
By: Delegates Hixson, R. Baker, Barve, Billings, Bobo, Dembrow, Exum, Genn, Goldwater, Gordon, Grosfeld, Hecht, Heller, Howard, B. Hughes, Hurson, Kagan, Kopp, Mandel, Marriott, McIntosh, Menes, Montague, Nathan-Pulliam, Parker, Pendergrass, Petzold, Rawlings, Rosenberg, Valderrama, and Watson

Introduced and read first time: January 24, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Anti-Discrimination Act**

3 FOR the purpose of prohibiting discrimination based on sexual orientation with regard to
4 public accommodations, housing, and employment; making certain remedies and
5 procedures regarding discrimination applicable to discrimination based on sexual
6 orientation; defining "sexual orientation"; making certain technical changes; and
7 generally relating to discrimination on the basis of sexual orientation.

8 BY repealing and reenacting, with amendments,
9 Article 49B - Human Relations Commission
10 Section 5(a) and (b), 8(a), 14, 16, 19(a), 20(t), 22(a), 23, and 37(a)
11 Annotated Code of Maryland
12 (1994 Replacement Volume and 1996 Supplement)

13 BY adding to
14 Article 49B - Human Relations Commission
15 Section 15(h) and 20(u)
16 Annotated Code of Maryland
17 (1994 Replacement Volume and 1996 Supplement)

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

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

21 5.

22 (a) It is unlawful for an owner or operator of a place of public accommodation or
23 an agent or employee of the owner or operator, because of the race, creed, sex, age, color,
24 national origin, marital status, SEXUAL ORIENTATION, or physical or mental handicap,
25 of any person, to refuse, withhold from, or deny to such person any of the
26 accommodations, advantages, facilities and privileges of such place of public
27 accommodation.

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1 (b) Nothing in this section shall be construed or interpreted to prohibit the
2 proprietor of any establishment, or the employees of the establishment, from the right to
3 deny service to any person for failure to conform to the usual and regular requirements,
4 standards and regulations for the establishment so long as the denial is not based upon
5 discrimination on the grounds of race, sex, age, color, creed, national origin, marital
6 status, SEXUAL ORIENTATION, or physical or mental handicap.

7 8.

8 (a) It is unlawful for any person, business, corporation, partnership, copartnership
9 or association or any other individual, agent, employee, group or firm which is licensed or
10 regulated by a unit in the Department of Labor, Licensing, and Regulation as set out in
11 § 2-108 of the Business Regulation Article to refuse, withhold from, deny or discriminate
12 against any person the accommodations, advantages, facilities, privileges, sales, or
13 services because of the race, sex, creed, color, national origin, marital status, SEXUAL
14 ORIENTATION, or physical or mental handicap of any person. Nothing in this section
15 shall be construed or interpreted to prohibit any person, business, corporation,
16 partnership, copartnership, association or any other individual, agent, employee, group or
17 firm which is licensed or regulated by the Department of Labor, Licensing, and
18 Regulation from the right to refuse, withhold from, or deny any person for failure to
19 conform to the usual and regular requirements, standards, and regulations of any person,
20 business, corporation, partnership, copartnership, or association contemplated by this
21 section so long as the denial is not based upon discrimination on the grounds of race, sex,
22 color, creed, or national origin, marital status, SEXUAL ORIENTATION, or physical or
23 mental handicap.

24 14.

25 It is hereby declared to be the policy of the State of Maryland, in the exercise of its
26 police power for the protection of the public safety, public health and general welfare, for
27 the maintenance of business and good government and for the promotion of the State's
28 trade, commerce and manufacturers to assure all persons equal opportunity in receiving
29 employment and in all labor management-union relations regardless of race, color,
30 religion, ancestry or national origin, sex, age, marital status, SEXUAL ORIENTATION, or
31 physical or mental handicap unrelated in nature and extent so as to reasonably preclude
32 the performance of the employment, and to that end to prohibit discrimination in
33 employment by any person, group, labor organization, organization or any employer or his
34 agents.

35 15.

36 For the purposes of this subtitle:

37 (H) "SEXUAL ORIENTATION" MEANS THE IDENTIFICATION OF AN
38 INDIVIDUAL AS TO MALE OR FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR
39 BISEXUALITY.

40 16.

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

42 (1) To fail or refuse to hire or to discharge any individual, or otherwise to
43 discriminate against any individual with respect to his compensation, terms, conditions, or

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1 privileges of employment, because of such individual's race, color, religion, sex, age,
2 national origin, marital status, SEXUAL ORIENTATION, or physical or mental handicap
3 unrelated in nature and extent so as to reasonably preclude the performance of the
4 employment; or

5 (2) To limit, segregate, or classify his employees or applicants for
6 employment in any way which would deprive or tend to deprive any individual of
7 employment opportunities or otherwise adversely affect his status as an employee,
8 because of the individual's race, color, religion, sex, age, national origin, marital status,
9 SEXUAL ORIENTATION, or physical or mental handicap unrelated in nature and extent
10 so as to reasonably preclude the performance of the employment[;].

11 (b) It shall be an unlawful employment practice for an employment agency to fail
12 or refuse to refer for employment, or otherwise to discriminate against, any individual
13 because of his race, color, religion, sex, age, national origin, marital status, SEXUAL
14 ORIENTATION, or physical or mental handicap unrelated in nature and extent so as to
15 reasonably preclude the performance of the employment, or to classify or refer for
16 employment any individual on the basis of his race, color, religion, sex, age, national
17 origin, marital status, SEXUAL ORIENTATION, or physical or mental handicap unrelated
18 in nature and extent so as to reasonably preclude the performance of the employment[;].
19 .

20 (c) It shall be an unlawful employment practice for a labor organization: (1) to
21 exclude or to expel from its membership, or otherwise to discriminate against, any
22 individual because of his race, color, religion, sex, age, national origin, marital status,
23 SEXUAL ORIENTATION, or physical or mental handicap unrelated in nature and extent
24 so as to reasonably preclude the performance of the employment; (2) to limit, segregate
25 or classify its membership, or to classify or fail or refuse to refer for employment any
26 individual, in any way which would deprive or tend to deprive any individual of
27 employment opportunities, or would limit such employment opportunities or otherwise
28 adversely affect his status as an employee or as an applicant for employment, because of
29 such individual's race, color, religion, sex, age, national origin, marital status, SEXUAL
30 ORIENTATION, or physical or mental handicap unrelated in nature and extent so as to
31 reasonably preclude the performance of the employment; or (3) to cause or attempt to
32 cause an employer to discriminate against an individual in violation of this section[;].

33 (d) It shall be an unlawful employment practice for any employer, labor
34 organization, or joint labor-management committee controlling apprenticeship or other
35 training or retraining, including on-the-job training programs to discriminate against any
36 individual because of his race, color, religion, sex, age, national origin, marital status,
37 SEXUAL ORIENTATION, or physical or mental handicap unrelated in nature or extent so
38 as to reasonably preclude the performance of the employment in admission to, or
39 employment in, any program established to provide apprenticeship or other training[;].

40 (e) It is an unlawful employment practice for an employer, labor organization, or
41 employment agency to print or cause to be printed or published any notice or
42 advertisement relating to employment by the employer or membership in or any
43 classification or referral for employment by the labor organization, or relating to any
44 classification or referral for employment by the agency, indicating any preference,
45 limitation, specification, or discrimination, based on race, color, religion, sex, age,

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1 national origin, SEXUAL ORIENTATION, or on the basis of a physical or mental
2 qualification. However, a notice or advertisement may indicate a preference, limitation,
3 specification, or discrimination based on religion, sex, age, national origin or physical or
4 mental qualification when religion, sex, age, national origin or physical or mental
5 qualification is a bona fide occupational qualification for employment[;].

6 (f) It is an unlawful employment practice for an employer to discriminate against
7 any of his employees or applicants for employment, for an employment agency to
8 discriminate against any individual, or for a labor organization to discriminate against any
9 member thereof or applicant for membership, because he has opposed any practice made
10 an unlawful employment practice by this subtitle or because he has made a charge,
11 testified, assisted, or participated in any manner in an investigation, proceeding, or
12 hearing under this subtitle[;].

13 (g) Notwithstanding any other provision of this subtitle, (1) it is not an unlawful
14 employment practice for an employer to hire and employ employees, for an employment
15 agency to classify, or refer for employment any individual, for a labor organization to
16 classify its membership or to classify or refer for employment any individual, or for an
17 employer, labor organization or joint labor-management committee controlling
18 apprenticeship or other training or retraining programs to admit or employ any individual
19 in any such program, on the basis of his religion, national origin or physical or mental
20 qualification in those instances where sex, age, religion, national origin or physical or
21 mental qualification is a bona fide occupational qualification reasonably necessary to the
22 normal operation of that particular business or enterprise; (2) it is not an unlawful
23 employment practice for an employer to establish standards concerning an employee's
24 dress and grooming if the standards are directly related to the nature of the employment
25 of the employee; (3) it is not an unlawful employment practice for a school, college,
26 university, or other educational institution or institution of learning to hire and employ
27 employees of a particular religion if the school, college, university, or other educational
28 institution or institution of learning is, in whole or in substantial part, owned, supported,
29 controlled, or managed by a particular religion or by a particular religious corporation,
30 association, or society or if the curriculum of the school, college, university, or other
31 educational institution or institution of learning is directed toward the propagation of a
32 particular religion; and (4) it is not unlawful for an employer, employment agency or labor
33 organization to observe the terms of a bona fide seniority system or any bona fide
34 employee benefit plan such as a retirement, pension or insurance plan, which is not a
35 subterfuge to evade the purposes of this subtitle; however, no employee benefit plan shall
36 excuse the failure to hire any individual[;].

37 (h) Nothing contained in this subtitle shall be interpreted to require any
38 employer, employment agency, labor organization, or joint labor-management committee
39 subject to this subtitle to grant preferential treatment to any individual or to any group
40 because of the race, color, religion, sex, age, national origin, SEXUAL ORIENTATION, or
41 physical or mental handicap of the individual or group on account of an imbalance which
42 may exist with respect to the total number or percentage of persons of any race, color,
43 religion, sex, age, national origin, SEXUAL ORIENTATION, or physically or mentally
44 handicapped persons employed by any employer, referred or classified for employment by
45 any employment agency or labor organization, admitted to membership or classified by
46 any labor agency or labor organization, admitted to membership or classified by any labor

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1 organization, or admitted to, or employed in, any apprenticeship or other training
2 program, in comparison with the total number or percentage of persons of such race,
3 color, religion, sex, age, national origin, SEXUAL ORIENTATION, or physically or mentally
4 handicapped persons in any community, State, section, or other area, or in the available
5 work force in any community, State, section, or other area.

6 19.

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

13 20.

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

17 (U) "SEXUAL ORIENTATION" MEANS THE IDENTIFICATION OF AN
18 INDIVIDUAL AS TO MALE OR FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR
19 BISEXUALITY.

20 22.

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

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

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

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

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

39 (5) For profit, to induce or attempt to induce any person to sell or rent any
40 dwelling by representations regarding the entry or prospective entry into the

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1 neighborhood of a person or persons of a particular race, color, religion, sex, handicap,
2 marital status, familial status, SEXUAL ORIENTATION, or national origin;

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

5 (i) The buyer or renter; or

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

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

11 (i) The person; or

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

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

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

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

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

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

27 23.

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

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

37 (b) It is unlawful, because of race, color, religion, sex, handicap, marital status,
38 familial status, SEXUAL ORIENTATION, or national origin, to deny a person access to or
39 membership or participation in a multiple-listing service, real estate brokers'

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1 organization or other service, organization, or facility relating to the business of selling or
2 renting dwellings, or to discriminate against a person in the terms or conditions of
3 membership or participation.

4 37.

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

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

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

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

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

17 (i) Participating without discrimination on account of race, color,
18 religion, sex, handicap, marital status, familial status, SEXUAL ORIENTATION, or
19 national origin in any of the activities, services, organizations, or facilities described in
20 paragraph (1) of this subsection; or

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

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

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

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

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1997.