
A BILL

To establish a Fair Employment Practice Commission and to aid in eliminating discrimination in employment because of race, creed, color, or national origin.

1 Be it enacted by the Senate and House of Representatives of
2 the United States of America in Congress assembled, that this Act may be
3 cited as the "Fair Employment Practice Act."

4 FINDINGS AND DECLARATION OF POLICY

5 Sec. 2. The Congress hereby finds and declares--
6 (a) That the practice of denying employment opportunities
7 to, and discriminating in employment against, properly qualified
8 persons by reason of race, creed, color, or national origin is
9 contrary to the principles of freedom and equality of opportunity
10 upon which this Nation is built, is incompatible with the provisions
11 of the Constitution, forces large segments of the population

1 permanently into substandard conditions of living, foments
2 domestic strife and unrest, deprives the United States of the
3 fullest utilization of its capacities for production and defense,
4 substantially impairs and disrupts the market for goods in commerce,
5 and burdens, hinders, and obstructs commerce.

6 (b) That it is the policy of the United States to bring
7 about the elimination of discrimination because of race, creed, color,
8 or national origin in all employment relations which fall within the
9 jurisdiction or control of the Federal Government.

10 DEFINITIONS

11 Sec. 3. As used in this Act---

12 (a) The term "person" means an individual, partnership, asso-
13 ciation, corporation, legal representative, trustee, trustee in bank-
14 ruptcy, receiver, or any organized group of persons and includes any
15 agency or instrumentality of the United States or of any Territory or
16 possession thereof.

17 (b) The term "employer" means a person having in his employ
18 fifty or more individuals, or any other person acting in the interest
19 of such an employer, directly or indirectly.

20 (c) The term "labor union" means any organization in which
21 employees participate and which exists for the purpose, in whole or in
22 part, of dealing with employers, as above defined, concerning grievances,
23 or terms or conditions of employment.

24 (d) The term "commerce" means trade, traffic, commerce,
25 transportation, or communication among the several States; or between any
26 State or Territory, or the District of Columbia, and any place outside
27 thereof; or within the District of Columbia or any Territory; or be-

1 tween points in the same State but through any point outside thereof.

2 (e) The term "Commission" means the Fair Employment Practice
3 Commission created by Section 4.

4 FAIR EMPLOYMENT PRACTICE COMMISSION

5 Sec. 4. (a) There is hereby created a commission to be known as the
6 Fair Employment Practice Commission (hereinafter referred to as the
7 ("Commission")), which shall be composed of five members who shall be
8 appointed by the President, by and with the advice and consent of the
9 Senate. One of the original members shall be appointed for a term of
10 one year, one for a term of two years, one for a term of three years, one
11 for a term of four years, and one for a term of five years, but their
12 successors shall be appointed for terms of five years each, except that any
13 individual chosen to fill a vacancy shall be appointed only for the
14 unexpired term of the member whom he shall succeed. The President shall
15 designate one member to serve as chairman of the Commission. Any member
16 of the Commission may be removed by the President upon notice and hearing
17 for neglect of duty or malfeasance in office, but for no other cause.

18 (b) A vacancy in the Commission shall not impair the right
19 of the remaining members to exercise all the powers of the Commission
20 and three members of the Commission shall at all times constitute a
21 quorum.

22 (c) The Commission shall have an official seal which shall
23 be judicially noticed.

24 (d) Each member of the Commission shall receive a salary
25 at the rate of \$10,000 a year, and shall not engage in any other
26 business, vocation, or employment.

27 (e) When three members of the Commission have qualified

1 and taken office, the Committee on Fair Employment Practice estab-
2 lished by Executive Order Numbered 9346 of May 27, 1943, shall
3 cease to exist. All employees of the said Committee shall then be
4 transferred to and become employees of the Commission, and all
5 records, papers, and property of the Committee shall then pass into
6 the possession of the Commission.

7 (f) The principal office of the Commission shall be in
8 the District of Columbia, but it may meet and exercise any or all
9 of its powers at any other place and may establish such regional
10 offices as it deems necessary. The Commission may, by one or more of
11 its members or by such agents or agencies as it may designate, conduct
12 any investigation, proceeding, or hearing necessary to its functions
13 in any part of the United States.

14 (g) The Commission shall have power--

15 (1) to appoint such officers and employees as it deems
16 necessary to assist it in the performance of its functions;

17 (2) to cooperate with or utilize regional, State,
18 local, and other agencies and to utilize voluntary and uncompensated
19 services;

20 (3) to pay to witnesses whose depositions are taken
21 or who are summoned before the Commission or any of its agents or
22 agencies the same witness and mileage fees as are paid to witnesses
23 in the courts of the United States;

24 (4) to issue, from time to time, such regulations as
25 it deems necessary to regulate its own procedure and the appearance
26 of persons before it, and to amend or rescind, from time to time, any
27 such regulation whenever it deems such amendment or rescission

1 necessary to carry out the provisions of this Act;

2 (5) to serve process of other papers of the Commission,
3 at any place in the United States or any Territory or possession
4 thereof, either personally, by registered mail, or by leaving a copy
5 at the principal office or place of business of the person to be
6 served; and

7 (6) to make such technical studies as are appropriate
8 to effectuate the purposes and policies of this Act and to make the
9 results of such studies available to interested Government and non-
10 governmental agencies.

11 DUTIES OF THE COMMISSION

12 Sec.5. (a) It shall be the duty of the Commission to bring
13 about the removal of discrimination in regard to hire, or tenure, terms,
14 or conditions of employment, or union membership, because of race,
15 creed, color, or national origin,--

16 (1) by making comprehensive studies of such discrimina-
17 tion in different metropolitan districts and sections of the country and
18 of the effect of such discrimination, and of the best methods of
19 eliminating it;

20 (2) by formulating, in cooperation with other interested
21 public and private agencies, comprehensive plans for the elimination of
22 such discrimination, as rapidly as possible, in regions or areas where
23 such discrimination is prevalent;

24 (3) by publishing and disseminating reports and other
25 information relating to such discrimination and to ways and means for
26 eliminating it;

27 (4) by conferring, cooperating with, and furnishing tech-

6
1 nical assistance to employers, labor unions, and other private and
2 public agencies in formulating and executing policies and programs
3 for the elimination of such discrimination;

4 (5) by receiving and investigating complaints charging
5 any such discrimination and by investigating other cases where it has
6 reason to believe that any such discrimination is practiced; and

7 (6) by preparing comprehensive plans as provided by
8 Section 9 hereof and enforcing the provisions of such plan.

9 (b) The Commission shall at the close of each fiscal year
10 report to the Congress and to the President describing in detail the
11 investigations, proceedings, and hearings it has conducted and their
12 outcome, the decisions it has rendered, and the other work performed
13 by it, and shall make such recommendations for further legislation as
14 may appear desirable. The Commission may make such other recommenda-
15 tions to the President or any Federal agency as it deems necessary or
16 appropriate to effectuate the purposes and policies of this Act.

17 INVESTIGATORY POWERS

18 Sec. 6. (a) For the purpose of all investigations, pro-
19 ceedings, or hearings which the Commission deems necessary or proper
20 for the exercise of the powers vested in it by this Act, the Com-
21 mission, or its authorized agents or agencies, shall at all reason-
22 able times have the right to examine or copy any evidence of any
23 person relating to any such investigation, proceeding, or hearing.

24 (b) Any member of the Commission shall have power to
25 issue subpoenas requiring the attendance and testimony of witnesses
26 and the production of any evidence relating to any investigation,
27 proceeding, or hearing before the Commission, its member, agent, or

11 agency conducting such investigation, proceeding, or hearing

2 (c) Any member of the Commission, or any agent or
3 agency designated by the Commission for such purposes, may administer
4 oaths, examine witnesses, receive evidence, and conduct investiga-
5 tions, proceedings, or hearings.

6 (d) Such attendance of witnesses and the production of
7 such evidence may be required, from any place in the United States or
8 any Territory or possession thereof, at any designated place of hearing.

9 (e) In case of contumacy or refusal to obey a subpoena
10 issued to any person under this Act, any district court of the United
11 States or the United States courts of any Territory or possession or the
12 District Court of the United States for the District of Columbia, within
13 the jurisdiction of which the investigation, proceeding, or hearing is
14 carried on or within the jurisdiction of which said person guilty of
15 contumacy or refusal to obey is found or resides or transacts business,
16 upon application by the Commission shall have jurisdiction to issue to
17 such person an order requiring such person to appear before the Com-
18 mission, its members, agent, or agency, there to produce evidence if so
19 ordered, or there to give testimony relating to the investigation, pro-
20 ceeding, or hearing; any failure to obey such order of the court may
21 be punished by it as a contempt thereof.

22 (f) No person shall be excused from attending and testi-
23 fying or from producing documentary or other evidence in obedience to
24 the subpoena of the Commission, on the ground that the testimony or evi-
25 dence required of him may tend to incriminate him or subject him to a
26 penalty or forfeiture; but no individual shall be prosecuted or sub-
27 jected to any penalty or forfeiture for or on account of any trans-

1 action, matter, or thing concerning which he is compelled, after
2 having claimed his privilege against self-incrimination, to testify
3 or produce evidence, except that such individual so testifying shall
4 not be exempt from prosecution and punishment for perjury committed
5 in so testifying.

6 DISCRIMINATION IN EMPLOYMENT BY THE FEDERAL GOVERNMENT

7 Sec. 7. The Commission shall make a study and investigation of
8 discrimination in regard to hire, or tenure, terms, or conditions of
9 employment, in the departments and agencies of the Federal Government
10 because of race, creed, color, or national origin, and shall recommend
11 to the Congress a specific plan to eliminate it and such legislation
12 as it deems necessary to eliminate it.

13 INCLUSION OF ANTIDISCRIMINATION CLAUSE IN GOVERNMENT CONTRACTS

14 Sec. 8. (a) Every contract to which the United States, or any
15 Territory or possession thereof, or any agency or instrumentality of
16 any of the foregoing, is a party (except such classes of contracts as
17 the Commission may by regulation issue under section 10 exempt from the
18 scope of this section) shall contain a provision under which—

19 (1) the contractor agrees that during the period re-
20 quired for the performance of the contract he will conform to any plan
21 promulgated by the Commission under Section 5 hereof; and

22 (2) the contractor agrees that he will include a pro-
23 vision in each subcontract made by him for the performance of any work
24 required for the performance of his contract a provision under which
25 the subcontractor agrees—

26 (A) that during the period required for the
27 performance of the subcontract, the subcontractor will conform to any

11 plan promulgated by the Commission under Section 5 hereof; and

12 (B) that the subcontractor will include in
13 each subcontract made by him provisions corresponding to those re-
14 quired in subparagraph (A) and this subparagraph.

15 PREPARATION AND ENFORCEMENT OF COMPULSORY PLAN

16 Sec. 9. In accordance with the provisions of paragraph (2) of
17 Section 5, whenever the Commission finds that there is discrimination
18 against any particular group by reason of race, creed, color, or
19 national origin in any region or area or by any common carrier, it
20 shall make a comprehensive study of such discrimination and of the
21 best manner in which employment of persons in such group can be made
22 adequate and nondiscriminatory. It may then prepare a comprehensive
23 plan by which such employment would be increased in amount and improved
24 in character so that there may no longer be such discrimination. Such
25 plan may provide for additional employment throughout the area by in-
26 creasing the number of persons, of the group discriminated against to
27 be employed by specified employers who employ more than fifty persons,
by encouraging the formation of new enterprises to give increased em-
ployment, by requiring any labor union which is certified under the
National Labor Relations Act, and also the National Mediation Board,
as a representative of employees to admit to membership persons of the
group discriminated against so that the rules of the union shall in no
way prevent full employment opportunities for the members of such group,
and by all other means which seem to the Commission helpful in securing
the necessary result.

When such plan has been completed, it shall be publicly pro-
mulgated in the area affected and copies shall be sent to all persons

1 directly affected thereby. Within sixty days thereafter, any person
2 may file a protest with the Commission against the plan or against
3 any special feature of the plan, and the Commission shall give hearings
4 to those who file protests. After such hearings, the Commission shall
5 further consider the plan and may proceed to adopt it as the official
6 plan of the Commission, either in its original form or with such amend-
7 ments as may result from the aforesaid hearings.

8 After such plan has been adopted, it shall be the duty of all
9 persons affected thereby to put such plan into effect.

10 If, after six months, the Commission finds that there is any sub-
11 stantian failure to put such plan into effect and that discrimination
12 still continues against any group or groups with regard to employment
13 in such region or area or by such common carrier, the Commission may de-
14 clare that it is necessary to proceed with a compulsory enforcement of
15 such plan. Thereupon, the Commission may issue an order (1) to any
16 employer who employs more than fifty persons, requiring such employer
17 to provide forthwith employment of specified character for the number
18 of persons belonging to the group discriminated against, as provided
19 by the plan, with due allowance for the total employment permitted by
20 the then condition of his business, and (2) to any labor union which
21 discriminates against members of such groups requiring such labor union
22 to permit the admission of members of such group as members of such union,
23 so that there may be no hindrance to their employment by the rules of
24 such union. If the order is not promptly complied with, the Com-
25 mission may apply to the United States District Court for the enforce-
26 ment thereof. The Court shall have jurisdiction to consider questions
27 of fact and of law, questions relating to the reasonableness of the

1 plan and the particular provision thereof sought to be enforced, and
2 allother matters relating thereto; and all persons who might be
3 affected by any order which the Court might enter shall have the right
4 to be heard and present evidence regarding the facts of the alleged
5 discrimination or the efficacy or reasonableness of the plan or order
6 designed to eliminate same. The findings of the Commission as to the
7 facts shall be conclusive unless it appears to the satisfaction of the
8 Court that the findings of fact are not supported by competent, material
9 and substantial evidence. The Court after hearing and submission may
10 approve the plan and the particular order sought to be enforced, or it
11 may otherwise modify the plan or order so as to establish a reasonable
12 method of eliminating any discrimination by the employer or the union
13 which the Court may find to exist against any group of workers because
14 of race, creed, color, or national origin.

15 Sec. 10. Any person aggrieved by the failure of the employer or
16 union to obey the cease and disist order issued by the Commission may
17 file written request to the Commission to apply to the United States
18 District Court for enforcement of its order as provided in Section 9.
19 If the Commission does not make application to the Court within thirty
20 days after receipt of the request and if the cease and dis^eist order has
21 not at that time been complied with, the person aggrieved may apply to
22 any United States District Court having jurisdiction as provided in
23 Section 9, joining the Commission and the employer or union against whom
24 the order is directed, to compel the Commission to seek enforcement of
25 its order. If the Court finds that the Commission has unreasonably
26 failed or delayed in seeking enforcement of its order it shall proceed
27 with the case as if it had originally been brought by the Commission

1 with costs taxed against the Commission.

2 Sec. 11. In case the Commission shall find after notice and hear-
3 ing that discrimination exists in employment or conditions of employment,
4 in the service of the Federal Government or any territory or dependency
5 thereof, against any group of workers because of race, creed, color,
6 or national origin, it shall proceed first by conciliation to attempt
7 to eliminate such discrimination. If conciliation fails the Commission
8 shall refer the matter to the President or to Congress for appropriate
9 action.

10 SEPARABILITY CLAUSE

11 Sec. 12. If any provision of this Act or the application of such
12 provision to any person or circumstance shall be held invalid, the re-
13 mainder of such Act or the application of such provision to persons or
14 circumstances other than those to which it is held invalid shall not be
15 affected thereby.

16 WILLFUL INTERFERENCE WITH COMMISSION AGENTS

17 Sec. 13. Any person who shall willfully resist, impede, or inter-
18 fere with, any member of the Commission or any of its agents or agencies
19 in the performance of duties pursuant to this Act shall be punished by
20 a fine of not more than \$5,000 or by imprisonment for not more than one
21 year, or both.

22 If discrimination exists in employment or conditions of employment,
23 in the service of the Federal Government or any territory or dependency
24 thereof, against any group of workers because of race, creed, color,
25 or national origin, it shall proceed first by conciliation to attempt
26 to eliminate such discrimination. If conciliation fails the Commission
27 shall refer the matter to the President or to Congress for appropriate
28 action.

29 SEPARABILITY CLAUSE

30 Sec. 14. If any provision of this Act or the application of such
31 provision to any person or circumstance shall be held invalid, the re-
32 mainder of such Act or the application of such provision to persons or
33 circumstances other than those to which it is held invalid shall not be
34 affected thereby.

GB