
By: Delegates Hixson, Billings, Goldwater, Gordon, Heller, Mandel, Marriott, Montague, Pendergrass, Petzold, Rosenberg, Nathan-Pulliam, Kagan, Fulton, Menes, Grosfeld, R. Baker, Dembrow, Valderrama, Parker, Exum, McIntosh, Hurson, Hubbard, Bobo, Cummings, and Barve

Requested: October 3, 1995

Introduced and read first time: January 10, 1996

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Anti-Discrimination Act**

3 FOR the purpose of prohibiting discrimination based on sexual orientation, personal
4 appearance, association, or chosen mode of transportation with regard to public
5 accommodations; prohibiting discrimination based on sexual orientation with regard
6 to employment or housing; making certain remedies and procedures regarding
7 discrimination applicable to discrimination based on sexual orientation or on the
8 basis of personal appearance, association, or chosen mode of transportation, under
9 certain circumstances; defining certain terms; making certain technical changes; and
10 generally relating to discrimination on the basis of sexual orientation or on the basis
11 of personal appearance, association, or chosen mode of transportation, in certain
12 circumstances.

13 BY repealing and reenacting, with amendments,
14 Article 49B - Human Relations Commission
15 Section 5, 8(a), 14, 16, 19(a), 20(t), 22(a), 23, and 37(a)
16 Annotated Code of Maryland
17 (1994 Replacement Volume and 1995 Supplement)

18 BY adding to
19 Article 49B - Human Relations Commission
20 Section 15(h) and (i) and 20(u) and (v)
21 Annotated Code of Maryland
22 (1994 Replacement Volume and 1995 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article 49B - Human Relations Commission**

2 5.

3 (a) It is unlawful for an owner or operator of a place of public accommodation or
4 an agent or employee of the owner or operator, because of the race, creed, sex, age, color,
5 national origin, marital status, SEXUAL ORIENTATION, PERSONAL APPEARANCE,
6 ASSOCIATION, CHOSEN MODE OF TRANSPORTATION, or physical or mental handicap,
7 of any person, to refuse, withhold from, or deny to such person any of the
8 accommodations, advantages, facilities and privileges of such place of public
9 accommodation.

10 (b) Nothing in this section shall be construed or interpreted to prohibit the
11 proprietor of any establishment, or the employees of the establishment, from the right to
12 deny service to any person for failure to conform to the usual and regular requirements,
13 standards and regulations for the establishment so long as the denial is not based upon
14 discrimination on the grounds of race, sex, age, color, creed, national origin, marital
15 status, SEXUAL ORIENTATION, PERSONAL APPEARANCE, ASSOCIATION, CHOSEN
16 MODE OF TRANSPORTATION, or physical or mental handicap.

17 (c) For the purpose of this subtitle, a place of public accommodation means:

18 (1) Any inn, hotel, motel, or other establishment which provides lodging to
19 transient guests, other than an establishment located within a building which contains not
20 more than five rooms for rent or hire and which is actually occupied by the proprietor of
21 such establishment as the proprietor's residence;

22 (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or
23 other facility principally engaged in selling food or alcoholic beverages for consumption
24 on or off the premises, including, but not limited to, any such facility located on the
25 premises of any retail establishment; or any gasoline station;

26 (3) Any motion picture house, theater, concert hall, sports arena, stadium or
27 other place of exhibition or entertainment; and

28 (4) Any establishment which:

29 (i) 1. Is physically located within the premises of any establishment
30 otherwise covered by this section; or

31 2. Within the premises of which is physically located any
32 establishment otherwise covered by this section; and

33 (ii) Which holds itself out as serving patrons of such covered
34 establishment.

35 (d) (1) For the purposes of this section, a "place of public accommodation" also
36 means any establishment that:

37 (i) Is operated by a public or private entity;

38 (ii) Is not included in subsection (c) of this section; and

3

1 (iii) Is a retail establishment, whether offering goods, services,
2 entertainment, recreation, or transportation.

3 (2) This section does not require structural changes, modifications, or
4 additions to buildings or vehicles, except as required by this paragraph or as otherwise
5 required by law. In addition, any building constructed, modified or altered in compliance
6 with, or pursuant to a waiver from, the Maryland Building Code for the Handicapped
7 under Article 83B, § 6-102 of the Code shall not be subject to this section.

8 (i) When structural changes, modifications, or the provision of special
9 equipment is necessary to accommodate a handicapped person the accommodation shall
10 be "reasonable".

11 (ii) 1. "Reasonable accommodation" for the purposes of this
12 paragraph means to make a public accommodation suitable for access, use, and patronage
13 by a person without danger to the person's health or safety and without undue hardship
14 or expense to a business or other activity making such an accommodation.

15 2. With respect to a private motor coach transportation carrier,
16 for the purposes of this subsection, "reasonable accommodation" means that any
17 requirement to satisfy the provisions of this article will not exceed a maximum expense of
18 \$2,500 per operating vehicle. However, beginning January 1, 1990, at least 10 percent of
19 the total operating fleet of any private motor coach transportation carrier doing business
20 in the State shall comply with the provisions of this article.

21 3. The Human Relations Commission shall make a
22 determination in the first instance whether an accommodation is "reasonable". In making
23 this determination for buildings, the Human Relations Commission may consult with the
24 Department of Housing and Community Development and such others as may be useful
25 as to the cost and feasibility of any structural changes, modifications, additions or the
26 provision of special equipment.

27 (E) FOR THE PURPOSES OF THIS SUBTITLE, THE FOLLOWING TERMS HAVE
28 THE MEANINGS INDICATED:

29 (1) "SEXUAL ORIENTATION" MEANS THE IDENTIFICATION OF AN
30 INDIVIDUAL AS TO MALE OR FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR
31 BISEXUALITY; AND

32 (2) "PERSONAL APPEARANCE" MEANS THE OUTWARD APPEARANCE OF
33 ANY PERSON, REGARDLESS OF GENDER, WITH RESPECT TO HAIR STYLE, FACIAL
34 HAIR, OR MANNER OF DRESS; EXCEPT THAT "PERSONAL APPEARANCE" MAY NOT BE
35 CONSTRUED TO APPLY TO A REQUIREMENT OF CLEANLINESS, UNIFORMS, OR
36 PRESCRIBED ATTIRE WHEN UNIFORMLY APPLIED FOR ADMITTANCE TO A PLACE OF
37 PUBLIC ACCOMMODATION OR TO A CLASS OF EMPLOYEES FOR A CUSTOMARY OR
38 REASONABLE BUSINESS PURPOSE.

39 [(e)] (F) The provisions of this section shall not apply to a private club or other
40 establishment not in fact open to the public, except to the extent that the facilities of such
41 establishments are made available to the customers or patrons of an establishment within
42 the scope of this section.

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1 [(f)] (G) With respect to sex discrimination, this section may not be construed to
2 apply to those facilities which are uniquely private and personal in nature, designed to
3 accommodate only a particular sex.

4 [(g)] (H) (1) If the Commission finds that a respondent has engaged in an
5 unlawful practice under this section, in addition to other relief authorized, the
6 Commission may seek an order assessing a civil penalty against the respondent:

7 (i) If the respondent has not been adjudged to have committed any
8 prior discriminatory practice, in an amount not exceeding \$500;

9 (ii) If the respondent has been adjudged to have committed 1 other
10 discriminatory practice during the 5-year period ending on the date of the filing of this
11 charge, in an amount not exceeding \$1,000; and

12 (iii) If the respondent has been adjudged to have committed 2 or more
13 discriminatory practices during the 7-year period ending on the date of the filing of this
14 charge, in an amount not exceeding \$2,500.

15 (2) If the acts constituting the discriminatory practice are committed by the
16 same natural person who has been previously adjudged to have committed discriminatory
17 practices, then the civil penalties set forth in subsections (g)(1)(ii) and (iii) may be
18 imposed without regard to the period of time within which any subsequent discriminatory
19 practice occurred.

20 (3) All civil penalties shall be paid to the General Fund of the State of
21 Maryland.

22 8.

23 (a) It is unlawful for any person, business, corporation, partnership, copartnership
24 or association or any other individual, agent, employee, group or firm which is licensed or
25 regulated by a unit in the Department of Labor, Licensing, and Regulation as set out in
26 § 2-108 of the Business Regulation Article to refuse, withhold from, deny or discriminate
27 against any person the accommodations, advantages, facilities, privileges, sales, or
28 services because of the race, sex, creed, color, national origin, marital status, SEXUAL
29 ORIENTATION, PERSONAL APPEARANCE, ASSOCIATION, CHOSEN MODE OF
30 TRANSPORTATION, or physical or mental handicap of any person. Nothing in this section
31 shall be construed or interpreted to prohibit any person, business, corporation,
32 partnership, copartnership, association or any other individual, agent, employee, group or
33 firm which is licensed or regulated by the Department of Labor, Licensing, and
34 Regulation from the right to refuse, withhold from, or deny any person for failure to
35 conform to the usual and regular requirements, standards, and regulations of any person,
36 business, corporation, partnership, copartnership, or association contemplated by this
37 section so long as the denial is not based upon discrimination on the grounds of race, sex,
38 color, creed, or national origin, marital status, SEXUAL ORIENTATION, PERSONAL
39 APPEARANCE, ASSOCIATION, CHOSEN MODE OF TRANSPORTATION, or physical or
40 mental handicap.

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1 14.

2 It is hereby declared to be the policy of the State of Maryland, in the exercise of its
3 police power for the protection of the public safety, public health and general welfare, for
4 the maintenance of business and good government and for the promotion of the State's
5 trade, commerce and manufacturers to assure all persons equal opportunity in receiving
6 employment and in all labor management-union relations regardless of race, color,
7 religion, ancestry or national origin, sex, age, marital status, SEXUAL ORIENTATION, or
8 physical or mental handicap unrelated in nature and extent so as to reasonably preclude
9 the performance of the employment, and to that end to prohibit discrimination in
10 employment by any person, group, labor organization, organization or any employer or
11 [his] ITS agents.

12 15.

13 For the purposes of this subtitle:

14 (H) "SEXUAL ORIENTATION" MEANS THE IDENTIFICATION OF AN
15 INDIVIDUAL AS TO MALE OR FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR
16 BISEXUALITY.

17 16.

18 (a) It shall be an unlawful employment practice for an employer:

19 (1) To fail or refuse to hire or to discharge any individual, or otherwise to
20 discriminate against any individual with respect to [his] THE INDIVIDUAL'S
21 compensation, terms, conditions, or privileges of employment, because of such
22 individual's race, color, religion, sex, age, national origin, marital status, SEXUAL
23 ORIENTATION, or physical or mental handicap unrelated in nature and extent so as to
24 reasonably preclude the performance of the employment; or

25 (2) To limit, segregate, or classify [his] ITS employees or applicants for
26 employment in any way which would deprive or tend to deprive any individual of
27 employment opportunities or otherwise adversely affect [his] THE INDIVIDUAL'S status
28 as an employee, because of the individual's race, color, religion, sex, age, national origin,
29 marital status, SEXUAL ORIENTATION, or physical or mental handicap unrelated in
30 nature and extent so as to reasonably preclude the performance of the employment[;].

31 (b) It shall be an unlawful employment practice for an employment agency to fail
32 or refuse to refer for employment, or otherwise to discriminate against, any individual
33 because of [his] THE INDIVIDUAL'S race, color, religion, sex, age, national origin,
34 marital status, SEXUAL ORIENTATION, or physical or mental handicap unrelated in
35 nature and extent so as to reasonably preclude the performance of the employment, or to
36 classify or refer for employment any individual on the basis of [his] THE INDIVIDUAL'S
37 race, color, religion, sex, age, national origin, marital status, SEXUAL ORIENTATION, or
38 physical or mental handicap unrelated in nature and extent so as to reasonably preclude
39 the performance of the employment[;].

40 (c) It shall be an unlawful employment practice for a labor organization: (1) to
41 exclude or to expel from its membership, or otherwise to discriminate against, any
42 individual because of [his] THE INDIVIDUAL'S race, color, religion, sex, age, national

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1 origin, marital status, SEXUAL ORIENTATION, or physical or mental handicap unrelated
 2 in nature and extent so as to reasonably preclude the performance of the employment; (2)
 3 to limit, segregate or classify its membership, or to classify or fail or refuse to refer for
 4 employment any individual, in any way which would deprive or tend to deprive any
 5 individual of employment opportunities, or would limit such employment opportunities or
 6 otherwise adversely affect [his] THE INDIVIDUAL'S status as an employee or as an
 7 applicant for employment, because of such individual's race, color, religion, sex, age,
 8 national origin, marital status, SEXUAL ORIENTATION, or physical or mental handicap
 9 unrelated in nature and extent so as to reasonably preclude the performance of the
 10 employment; or (3) to cause or attempt to cause an employer to discriminate against an
 11 individual in violation of this section[;].

12 (d) It shall be an unlawful employment practice for any employer, labor
 13 organization, or joint labor-management committee controlling apprenticeship or other
 14 training or retraining, including on-the-job training programs to discriminate against any
 15 individual because of [his] THE INDIVIDUAL'S race, color, religion, sex, age, national
 16 origin, marital status, SEXUAL ORIENTATION, or physical or mental handicap unrelated
 17 in nature or extent so as to reasonably preclude the performance of the employment in
 18 admission to, or employment in, any program established to provide apprenticeship or
 19 other training[;].

20 (e) It is an unlawful employment practice for an employer, labor organization, or
 21 employment agency to print or cause to be printed or published any notice or
 22 advertisement relating to employment by the employer or membership in or any
 23 classification or referral for employment by the labor organization, or relating to any
 24 classification or referral for employment by the agency, indicating any preference,
 25 limitation, specification, or discrimination, based on race, color, religion, sex, age,
 26 national origin, SEXUAL ORIENTATION, or on the basis of a physical or mental
 27 qualification. However, a notice or advertisement may indicate a preference, limitation,
 28 specification, or discrimination based on religion, sex, age, national origin or physical or
 29 mental qualification when religion, sex, age, national origin or physical or mental
 30 qualification is a bona fide occupational qualification for employment[;].

31 (f) It is an unlawful employment practice for an employer to discriminate against
 32 any of [his] ITS employees or applicants for employment, for an employment agency to
 33 discriminate against any individual, or for a labor organization to discriminate against any
 34 member thereof or applicant for membership, because [he] THE INDIVIDUAL has
 35 opposed any practice made an unlawful employment practice by this subtitle or because
 36 [he] THE INDIVIDUAL has made a charge, testified, assisted, or participated in any
 37 manner in an investigation, proceeding, or hearing under this subtitle[;].

38 (g) Notwithstanding any other provision of this subtitle, (1) it is not an unlawful
 39 employment practice for an employer to hire and employ employees, for an employment
 40 agency to classify, or refer for employment any individual, for a labor organization to
 41 classify its membership or to classify or refer for employment any individual, or for an
 42 employer, labor organization or joint labor-management committee controlling
 43 apprenticeship or other training or retraining programs to admit or employ any individual
 44 in any such program, on the basis of [his] THE INDIVIDUAL'S religion, national origin or
 45 physical or mental qualification in those instances where sex, age, religion, national origin
 46 or physical or mental qualification is a bona fide occupational qualification reasonably

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1 necessary to the normal operation of that particular business or enterprise; (2) it is not an
2 unlawful employment practice for an employer to establish standards concerning an
3 employee's dress and grooming if the standards are directly related to the nature of the
4 employment of the employee; (3) it is not an unlawful employment practice for a school,
5 college, university, or other educational institution or institution of learning to hire and
6 employ employees of a particular religion if the school, college, university, or other
7 educational institution or institution of learning is, in whole or in substantial part, owned,
8 supported, controlled, or managed by a particular religion or by a particular religious
9 corporation, association, or society or if the curriculum of the school, college, university,
10 or other educational institution or institution of learning is directed toward the
11 propagation of a particular religion; and (4) it is not unlawful for an employer,
12 employment agency or labor organization to observe the terms of a bona fide seniority
13 system or any bona fide employee benefit plan such as a retirement, pension or insurance
14 plan, which is not a subterfuge to evade the purposes of this subtitle; however, no
15 employee benefit plan shall excuse the failure to hire any individual[;].

16 (h) Nothing contained in this subtitle shall be interpreted to require any
17 employer, employment agency, labor organization, or joint labor-management committee
18 subject to this subtitle to grant preferential treatment to any individual or to any group
19 because of the race, color, religion, sex, age, national origin, SEXUAL ORIENTATION, or
20 physical or mental handicap of the individual or group on account of an imbalance which
21 may exist with respect to the total number or percentage of persons of any race, color,
22 religion, sex, age, national origin, SEXUAL ORIENTATION, or physically or mentally
23 handicapped persons employed by any employer, referred or classified for employment by
24 any employment agency or labor organization, admitted to membership or classified by
25 any labor agency or labor organization, admitted to membership or classified by any labor
26 organization, or admitted to, or employed in, any apprenticeship or other training
27 program, in comparison with the total number or percentage of persons of such race,
28 color, religion, sex, age, national origin, SEXUAL ORIENTATION, or physically or mentally
29 handicapped persons in any community, State, section, or other area, or in the available
30 work force in any community, State, section, or other area.

31 19.

32 (a) It is the policy of the State of Maryland to provide for fair housing throughout
33 the State of Maryland, to all its citizens, regardless of race, color, religion, sex, familial
34 status, national origin, marital status, SEXUAL ORIENTATION, or handicap; and to that
35 end to prohibit discriminatory practices with respect to residential housing by any person
36 or group of persons, in order that the peace, health, safety, prosperity and general welfare
37 of all the inhabitants of the State may be protected and insured.

38 20.

39 (t) "Restrictive covenants" means any specification limiting the transfer, rental,
40 or lease of any dwelling because of race, color, religion, marital status, SEXUAL
41 ORIENTATION, sex, familial status, handicap, or national origin.

42 (U) "SEXUAL ORIENTATION" MEANS THE IDENTIFICATION OF AN
43 INDIVIDUAL AS TO MALE OR FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR
44 BISEXUALITY.

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1 22.

2 (a) Except as provided in § 21 of this subtitle, it is unlawful:

3 (1) To refuse to sell or rent after the making of a bona fide offer, or to
4 refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a
5 dwelling to any person because of race, color, religion, sex, handicap, marital status,
6 familial status, SEXUAL ORIENTATION, or national origin;

7 (2) To discriminate against any person in the terms, conditions, or privileges
8 of sale or rental of a dwelling, or in the provision of services or facilities in connection
9 with the sale or rental of a dwelling, because of race, color, religion, sex, handicap,
10 marital status, familial status, SEXUAL ORIENTATION, or national origin;

11 (3) To make, print, or publish, or cause to be made, printed, or published
12 any notice, statement, or advertisement, with respect to the sale or rental of a dwelling
13 that indicates any preference, limitation, or discrimination based on race, color, religion,
14 sex, handicap, marital status, familial status, SEXUAL ORIENTATION, or national origin,
15 or an intention to make any preference, limitation, or discrimination;

16 (4) To represent to any person because of race, color, religion, sex,
17 handicap, marital status, familial status, SEXUAL ORIENTATION, or national origin that
18 any dwelling is not available for inspection, sale, or rental when the dwelling is in fact
19 available;

20 (5) For profit, to induce or attempt to induce any person to sell or rent any
21 dwelling by representations regarding the entry or prospective entry into the
22 neighborhood of a person or persons of a particular race, color, religion, sex, handicap,
23 marital status, familial status, SEXUAL ORIENTATION, or national origin;

24 (6) To discriminate in the sale or rental, or otherwise make unavailable or
25 deny, a dwelling to any buyer or renter because of a handicap of:

26 (i) The buyer or renter; or

27 (ii) A person residing in or intending to reside in the dwelling after it
28 is so sold, rented, or made available;

29 (7) To discriminate against any person in the terms, conditions, or privileges
30 of sale or rental of a dwelling, or in the provision of services or facilities in connection
31 with the dwelling, because of a handicap of:

32 (i) The person; or

33 (ii) A person residing in or intending to reside in the dwelling after it
34 is so sold, rented, or made available;

35 (8) To refuse to permit, at the expense of the handicapped person,
36 reasonable modifications of existing premises occupied or to be occupied by the
37 individual if:

38 (i) The modifications may be necessary to afford the handicapped
39 person full enjoyment of the dwelling; and

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1 (ii) For a rental dwelling, the tenant agrees, at the tenant's expense, to
2 restore, reasonable wear and tear excepted, the interior of the dwelling to the condition
3 that existed before the modification on vacating the dwelling;

4 (9) To refuse to make reasonable accommodations in rules, policies,
5 practices, or services when the accommodations may be necessary to afford a
6 handicapped individual equal opportunity to use and enjoy a dwelling; or

7 (10) To fail to design or construct a covered multifamily dwelling for first
8 occupancy as required under subsection (b) of this section.

9 23.

10 (a) (1) It is unlawful for any person or other entity whose business includes
11 engaging in residential real estate related transactions to discriminate against any person
12 in making available a transaction, or in the terms or conditions of a transaction, because
13 of race, color, religion, sex, handicap, marital status, familial status, SEXUAL
14 ORIENTATION, or national origin.

15 (2) Nothing in paragraph (1) of this subsection prohibits a person engaged
16 in the business of furnishing appraisals of real property to take into consideration factors
17 other than race, color, religion, national origin, sex, handicap, marital status, SEXUAL
18 ORIENTATION, or familial status.

19 (b) It is unlawful, because of race, color, religion, sex, handicap, marital status,
20 familial status, SEXUAL ORIENTATION, or national origin, to deny a person access to or
21 membership or participation in a multiple-listing service, real estate brokers'
22 organization or other service, organization, or facility relating to the business of selling or
23 renting dwellings, or to discriminate against a person in the terms or conditions of
24 membership or participation.

25 37.

26 (a) Whether or not acting under color of law it is unlawful for any person, by force
27 or threat of force, to willfully injure, intimidate, interfere with, or attempt to injure,
28 intimidate, or interfere with:

29 (1) Any person because of race, color, religion, sex, handicap, marital status,
30 familial status, SEXUAL ORIENTATION, or national origin and because the person is or
31 has been:

32 (i) Selling, purchasing, renting, financing, occupying, or contracting or
33 negotiating for the sale, purchase, rental, financing, or occupation of any dwelling; or

34 (ii) Applying for or participating in any service, organization, or
35 facility relating to the business of selling or renting dwellings; or

36 (2) Any person because the person is or has been, or in order to intimidate
37 the person or any other person or any class of persons from:

38 (i) Participating without discrimination on account of race, color,
39 religion, sex, handicap, marital status, familial status, SEXUAL ORIENTATION, or

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1 national origin in any of the activities, services, organizations, or facilities described in
2 paragraph (1) of this subsection; or

3 (ii) Affording another person or class of persons the opportunity or
4 protection to participate in any of the activities, services, organizations or facilities
5 described in paragraph (1) of this subsection; or

6 (3) Any person because the person is or has been, or in order to discourage
7 the person or any other person from:

8 (i) Lawfully aiding or encouraging other persons to participate,
9 without discrimination on account of race, color, religion, sex, handicap, marital status,
10 familial status, SEXUAL ORIENTATION, or national origin, in any of the activities,
11 services, organizations, or facilities described in paragraph (1) of this subsection; or

12 (ii) Participating lawfully in speech or peaceful assembly opposing any
13 denial of the opportunity to participate in any of the activities, services, organizations or
14 facilities described in paragraph (1) of this subsection.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 1996.