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SENATE BILL 187

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

David Ulibarri

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HUMAN RIGHTS; AMENDING THE HUMAN RIGHTS ACT TO  
REFLECT CURRENT FEDERAL LAW REGARDING THE RIGHTS OF INDIVIDUALS  
WITH DISABILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 28-1-2 NMSA 1978 (being Laws 1969,  
Chapter 196, Section 2, as amended) is amended to read:

"28-1-2. DEFINITIONS.--As used in the Human Rights Act:

A. "person" means one or more individuals, a  
partnership, association, organization, corporation, joint  
venture, legal representative, trustees, receivers or the state  
and all of its political subdivisions;

B. "employer" means any person employing four or  
more persons and any person acting for an employer;

C. "commission" means the human rights commission;

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underscored material = new  
[bracketed material] = delete

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1           D. "contact lens" means a lens to be worn on the  
2 anterior segment of the human eye to correct visual acuity or  
3 eliminate refractive error of the eye;

4           ~~[D-]~~ E. "director" or "bureau" means the human  
5 rights bureau of the labor relations division of the workforce  
6 solutions department;

7           ~~[E-]~~ F. "employee" means any person in the employ  
8 of an employer or an applicant for employment;

9           ~~[F-]~~ G. "labor organization" means any organization  
10 that exists for the purpose in whole or in part of collective  
11 bargaining or of dealing with employers concerning grievances,  
12 terms or conditions of employment or of other mutual aid or  
13 protection in connection with employment;

14           H. "low-vision device" means a device that  
15 enhances, magnifies or otherwise augments human vision;

16           ~~[G-]~~ I. "employment agency" means any person  
17 regularly undertaking with or without compensation to procure  
18 opportunities to work or to procure, recruit or refer  
19 employees;

20           J. "ordinary eyeglasses" means an exterior optical  
21 device using ophthalmic lenses for the correction or relief of  
22 disturbances in and anomalies of human vision;

23           ~~[H-]~~ K. "public accommodation" means any  
24 establishment that provides or offers its services, facilities,  
25 accommodations or goods to the public, but does not include a

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1 bona fide private club or other place or establishment that is  
2 by its nature and use distinctly private;

3 [~~F.~~] L. "housing accommodation" means any building  
4 or portion of a building that is constructed or to be  
5 constructed, which is used or intended for use as the residence  
6 or sleeping place of any individual;

7 [~~J.~~] M. "real property" means lands, leaseholds or  
8 commercial or industrial buildings, whether constructed or to  
9 be constructed, offered for sale or rent, and any land rented  
10 or leased for the use, parking or storage of house trailers;

11 [~~K.~~] N. "secretary" means the secretary of  
12 workforce solutions;

13 [~~L.~~] O. "unlawful discriminatory practices" means  
14 those unlawful practices and acts specified in Section 28-1-7  
15 NMSA 1978;

16 [~~M.~~] P. "physical or mental handicap" means a  
17 physical or mental impairment that substantially limits one or  
18 more of a person's major life activities with an actual or  
19 expected duration of more than six months. A person is also  
20 considered to be physically or mentally handicapped if the  
21 person has a record of a physical or mental handicap or is  
22 regarded as having a physical or mental handicap. An  
23 individual is regarded as having a physical or mental handicap  
24 if the individual establishes that the individual has been  
25 subjected to an action prohibited under the Human Rights Act

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1 because of an actual or perceived physical or mental handicap,  
2 whether or not the handicap limits or is perceived to limit a  
3 major life activity. The ameliorative effects of ordinary  
4 eyeglasses or contact lenses shall be considered in determining  
5 whether an impairment substantially limits a major life  
6 activity. An impairment is regarded as substantially limiting  
7 a major life activity without regard to the ameliorative  
8 effects of the following mitigating measures:

9 (1) medication; medical supplies, equipment or  
10 appliances; low-vision devices; prosthetics, including limbs  
11 and devices; hearing aids and cochlear implants or other  
12 implantable hearing devices; mobility devices; or oxygen  
13 therapy equipment and supplies;

14 (2) the use of assistive technology;

15 (3) reasonable accommodations or auxiliary  
16 aids or services; and

17 (4) learned behavioral or adaptive  
18 neurological modifications;

19 [N.] Q. "major life activities" means functions  
20 [~~such as~~] that include, but are not limited to, caring for  
21 one's self, performing manual tasks, walking, seeing, hearing,  
22 eating, sleeping, standing, lifting, bending, speaking,  
23 breathing, learning, reading, concentrating, thinking,  
24 communicating and working. "Major life activities" also  
25 includes the operation of a major bodily function, including

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1 but not limited to functions of the immune system, normal cell  
2 growth, digestive, bowel, bladder, neurological, brain,  
3 respiratory, circulatory, endocrine and reproductive functions  
4 such as caring for one's self, performing manual tasks,  
5 walking, seeing, hearing, speaking, breathing, learning and  
6 working;

7 [Θ-] R. "applicant for employment" means a person  
8 applying for a position as an employee;

9 [P-] S. "sexual orientation" means heterosexuality,  
10 homosexuality or bisexuality, whether actual or perceived; and

11 [Q-] T. "gender identity" means a person's self-  
12 perception, or perception of that person by another, of the  
13 person's identity as a male or female based upon the person's  
14 appearance, behavior or physical characteristics that are in  
15 accord with or opposed to the person's physical anatomy,  
16 chromosomal sex or sex at birth."

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