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HOUSE BILL NO. 757

Offered January 12, 2022

Prefiled January 11, 2022

A *BILL to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:10, relating to employment; anti-harassment training requirement.*

Patron—Krizek (By Request)

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:10 as follows:

§ 40.1-28.7:10. Employers to provide anti-harassment training.

A. For the purposes of this section:

"Employer" means any employer as defined in § 40.1-2 that employs five or more employees. Notwithstanding 40.1-2.1, "employer" includes the Commonwealth and its agencies, institutions, and political subdivisions.

B. By January 1, 2023, each employer subject to this section shall provide (i) at least two hours of classroom or other effective interactive training and education regarding sexual harassment and workplace discrimination to all supervisory employees and (ii) at least one hour of classroom or other effective interactive training and education regarding sexual harassment and workplace discrimination to all nonsupervisory employees. Thereafter, each employer shall provide sexual harassment training and education to its employees once every two years. New nonsupervisory employees shall be provided training within six months of hire. New supervisory employees shall be provided with training within six months of the assumption of a supervisory position. An employer who has already provided this training to an employee in 2021 shall not be required to provide refresher training again until two years after the date of training in 2021.

C. An employer may provide this training in conjunction with other training provided to employees. An employer may develop its own training module to comply with the employer's obligations set forth in this section. The training may be completed (i) by employees individually or as part of a group presentation, (ii) remotely or through an online platform, or (iii) in shorter segments, provided that the applicable hourly total requirement is met. The training required by this section shall include information and practical guidance regarding relevant federal and state laws concerning prohibitions against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training for supervisory employees shall include practical examples for methods of preventing harassment, discrimination, and retaliation in the workplace. The training and education required by this section shall be presented by an educator or human resources professional with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. The employer, online platform, educator, or human resources professional shall provide a method for employees who have completed the training to electronically save a certificate of completion. An employer shall provide training inclusive of harassment based on gender identity, gender expression, and sexual orientation as a component of the training and education required by this section.

D. Beginning January 1, 2023, for seasonal, temporary, or other employees who are hired to work for less than six months, an employer shall provide at least one hour of training regarding sexual harassment and workplace discrimination within 30 calendar days after the date of hire. In the case of a temporary employee employed by a temporary services employer, the training shall be provided by the temporary services employer, not the client employer.

E. Beginning January 1, 2023, sexual harassment and workplace discrimination prevention training for migrant and seasonal agricultural workers shall be consistent with training for nonsupervisory employees as described in subsection B.

F. Subject to any other provision of law, a claim that the training required by this section did not reach a particular employee or employees shall not in itself result in the liability of any employer to any present or former employee or applicant for employment in any action alleging sexual harassment. Subject to any other provision of law, an employer's compliance with this section shall not insulate the employer from liability for sexual harassment of any current or former employee or applicant for employment.

G. If an employer fails to provide the training required by this section, the Department may seek an order requiring the employer to comply with these requirements.

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HB757

59 *H. The training required by this section shall not be construed to discourage or relieve any employer*
60 *from providing for longer, more frequent, or more detailed training and education regarding workplace*
61 *harassment or other forms of unlawful discrimination.*

62 *I. Beginning January 1, 2023, the Department shall make online training courses available on its*
63 *public website. The online training courses shall contain an interactive feature that requires the viewer*
64 *to respond to a question periodically in order for the online training course to continue playing.*

65 *J. The Department shall promulgate certain rules and regulations as necessary to achieve the*
66 *objectives of this section.*