

By Mr. Serra of Boston, petition of Emanuel G. Serra for legislation to prohibit discrimination in employment against certain handicapped persons. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Nine.

AN ACT TO PROHIBIT DISCRIMINATION IN EMPLOYMENT AGAINST CERTAIN HANDICAPPED PERSONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 149 of the General Laws is hereby amended by striking
2 out sections twenty-four A through twenty-four K and inserting
3 in place thereof the following ten sections.

4 *Section 24A.* It is hereby declared to be against public policy
5 to dismiss from employment any person between the ages of
6 forty-five and sixty-five, or to refuse to employ him, because of
7 his age, or dismiss from employment or refuse to hire, solely
8 because of his handicap or physical impairment any rehabilitated
9 handicapped person or person who has any physical impairment
10 due to any accident, disease or congenital condition who
11 possesses the physical and mental capacity to perform the
12 functions required by said employment.

13 *Section 24B.* Any provision in any contract, agreement or
14 understanding entered into on or after October first, nineteen
15 hundred and thirty-seven, which shall prevent or tend to prevent
16 the employment of any person between the ages of forty-five and
17 sixty-five because of his age shall be null and void.

18 Any provision in any contract, agreement or understanding
19 entered into on or after January first, nineteen hundred and
20 seventy-seven, which shall prevent or tend to prevent the
21 employment of any rehabilitated handicapped person or person
22 who has any physical impairment due to any accident, disease or
23 congenital condition who possesses the physical and mental

24 capacity to perform the functions required by said employment
25 shall be null and void.

26 *Section 24C.* Every person shall keep true and accurate
27 records of all persons employed by him, as far as practicable to do
28 so, and shall upon demand furnish to the commissioner or his
29 authorized representative a true copy of any such record, verified
30 upon oath. Such records shall be open to investigation by the
31 commissioner or his authorized representative at any reasonable
32 time. Whoever violates any provision of this section shall be
33 punished by a fine of not less than twenty-five nor more than one
34 hundred dollars, and each day of failure to keep such records or
35 to furnish such copies thereof, upon demand, to the com-
36 missioner or his authorized representative shall constitute a
37 separate offense.

38 *Section 24D.* The department shall investigate all complaints
39 of discrimination, and for that purpose the commissioner or his
40 authorized representative shall have full power and authority to
41 enter any place of business or employment, other than places of
42 employment of persons engaged in domestic service in the home
43 of the employer, within the commonwealth for the purpose of
44 examination and making a transcript of records in any way
45 appertaining to or having a bearing upon a complaint.

46 *Section 24E.* Whoever, personally or by his agent, shall
47 discharge an employee for the reason that such employee has
48 furnished evidence in connection with a complaint under any
49 provision of said sections twenty-four A to twenty-four J,
50 inclusive, or that such employee has testified in a judicial
51 proceeding under any such provision, shall be punished by a fine
52 of not less than fifty nor more than two hundred dollars.

53 *Section 24F.* Whoever hinders or delays an inspector of the
54 department, or a duly authorized representative of the com-
55 missioner, in the performance of his duties in the investigation of
56 a complaint under any provision of sections twenty-four A to
57 twenty-four J, inclusive, or who refuses to admit any such
58 inspector or representative to any place necessary for him to enter
59 in the performance of such duty, or whoever refuses to give such
60 inspector or representative such information that he may require
61 for the proper enforcement of any provision of said sections, shall

62 be punished by a fine of not less than twenty-five nor more than
63 two hundred dollars.

64 *Section 24G.* If the commissioner or any of his authorized
65 representatives has reason to believe that any employer has
66 dismissed from employment or has refused to employ any person
67 between the ages of forty-five and sixty-five because of his age, or
68 any rehabilitated handicapped person or person who has any
69 physical impairment due to any accident, disease or congenital
70 condition who possesses the physical and mental capability to
71 perform the functions required by said employment because of
72 such handicap or impairment, the commissioner may, on ten
73 days' notice summon such employer to appear before him to
74 show cause why the name of such employer should not be
75 published as having failed to observe the provisions of sections
76 twenty-four A to twenty-four J, inclusive. After such hearing and
77 the finding by the commissioner of non-observance of the
78 provisions of said sections, the commissioner may cause to be
79 published in a newspaper or newspapers circulating within this
80 commonwealth or in such other manner as such commissioner
81 may deem appropriate, the name of such employer as having
82 failed to observe the provisions of said section. Neither the
83 commissioner nor any of his authorized representatives, nor any
84 newspaper publisher, proprietor, editor, nor employee thereof
85 shall be liable to an action for damages for publishing the name of
86 any employer as provided for in this section, unless guilty of some
87 willful misrepresentation.

88 *Section 24H.* Any person aggrieved by any decision of the
89 commissioner under any provision of sections twenty-four A to
90 twenty-four G, inclusive, may appeal to the superior court, for a
91 review thereof within thirty days after the recommendation of
92 such decision. Sections sixteen to twenty, inclusive, of chapter
93 one hundred and fifty-one shall apply to and govern any such
94 appeal.

95 *Section 24I.* Any employer subject to section 503 or section
96 504 of the Federal Rehabilitation Act of 1973 (public law 93-112)
97 and any rules and regulation issued pursuant thereto, who is in
98 compliance with said provisions, shall be deemed to be in
99 compliance with sections twenty-four to twenty-four C.

100 *Section 24J.* If any part or subdivision of any of sections
101 twenty-four A to twenty-four I, inclusive, or the application
102 thereof, shall be held invalid, unconstitutional or inoperative as
103 to any particular person, condition or circumstance, the
104 remainder thereof, or the application of any such part or
105 subdivision to any other person, condition or circumstance, shall
106 not be affected thereby.