

IN THE IOWA DISTRICT COURT FOR BLACK HAWK COUNTY

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THE IOWA ASSOCIATION OF BUSINESS AND INDUSTRY,	)	Case No. _____
	)	
Plaintiff,	)	
	)	
v.	)	<b>Petition for Declaratory and Injunctive</b>
	)	<b>Relief</b>
THE CITY OF WATERLOO, THE	)	
WATERLOO COMMISSION ON	)	
HUMAN RIGHTS and MARTIN M.	)	
PETERSON, in his official capacity,	)	
	)	
Defendants.	)	

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The Iowa Association of Business and Industry brings this action for declaratory and injunctive relief:

1. The Iowa Association of Business and Industry (ABI) is Iowa's largest statewide business organization with more than 1,500 member companies representing 330,000 working Iowans, including thousands in Waterloo, Iowa.

2. The Waterloo Commission on Human Rights is an administrative agency within the City of Waterloo.

3. Martin M. Peterson is the Waterloo City Attorney. He is being sued in his official capacity.

4. Among other things, ABI represents its members at the Iowa Capitol by monitoring and advocating for policies and legislative proposals that will ensure Iowa sustains a business climate that fosters new jobs and economic growth.

5. In 2017, ABI registered and advocated for House File 295, which provides, among other things, that "a city shall not adopt, enforce, or otherwise administer an ordinance, motion, resolution, or amendment providing for any terms or conditions of employment that

exceed or conflict with the requirements of federal or state law relating to a minimum or living wage rate, any form of employment leave, hiring practices, employment benefits, scheduling practices, or other terms or conditions of employment.”

6. The Iowa House and Iowa Senate passed, and Governor Branstad signed, House File 295.

7. The language in paragraph 5 above, providing that “a city shall not adopt” any ordinance “providing any terms or conditions of employment that exceed or conflict with the requirements of federal or state law . . . relating to hiring practices . . . or other terms or conditions of employment” was codified at Iowa Code section 364.3(12)(a).

8. On November 5, 2019, the Waterloo City Council voted 4-3 to enact Ordinance No. 5522, which governs the hiring practices of Waterloo employers in a manner that exceeds or conflicts with federal and state law. Specifically, the ordinance governs when employers can inquire about an applicant’s criminal history and whether and how employers can consider an applicant’s criminal record when making hiring decisions.

9. On October 14, 2019, several weeks before the City Council enacted Ordinance No. 5522, ABI sent a letter to the City Council members, informing them that the ordinance violated Iowa Code section 364.3. The letter is attached as Exhibit A.

10. The three city council members who voted against the ordinance, Steve Schmitt, Bruce Jacobs, and Margaret Klein, expressed their agreement that the ordinance violates Iowa law, namely Iowa Code section 364.3(12)(a).

11. The ordinance violates Iowa Code section 364.3(12)(a), as it governs hiring practices and terms and conditions of employment in a manner that exceeds or conflicts with federal and state law.

12. Among other things, the ordinance states that it “shall be an unlawful discriminatory practice for an employer to include a criminal record inquiry on any application.”

13. The ordinance also makes it an illegal hiring practice for any employer to:

- i. “make any inquiry regarding, or to require any person to disclose or reveal, any convictions, arrests, or pending criminal charges during the application process, including but not limited to any interview“;
- ii. “make an adverse hiring decision based on any criminal records which have been lawfully erased or expunged, which are the subject of an executive pardon, or which were otherwise legally nullified”; or
- iii. “make an adverse hiring decision based on an applicant’s criminal record without a legitimate business reason.”

14. Ordinance No. 5522 states that its terms are to be enforced by the Waterloo Commission on Human rights and the Waterloo City Attorney.

15. The ordinance becomes effective July 1, 2020, but Waterloo employers will need to begin changing their hiring practices well before that date if they are to comply with the ordinance’s terms.

16. Understanding that reality, the City of Waterloo is already establishing training programs and providing additional information on Ordinance No. 5522 so that employers will be in compliance by July 1, 2020.

17. ABI has multiple members that do business in Waterloo and that would be required to change their hiring practices if Ordinance No. 5522 is not enjoined and declared to violate Iowa law.

THEREFORE, the Iowa Association of Business and Industry requests that the Court enjoin Defendants from enforcing Waterloo Ordinance No. 5522 and declare that the

ordinance violates Iowa Code section 364.3(12)(a) and Iowa Constitution article III, section 38A.

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