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Title: Amending The Albuquerque Human Rights Ordinance To Prohibit Discrimination Based On Racial And Cultural Attributes Associated With Hair Types, Styles, And Headresses (“Crown Act Amendments”) (Sena)

Sponsors:

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1/7/2021	2	City Council	Sent to Mayor for Signature	
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12/7/2020	1	City Council	Introduced	
12/7/2020	1	President	To be heard at the Council Meeting	

CITY of ALBUQUERQUE
TWENTY FOURTH COUNCIL

COUNCIL BILL NO. O-20-47 ENACTMENT NO. _____

SPONSORED BY: Lan Sena

ORDINANCE

Amending The Albuquerque Human Rights Ordinance To Prohibit Discrimination Based On Racial And Cultural Attributes Associated With Hair Types, Styles, And Headresses (“Crown Act Amendments”) (Sena)

AMENDING THE ALBUQUERQUE HUMAN RIGHTS ORDINANCE TO PROHIBIT DISCRIMINATION BASED ON RACIAL AND CULTURAL ATTRIBUTES ASSOCIATED WITH HAIR TYPES, STYLES, AND HEADRESSES (“CROWN ACT AMENDMENTS”).

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. Section 11-3-3, the "Definitions" Section of the Human Rights Ordinance, is hereby amended as follows:

"§ 11-3-3 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD. The Human Rights Board.

COMMERCIAL SPACE. Any space in a building, structure, or portion thereof, which is used or occupied or intended to be occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging, or distribution of personal property; and any space which is used or occupied as a separate business or professional unit or office in any building, structure, or portion thereof.

CULTURAL HEADDRESS. Includes, but is not limited to, burkas, hijabs, head wraps, head scarves, or other headdresses used as part of an individual's personal cultural or religious beliefs.

EMPLOYEE. Any person in the employ of an employer.

EMPLOYER. Any person employing one or more persons acting for an employer.

EMPLOYMENT AGENCY. Any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit, or refer employees.

HOUSING ACCOMMODATION. Any building or portion of a building which is constructed or to be constructed, which is used or intended for use as the residence or sleeping place of any individual.

LABOR ORGANIZATION. Any organization which exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employment.

PERSON. One or more individuals, a partnership, association, organization, corporation, joint venture, legal representative, trustee, receiver, cooperative, or the city and any governmental unit created and/or sponsored by the city. Where any reference to the masculine is present, he or she, her or him, his or her or person (as in chairperson vs. chairman) should be in its place.

PHYSICALLY HANDICAPPED. Any person who, because of accident, illness, congenital condition or other condition of health, experiences any impairment in sight, hearing, touch, taste, smell, motor skills or appearance.

PUBLIC ACCOMMODATION. Any establishment that provides or offers its services, facilities, accommodations or goods to the public, but does not include a bona fide private club or other place or establishment which is by its nature and use distinctly private.

RACE. Includes, but is not limited to, traits historically and commonly associated with race or ethnicity, including hair types, hair texture, volume of hair, length of hair, protective hairstyles, or cultural headdresses.

RACE RELATED HAIRSTYLE. Includes, but is not limited to, those hairstyles necessitated by, or resulting from, the characteristics of a hair texture associated with race, such as braids, locs, afros, tight coils or curls, bantu knots, and twists.

REAL PROPERTY. Lands, leaseholds and tenements.

UNLAWFUL DISCRIMINATORY PRACTICE. Those unlawful practices and acts as specified in § 11-3-7.”

SECTION 2. Section 11-3-7, the “Unlawful Discriminatory Practice” Section of the Human Rights Ordinance, is hereby amended as follows:

“§ 11-3-7 **UNLAWFUL DISCRIMINATORY PRACTICE.**

It is unlawful discriminatory practice and a violation of this article for:

(A) An employer, unless based on a bona fide occupational qualification, to refuse to hire, to discharge, to promote or demote or to discriminate in compensation or terms and conditions of employment, against any person otherwise qualified, because of race, color, religion, sex, national origin or ancestry, age, race related hairstyle, the use of a cultural headdress, or physical handicap.

(B) A labor organization to exclude an individual or to expel or otherwise discriminate against any of its members or against any employer or employee because of race, color, religion, sex, national origin or ancestry, age, race related hairstyle, the use of a cultural headdress, or physical handicap.

(C) Any employer, labor organization, or any other person to refuse to admit or employ any individual in any program established to provide an apprenticeship or other training or retraining because of race, color, religion, sex, national origin or ancestry, age, race related hairstyle, the use of a cultural headdress, or physical handicap.

(D) Any employer, labor organization, or any other person to print or circulate or cause to be printed or circulated any statement, advertisement, or publication or to use any form of application for employment or membership, or to make any inquiry regarding prospective

employment or membership which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, religion, sex, national origin or ancestry, age, race related hairstyle, the use of a cultural headdress, or physical handicap, unless based on a bona fide occupational qualification.

(E) An employment agency to refuse to list and properly classify for employment or to refer an individual for employment in a known available job for which the individual is otherwise qualified because of race, religion, color, national origin, ancestry, age, sex, race related hairstyle, the use of a cultural headdress, or any physical or mental handicap unless based on a bona fide occupational qualification; or to comply with a request from an employer for referral of applicants for employment if the request indicates either directly or indirectly that the employer discriminates in employment on the basis of race, religion, color, national origin, ancestry, sex, race related hairstyle, the use of a cultural headdress, or physical or mental handicap unless based on a bona fide occupational qualification.

(F) Any person who provides any public accommodation to make a distinction, directly or indirectly, in offering or refusing to offer its services, facilities, accommodations or goods to any individual because of race, color, religion, sex, race related hairstyle, the use of a cultural headdress, national origin or ancestry, or physical handicap.

(G) Any person to:

(1) Refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease or sublease, or assignment, any housing accommodation, commercial space or real property to any individual, or to refuse to negotiate for the sale, rental, lease, assignment or sublease of any housing accommodation, commercial space or real property, or in the provision of facilities or services in connection therewith, because of race, color, religion, sex, race related hairstyle, the use of a cultural headdress, national origin or ancestry, or physical handicap.

(2) Print, circulate, display or mail, or cause to be printed, circulated, displayed or mailed, any statement, advertisement, publication or sign or use any form of application for the purchase, rental, lease, assignment or sublease of any housing accommodation, commercial space or real property, or to make any record or inquiry regarding the prospective purchase, rental, lease, assignment or sublease of any housing accommodation, commercial space or real property which expresses any preference, limitation or discrimination as to race, color, religion, sex, race related hairstyle, the use of a cultural headdress, national origin or ancestry, or physical handicap.

(H) Any person to whom application is made for financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, commercial space or real property, to:

(1) Consider race, color, religion, sex, race related hairstyle, the use of a cultural headdress, national origin or ancestry or physical handicap in the granting, withholding, extending, modifying or renewing, or in the fixing of the rates, terms, conditions or provisions of any financial assistance, or in the extension of services in connection with the request for financial assistance; and

(2) Use any form of application for financial assistance or to make any record or inquiry in connection with applications for financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, sex, race related hairstyle, the use of a cultural headdress, national origin or ancestry or physical handicap.

(I) Any person or employer to:

(1) Aid, abet, incite, compel or coerce the doing of any unlawful discriminatory practice or to attempt to do so.

(2) Engage in any form of threats, reprisals or discrimination against any person who has opposed unlawful discriminatory practices or has filed a complaint, testified or participated in any proceeding under this article.

(3) Willfully obstruct or prevent any person from complying with the provisions of this article or to resist, prevent, impede or interface with the Board or any of its members, staff or representatives in the performance of their duties under this article.”

SECTION 3. SEVERABILITY. If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 4. COMPILATION. Sections 1 and 2 of this Ordinance shall amend, be incorporated in and complied as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 5. EFFECTIVE DATE. This ordinance will become effective five days after publication by title and general summary.

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