

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 315

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, after "orientation;" insert "making certain exemptions from certain provisions of law that prohibit certain discrimination applicable to provisions of this Act regarding discrimination based on sexual orientation;"; in line 11, strike "5(a) and (b)" and substitute "5"; in the same line, after "16," insert "18,"; and in the same line, after "20(t)," insert "21(a),".

AMENDMENT NO. 2

On page 3, in line 3, strike the colon; in line 4, strike "(I)"; and strike beginning with the semicolon in line 5 down through "BIRTH" in line 8.

On page 5, in line 40, strike the colon; in line 41, strike "(I)"; and on pages 5 and 6, strike beginning with the semicolon in line 42 on page 5 through "BIRTH" in line 3 on page 6.

AMENDMENT NO. 3

On page 1, after line 22, insert:

"(A) IN THIS SUBHEADING, "SEXUAL ORIENTATION" MEANS THE IDENTIFICATION OF AN INDIVIDUAL AS TO MALE OR FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR BISEXUALITY.";

and in line 23, strike "(a)" and substitute "(B)".

On page 2, in line 5, strike "(b)" and substitute "(C)"; and after line 11, insert:

"[(c)] (D) For the purpose of this subtitle, a place of public accommodation means:

(1) Any inn, hotel, motel, or other establishment which provides lodging to

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transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as the proprietor's residence;

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

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

(4) Any establishment which:

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

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

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

[(d)] (E) (1) For the purposes of this section, a “place of public accommodation” also means any establishment that:

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

(ii) Is not included in subsection [(c)] (D) of this section; and

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

(2) This section does not require structural changes, modifications, or additions

to buildings or vehicles, except as required by this paragraph or as otherwise required by law. In addition, any building constructed, modified or altered in compliance with, or pursuant to a waiver from, the Maryland Building Code for the Handicapped under Article 83B, § 6-102 of the Code shall not be subject to this section.

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

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

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

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

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

[(f)] (G) With respect to sex discrimination, this section may not be construed to apply

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to those facilities which are uniquely private and personal in nature, designed to accommodate only a particular sex.

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

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

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

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

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

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

AMENDMENT NO. 4

On page 5, after line 27, insert:

“18.

This subtitle shall not apply to:

(1) [an] AN employer with respect to the employment of aliens outside of the State[,

or to]; OR

(2) [a] A religious corporation, association, educational institution or society with respect to the employment of individuals of a particular religion OR SEXUAL ORIENTATION to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities.”.

AMENDMENT NO. 5

On page 6, after line 3, insert:

“21.

(a) This subtitle does not apply to:

(1) The sale or rental of a single family dwelling, if the dwelling is sold or rented without:

(i) The use of the sales or rental facilities or services of any:

1. Real estate broker, agent, or salesman;

2. Agent of any real estate broker, agent, or salesman;

3. Person in the business of selling or renting dwellings; or

4. Agent of a person in the business of selling or renting dwellings; or

(ii) The publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this subtitle; and

(2) With respect to discrimination on the basis of [either] sex, SEXUAL ORIENTATION, or marital status:

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(i) The rental of rooms in any dwelling, if the owner maintains the dwelling as the owner's principal residence; or

(ii) The rental of any apartment in a dwelling that contains no more than 5 rental units, if the owner maintains the dwelling as the owner's principal residence.”.