of race, religion, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, ethnic group, or Vietnam-era or disabled veteran status of such person;
- (b) To refuse, deny, segregate, separate, discriminate, or make a distinction, directly or indirectly in any way, against any person in the full and equal use and enjoyment of the services, facilities, privileges, advantages or enforcement powers of the City, or any unit or office thereof, because of race, religion, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, ethnic group, or Vietnam-era or disabled veteran status of such person;
- (c) For any person, whether or not specifically prohibited from discriminating under any provisions of this section, to aid, abet, incite, compel, or coerce the doing of any act declared to be an unlawful discriminatory practice by this section, or to attempt to do so;
- (d) To coerce, intimidate, threaten, retaliate against, or otherwise interfere with any person, or attempt to do so, because he or she has promoted the provisions of this section, or because he or she has filed a complaint, testified, or assisted in any proceeding, investigation or hearing authorized by Sections 667.011 through 667.013 or by appropriate state or federal law;
- (e) Nothing in this section shall prohibit a religious or denominational institution, organization, society or association or any nonprofit charitable or educational organization that is operated,

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supervised or controlled by or in connection with a religious organization, from limiting its offerings of goods, services, facilities and accommodations to persons of the same religion, or from giving preference to such persons, provided that such offerings mentioned above are not, in fact, offered for commercial purposes;

(f) Nothing in this section shall prohibit the establishment of programs or other public accommodations designed and operated for a particular age group. However, such public accommodations shall not discriminate on the basis of race, religion, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, ethnic group, or Vietnam-era or disabled veteran status;

Section 663.04 Exemptions from Provisions

Exemptions from the requirements of this chapter shall be:

- (a) Any employer of less than four (4) persons; nor shall members of the immediate family of an employer be included in determining the number of employees;
- (b) Any religious organization or institute whose membership or service is limited to persons of a single religious faith;
- (c) Any institution organized for educational purposes that is operated, supervised, or controlled by such a religious association, corporation, or society;
- (d) Any private organization having a purely social or fraternal purpose;
- (e) Any type of employment where religion, religious creed or nationality would usually and normally be considered an essential qualification of employment;

Section 667.99 Penalty

(a) Whoever violates any of the provisions of Section 667.05 or 667.01 shall be guilty of a misdemeanor of the first degree and shall be fined not less than one thousand dollars (\$1,000.00), or sentenced to not less than three (3) months imprisonment, or both. The minimum fine and imprisonment to be imposed by a court for a violation of Section 667.05 or 667.01 is mandatory and may not be suspended in whole or in part.

(b) Whoever violates any other provision of this chapter shall be fined not more than one thousand dollars (\$1,000.00) and imprisoned for not more than thirty (30) days.

Section 663.99 Penalty

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the first degree and shall be fined not less than one thousand dollars (\$1000.00) and sentenced to not less than three (3) months imprisonment.

Section 2. That existing Sections 667.01 and 663.04 of the Codified Ordinances of Cleveland, Ohio 1976, as amended by Ordinance No. 1260-08, passed November 30, 2009, Section 667.99 as amended by Ordinance No. 128-97, passed January 27, 1997, and Section 663.99 as amended by Ordinance No 133-64, passed May 17, 1965, are repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

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READ FIRST TIME **REPORTS**
and referred to DIRECTORS of Community Relations Board, Finance, Law;
COMMITTEES on Employment, Affirmative Action and Training, Legislation, Finance
by the council **OCTOBER 21, 2013**

CITY CLERK

READ SECOND TIME
by the council

CITY CLERK

READ THIRD TIME
by the council

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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