

By Mr. Blanchette of Lawrence, petition of Kevin P. Blanchette, George Keverian, David B. Cohen, Royal L. Bolling, Sr., Augusta Hornblower and another for legislation to eradicate age discrimination in public employment in the Commonwealth. Public Service.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Eighty-Seven.

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**AN ACT TO ERADICATE AGE DISCRIMINATION IN PUBLIC EMPLOYMENT IN THE COMMONWEALTH.**

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

1 SECTION 1. Chapter 32 of the General Laws is hereby amend-  
2 ed by inserting after section 90G, the following section: —  
3 Section 90H. Any member in service, classified in an occupa-  
4 tion or position classification in Group 2 or 4, except such occupa-  
5 tions or position classifications as shall be excepted by the person-  
6 nel administrator, after consultation with the secretary of the  
7 executive office of public safety, where said administrator deter-  
8 mines by regulation that age is a bona fide occupational qualifica-  
9 tion, shall continue in service, at such member's option, notwith-  
10 standing the fact that he has attained age sixty-five; provided,  
11 however, that he is mentally and physically capable of performing  
12 the duties of his office or position. Any such member between age  
13 sixty-five and age seventy shall certify annually to the retirement  
14 board his continuing capacity to perform said duties; provided  
15 that the appointing authority may require such member to be  
16 examined by an impartial physician designated by the retirement  
17 authority to determine such capability. Any such member after age  
18 seventy shall annually, at his own expense, be examined by an  
19 impartial physician designated by the retirement authority to  
20 determine such member's continuing capability of performing the  
21 duties of his office or position. Deductions shall be made from the  
22 regular compensation of any such member between age sixty-five  
23 and age seventy and upon retirement such member shall receive a

24 superannuation retirement allowance, or a veteran's pension allow-  
25 ance, as applicable, equal to that to which he would have been  
26 entitled had he retired at age seventy or any earlier age upon which  
27 he actually retires. Any member between age sixty-five and age  
28 seventy subject to an examination by an impartial physician pur-  
29 suant to this section, who is not capable of continuing in service,  
30 shall be retired pursuant to this chapter for superannuation. An  
31 individual who is retired because he is found not capable of con-  
32 tinuing to perform his duties shall not be presumed by virtue of  
33 such involuntary retirement to be disabled for pension purposes.

1 SECTION 2. Notwithstanding the provisions of section one of  
2 this act, no member in the occupation or position classification of  
3 uniformed member of a paid fire department or uniformed  
4 member of a police department, or of the police force of the  
5 Metropolitan District Commission, or of the police force of the  
6 Massachusetts Bay Transportation Authority, or of the capitol  
7 police, or member of the state police detectives appointed under  
8 section six of chapter twenty-two, or member of the uniformed  
9 branch of the registry of motor vehicles or the department of  
10 fisheries and wildlife, as determined by the personnel administra-  
11 tor, or correctional officer, or permanent crash crewman, crash  
12 boatman, fire controlman, or assistant fire controlman employed  
13 at the General Edward Lawrence Logan International Airport,  
14 shall continue in service beyond the last day of the month in which  
15 he attains the age of sixty-five unless the personnel administrator,  
16 after consultation with the secretary of the executive office of  
17 public safety, shall have determined by regulation that age is not a  
18 reasonably necessary bona fide occupational qualification for ser-  
19 vice in said occupations or position classifications. For the pur-  
20 pose of promulgating the regulations provided for in this act, the  
21 personnel administrator shall conduct a study, to be completed  
22 not later than one year from the effective date of this act, to  
23 determine whether age continues to be a reasonably necessary  
24 bona fide occupational qualification for service in said occupa-  
25 tions or position classifications.

26 Upon completion of said study, the personnel administrator  
27 shall conduct a further study to determine whether age is a reason-  
28 ably necessary bona fide occupational qualification for service in

29 any other occupations or position classifications set forth in  
30 Group 2 or Group 4, as appearing in clause (g) of subdivision (2) of  
31 section (3) of chapter thirty-two of the General Laws.

1 SECTION 3. This act shall take effect upon its passage.

