

ASSEMBLY BILL

No. 2707

Introduced by Assembly Member Ridley-Thomas

February 19, 2016

An act to amend Section 12930 of the Government Code, and to add Section 51.14 to the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 2707, as introduced, Ridley-Thomas. Stop Consumer Racial Profiling Act of 2016.

Existing law, the Unruh Civil Rights Act, states that all persons within this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments. Under existing law, the Department of Fair Employment and Housing is responsible for receiving, investigating, conciliating, mediating, and prosecuting complaints alleging a violation of the act.

This bill would enact the Stop Consumer Racial Profiling Act of 2016, which would prohibit a business establishment from using consumer racial profiling, as defined. The bill would also make the Department of Fair Employment and Housing responsible for the enforcement of the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51.14 is added to the Civil Code, to read:
2 51.14. (a) This act shall be known, and may be cited, as the
3 Stop Consumer Racial Profiling Act of 2016.

4 (b) No business establishment shall use consumer racial
5 profiling.

6 (c) For the purposes of this section, consumer racial profiling
7 means the following:

8 (1) “Consumer racial profiling” shall mean the profiling or
9 targeting of a person that results in differential treatment based on
10 his or her race or ethnicity and that constitutes a denial or
11 degradation in the product or service offered to customers.

12 (2) “Consumer racial profiling” also includes, but is not limited
13 to, refusal to serve, removal from the business establishment
14 premises, segregated seating, requiring additional forms of
15 identification, and race-based surveillance practices.

16 SEC. 2. Section 12930 of the Government Code is amended
17 to read:

18 12930. The department shall have the following functions,
19 powers, and duties:

20 (a) To establish and maintain a principal office and any other
21 offices within the state as are necessary to carry out the purposes
22 of this part.

23 (b) To meet and function at any place within the state.

24 (c) To appoint attorneys, investigators, conciliators, mediators,
25 and other employees as it may deem necessary, fix their
26 compensation within the limitations provided by law, and prescribe
27 their duties.

28 (d) To obtain upon request and utilize the services of all
29 governmental departments and agencies and, in addition, with
30 respect to housing discrimination, of conciliation councils.

31 (e) To adopt, promulgate, amend, and rescind suitable procedural
32 rules and regulations to carry out the investigation, prosecution,
33 and dispute resolution functions and duties of the department
34 pursuant to this part.

35 (f) (1) To receive, investigate, conciliate, mediate, and prosecute
36 complaints alleging practices made unlawful pursuant to Chapter
37 6 (commencing with Section 12940).

1 (2) To receive, investigate, conciliate, mediate, and prosecute
2 complaints alleging a violation of Section 51, 51.5, 51.7, 51.14,
3 54, 54.1, or 54.2 of the Civil Code. The remedies and procedures
4 of this part shall be independent of any other remedy or procedure
5 that might apply.

6 (g) In connection with any matter under investigation or in
7 question before the department pursuant to a complaint filed under
8 Section 12960, 12961, or 12980:

9 (1) To issue subpoenas to require the attendance and testimony
10 of witnesses and the production of books, records, documents, and
11 physical materials.

12 (2) To administer oaths, examine witnesses under oath and take
13 evidence, and take depositions and affidavits.

14 (3) To issue written interrogatories.

15 (4) To request the production for inspection and copying of
16 books, records, documents, and physical materials.

17 (5) To petition the superior courts to compel the appearance
18 and testimony of witnesses, the production of books, records,
19 documents, and physical materials, and the answering of
20 interrogatories.

21 (h) To bring civil actions pursuant to Section 12965 or 12981
22 and to prosecute those civil actions before state and federal trial
23 courts.

24 (i) To issue those publications and those results of investigations
25 and research as in its judgment will tend to promote good will and
26 minimize or eliminate discrimination in employment on the bases
27 enumerated in this part and discrimination in housing because of
28 race, religious creed, color, sex, gender, gender identity, gender
29 expression, marital status, national origin, ancestry, familial status,
30 disability, genetic information, or sexual orientation.

31 (j) To investigate, approve, certify, decertify, monitor, and
32 enforce nondiscrimination programs proposed by a contractor to
33 be engaged in pursuant to Section 12990.

34 (k) To render annually to the Governor and to the Legislature
35 a written report of its activities and of its recommendations.

36 (l) To conduct mediations at any time after a complaint is filed
37 pursuant to Section 12960, 12961, or 12980. The department may
38 end mediation at any time.

1 (m) The following shall apply with respect to any accusation
2 pending before the former Fair Employment and Housing
3 Commission on or after January 1, 2013:

4 (1) If an accusation issued under former Section 12965 includes
5 a prayer either for damages for emotional injuries as a component
6 of actual damages, or for administrative fines, or both, or if an
7 accusation is amended for the purpose of adding a prayer either
8 for damages for emotional injuries as a component of actual
9 damages, or for administrative fines, or both, with the consent of
10 the party accused of engaging in unlawful practices, the department
11 may withdraw an accusation and bring a civil action in superior
12 court.

13 (2) If an accusation was issued under former Section 12981,
14 with the consent of the aggrieved party filing the complaint an
15 aggrieved person on whose behalf a complaint is filed, or the party
16 accused of engaging in unlawful practices, the department may
17 withdraw the accusation and bring a civil action in superior court.

18 (3) Where removal to court is not feasible, the department shall
19 retain the services of the Office of Administrative Hearings to
20 adjudicate the administrative action pursuant to Sections 11370.3
21 and 11502.

22 (n) On any Section 1094.5 Code of Civil Procedure challenge
23 to a decision of the former Fair Employment and Housing
24 Commission pending on or after January 1, 2013, the director or
25 his or her designee shall consult with the Attorney General
26 regarding the defense of that writ petition.