Ordinance amending Section 3303 of the San Francisco Police Code to require employers to post a non-discrimination in employment notice created and distributed by the Human Rights Commission.

Note: Additions are *italic*; *Times New Roman*; deletions are *strikethrough italic*; *Times New Roman*. Board amendment additions are double underlined. Board amendment deletions are strikethrough normal.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Article 33 of the San Francisco Police Code is hereby amended by amending Section 3303, to read as follows:

Sec. 3303. EMPLOYMENT.

(a) Prohibited Activity. It shall be unlawful for any person to do any of the following acts wholly or partially based on actual or perceived race, religion, color, ancestry, age, sex, sexual orientation, gender identity, disability, place of birth, height, weight, association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under this chapter of an employee or applicant for employment:

(1) By an employer: To fail or refuse to hire, or to discharge any individual; to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment, including promotion; or to limit, segregate or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his/her status as an employee;

(2) By an employment agency: To fail or refuse to refer for employment any individual; or otherwise to discriminate against any individual;
(3) By a labor organization: To exclude or expel from its membership or to otherwise discriminate against any individual; or to limit, segregate or classify its membership; or to classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit such employment opportunities, or otherwise adversely affect his/her status as an employee or as an applicant for employment;

(4) By an employer, employment agency or labor organization:

(i) To discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining, including any on-the-job training program,

(ii) To print, publish, advertise or disseminate in any way, or cause to be printed, published, advertised or disseminated in any way, any notice or advertisement with respect to employment, membership in, or any classification or referral for employment or training by any such organization, which indicates an unlawful discriminatory preference.

(b) Bona Fide Occupational Qualification Not Prohibited; Burden of Proof.

(1) Nothing contained in this Section shall be deemed to prohibit selection or rejection based upon a bona fide occupational qualification;

(2) In any action brought under Section 3307 of this Article (Enforcement), if a party asserts that an otherwise unlawful discriminatory practice is justified as a bona fide occupational qualification, that party shall have the burden of proving: (1) that the discrimination is in fact a necessary result of a bona fide occupational qualification; and (2) that there exists no less discriminatory means of satisfying the occupational qualification.

(c) Exceptions.

(1) It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide seniority system or a bona fide employee benefit system, provided
such systems or plans are not a subterfuge to evade the purposes of this Article; provided, further, that no such system shall provide a pretext to discriminate against an individual because of his or her actual or perceived race, religion, color, ancestry, age, sex, sexual orientation, gender identity, disability, place of birth, height, weight, association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under this chapter;

(2) Nothing in this Section shall be construed to apply to employment by any business which employs five or fewer employees including the owner and any management and supervisory employees.

(d) All employers with a business tax registration certificate from the City shall post in conspicuous places, available to employees and applicants for employment, a non-discrimination in employment notice in such form and content as shall be created and approved by the Human Rights Commission. The notice shall inform employees that employers are prohibited from discriminating in the recruitment, selection, training, promotion and termination of employees based on any of the categories specified in this section. The notice shall measure 8-1/2 by 11 inches and be in ten-point type or larger. The notice shall be distributed by the Human Rights Commission annually to all businesses with a business tax registration certificate issued by the Tax Collector and annually to all new such businesses.

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By: 

CATHARINE S. BARNES
Deputy City Attorney

Supervisor Mark Leno
BOARD OF SUPERVISORS
Ordinance amending Section 3303 of the San Francisco Police Code to require employers to post a non-discrimination in employment notice created and distributed by the Human Rights Commission.

March 26, 2001  Board of Supervisors — PASSED, ON FIRST READING
   Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

April 2, 2001   Board of Supervisors — FINALLY PASSED
   Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee
I hereby certify that the foregoing Ordinance was FINALLY PASSED on April 2, 2001 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

APR 13 2001
Date Approved

Mayor Willie L. Brown Jr.