

SENATE BILL 2358

By Dickerson

AN ACT to amend Tennessee Code Annotated, Section 8-50-103, relative to employment discrimination.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-50-103, is amended by deleting subsection (b) in its entirety and substituting instead the following:

(b)

(1) There shall be no discrimination in the hiring, firing, and other terms and conditions of employment of the state of Tennessee or any department, agency, institution, or political subdivision of the state, or of any private employer, against a qualified individual on the basis of disability. Furthermore, no qualified individual with a disability shall be discriminated against in any such employment practices because such person uses a service animal.

(2)

(A) It is a discriminatory practice to deny employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant.

(B) Reasonable accommodations shall not be required if:

(i) The employer can demonstrate that the accommodation would impose an undue hardship on the operation of its business; or

(ii) The individual poses a direct threat to the health or safety of other individuals in the workplace that cannot be eliminated by reasonable accommodation.

(C) Consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(3) A violation of this subsection (b) is a Class C misdemeanor.

(4) As used in this subsection (b):

(A) "Qualified individual" means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires;

(B) "Reasonable accommodation" has the same meaning as defined in the Americans with Disabilities Act, compiled in 42 U.S.C. § 12111; and

(C) "Undue hardship" has the same meaning as defined in the Americans with Disabilities Act, compiled in 42 U.S.C. § 12112.

SECTION 2. Tennessee Code Annotated, Section 8-50-103(c)(2), is amended by deleting the language "§§ 4-21-302" and substituting instead "§§ 4-21-301".

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.