

**§4573-A. Defenses**

**1. General provisions.** It is a defense to a charge of discrimination under this subchapter that an alleged application of qualification standards, tests or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual based on protected class status has been shown to be job-related and consistent with business necessity, and such performance can not be accomplished by reasonable accommodation, as required by this subchapter.

[PL 2019, c. 464, §3 (AMD).]

**1-A. Qualification standards defined.** For the purposes of this section, the term "qualification standards" may include a requirement that an individual does not pose a direct threat to the health or safety of other individuals in the workplace.

[PL 1995, c. 511, §1 (NEW); PL 1995, c. 511, §3 (AFF).]

**1-B. Physical or mental disability.**

[PL 2019, c. 464, §4 (RP).]

**2. Religious entities.** This subchapter does not prohibit a religious corporation, association, educational institution or society from giving preference in employment to individuals of its same religion to perform work connected with the carrying on by the corporation, association, educational institution or society of its activities. Under this subchapter, a religious organization may require that all applicants and employees conform to the religious tenets of that organization.

[PL 1995, c. 393, §21 (NEW).]

**3. Physical or mental disability.** This subchapter does not prohibit an employer from discharging or refusing to hire an individual with a physical or mental disability or subject an employer to any legal liability resulting from the refusal to employ or the discharge of the individual with a physical or mental disability if the employer establishes that the individual, because of the physical or mental disability, is unable to perform job duties or to perform job duties in a manner that would not endanger the health or safety of the individual or others.

[PL 2021, c. 366, §6 (NEW).]

**SECTION HISTORY**

PL 1995, c. 393, §21 (NEW). PL 1995, c. 511, §1 (AMD). PL 1995, c. 511, §3 (AFF). PL 2019, c. 464, §§3, 4 (AMD). PL 2021, c. 366, §6 (AMD).

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