

HOUSE BILL NO. 1293

Introduced by

Representatives K. Koppelman, Ertelt, Jones, Louser, Magrum, Marschall, Satrom, Schauer,
Westlind

Senators Kannianen, Myrdal, Rust

1 A BILL for an Act to create and enact a new section to chapter 47-16 of the North Dakota
2 Century Code, relating to retail business leases or agreements; to amend and reenact
3 subsection 2 of section 14-02.4-03 and section 34-06-05.1 of the North Dakota Century Code,
4 relating to employer's discriminatory practices and one day of rest; and to provide a contingent
5 effective date.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subsection 2 of section 14-02.4-03 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 2. ~~#Subject to section 34-06-05.1, it is a discriminatory practice for an employer to fail or~~
10 ~~refuse to make reasonable accommodations for an otherwise qualified individual with~~
11 ~~a physical or mental disability, because that individual is pregnant, or because of that~~
12 ~~individual's religion. An employer is not required to provide an accommodation that~~
13 ~~would disrupt or interfere with the employer's normal business operations; threaten an~~
14 ~~individual's health or safety; contradict a business necessity of the employer; or~~
15 ~~impose an undue hardship on the employer, taking into consideration the size of the~~
16 ~~employer's business, the type of business, the financial resources of the employer,~~
17 ~~and the estimated cost and extent of the accommodation.~~

18 **SECTION 2. AMENDMENT.** Section 34-06-05.1 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **34-06-05.1. One day of rest in seven - Penalty.**

21 1. ~~An~~ Except in cases of emergency, an employer may not require an employee to work
22 seven consecutive days ~~in a business that sells merchandise at retail. An employer-~~
23 ~~may not~~ or deny an employee at least one period of twenty-four consecutive hours of

1 time off for rest or worship in each seven-day period. The time off must be in addition
2 to the regular periods of rest allowed during each day worked. An employer shall
3 accommodate the religious beliefs and practices of an employee unless the employer
4 can demonstrate that to do so would constitute an undue severe financial hardship
5 on the conduct of the employer's business. However, if, Even in cases of severe
6 financial hardship, the lack of accommodation may not be a regular practice. If an
7 employee requests time off to attend one regular worship service a week, an employer
8 may not require the employee to work during that period unless:

- 9 a. ~~Honoring the employee's request would cause the employer substantial~~
10 ~~economic burdens or would require the imposition of significant burdens on other~~
11 ~~employees required to work in place of the Sabbath observer; or~~
12 b. ~~The employer has made a reasonable effort to accommodate the employee's~~
13 ~~request~~ the employer and employee have agreed in writing, at or after hiring, to
14 waive this requirement.

15 2. A violation of this section is a class B misdemeanor. It is an affirmative defense to
16 prosecution under this section that the employee volunteered for work on the seventh
17 consecutive day, either under special circumstances or as a regular practice, and the
18 employee executed a written statement so stating; or that honoring the employee's
19 request would cause the employer substantial economic burdens. The statement must
20 also contain a provision, signed by the employer or the employer's agent, that the
21 employer did not require such work.

22 3. ~~This section applies only to an employer in a business that sells merchandise at~~
23 ~~retail.~~ As used in this section, an "emergency" is a situation that:

- 24 a. Poses an immediate risk to health, life, property, or environment;
25 b. Has caused loss of life, health detriments, property damage, or environmental
26 damage;
27 c. Has a high probability of escalating to cause immediate danger to life, health,
28 property, or environment; or
29 d. Impedes or inhibits an essential function necessary for the operation of a
30 business.

1 **SECTION 3.** A new section to chapter 47-16 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Retail business leases or agreements - Penalty.**

4 A retail business may not be required to be open on Sunday as a part of a lease agreement,
5 franchise agreement, or any other contractual arrangement. A violation of this section is a class
6 A misdemeanor.

7 **SECTION 4. CONTINGENT EFFECTIVE DATE.** This Act becomes effective if North Dakota
8 Century Code chapter 12.1-30 is repealed.