
By: **Chairman, Commerce and Government Matters Committee**
(Departmental - Human Relations Commission)

Introduced and read first time: January 20, 1999
Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 2, 1999

CHAPTER _____

1 AN ACT concerning

2 **Human Relations Commission - Disability**

3 FOR the purpose of substituting the word "disability" for "handicap", "physical or
4 mental handicap", and certain other terms in certain provisions of law regarding
5 human relations and discrimination; making certain technical changes; and
6 generally relating to the Human Relations Commission and discrimination
7 based on disability.

8 BY repealing and reenacting, with amendments,
9 Article 49B - Human Relations Commission
10 Section ~~5(a) and (b)~~ 5(a), (b), and (d)(2)(i), 8(a), 14, 15(g), 16, 19(a), ~~20(k)~~ 20(k)
11 and (t), 21(c), 22(a) and (b)(1), 23, and 37(a)
12 Annotated Code of Maryland
13 (1998 Replacement Volume)

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

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

17 5.

18 (a) It is unlawful for an owner or operator of a place of public accommodation
19 or an agent or employee of the owner or operator, because of the race, creed, sex, age,
20 color, national origin, marital status, or [physical or mental handicap,] DISABILITY of
21 any person, to refuse, withhold from, or deny to such person any of the

1 accommodations, advantages, facilities and privileges of such place of public
2 accommodation.

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

9 (d) (2) (i) When structural changes, modifications, or the provision of
10 special equipment is necessary to accommodate [a handicapped person] AN
11 INDIVIDUAL WITH A DISABILITY, the accommodation shall be "reasonable".

12 8.

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

29 14.

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

40 15.

41 (g) The term ["physical or mental handicap"] "DISABILITY" means any
42 physical disability, infirmity, malformation or disfigurement which is caused by

1 bodily injury, birth defect or illness including epilepsy, and which shall include, but
2 not be limited to, any degree of paralysis, amputation, lack of physical coordination,
3 blindness or visual impairment, deafness or hearing impairment, muteness or speech
4 impediment or physical reliance on a seeing eye dog, wheelchair, or other remedial
5 appliance or device; and any mental impairment or deficiency as, but not limited to,
6 retardation or such other which may have necessitated remedial or special education
7 and related services.

8 16.

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

10 (1) To fail or refuse to hire or to discharge any individual, or otherwise to
11 discriminate against any individual with respect to his compensation, terms,
12 conditions, or privileges of employment, because of such individual's race, color,
13 religion, sex, age, national origin, marital status, or [physical or mental handicap]
14 DISABILITY unrelated in nature and extent so as to reasonably preclude the
15 performance of the employment; or

16 (2) To limit, segregate, or classify his employees or applicants for
17 employment in any way which would deprive or tend to deprive any individual of
18 employment opportunities or otherwise adversely affect his status as an employee,
19 because of the individual's race, color, religion, sex, age, national origin, marital
20 status, or [physical or mental handicap] DISABILITY unrelated in nature and extent
21 so as to reasonably preclude the performance of the employment[;].

22 (b) It shall be an unlawful employment practice for an employment agency to
23 fail or refuse to refer for employment, or otherwise to discriminate against, any
24 individual because of his race, color, religion, sex, age, national origin, marital status,
25 or [physical or mental handicap] DISABILITY unrelated in nature and extent so as to
26 reasonably preclude the performance of the employment, or to classify or refer for
27 employment any individual on the basis of his race, color, religion, sex, age, national
28 origin, marital status, or [physical or mental handicap] DISABILITY unrelated in
29 nature and extent so as to reasonably preclude the performance of the
30 employment[;].

31 (c) It shall be an unlawful employment practice for a labor organization: (1) to
32 exclude or to expel from its membership, or otherwise to discriminate against, any
33 individual because of his race, color, religion, sex, age, national origin, marital status,
34 or [physical or mental handicap] DISABILITY unrelated in nature and extent so as to
35 reasonably preclude the performance of the employment; (2) to limit, segregate or
36 classify its membership, or to classify or fail or refuse to refer for employment any
37 individual, in any way which would deprive or tend to deprive any individual of
38 employment opportunities, or would limit such employment opportunities or
39 otherwise adversely affect his status as an employee or as an applicant for
40 employment, because of such individual's race, color, religion, sex, age, national
41 origin, marital status, or [physical or mental handicap] DISABILITY unrelated in
42 nature and extent so as to reasonably preclude the performance of the employment; or

1 (3) to cause or attempt to cause an employer to discriminate against an individual in
2 violation of this section[;].

3 (d) It shall be an unlawful employment practice for any employer, labor
4 organization, or joint labor-management committee controlling apprenticeship or
5 other training or retraining, including on-the-job training programs to discriminate
6 against any individual because of his race, color, religion, sex, age, national origin,
7 marital status, or [physical or mental handicap] DISABILITY unrelated in nature or
8 extent so as to reasonably preclude the performance of the employment in admission
9 to, or employment in, any program established to provide apprenticeship or other
10 training[;].

11 (e) It is an unlawful employment practice for an employer, labor organization,
12 or employment agency to print or cause to be printed or published any notice or
13 advertisement relating to employment by the employer or membership in or any
14 classification or referral for employment by the labor organization, or relating to any
15 classification or referral for employment by the agency, indicating any preference,
16 limitation, specification, or discrimination, based on race, color, religion, sex, age,
17 national origin or on the basis of a [physical or mental qualification] DISABILITY.
18 However, a notice or advertisement may indicate a preference, limitation,
19 specification, or discrimination based on religion, sex, age, national origin or
20 [physical or mental qualification] DISABILITY when religion, sex, age, national origin
21 or [physical or mental qualification] DISABILITY is a bona fide occupational
22 qualification for employment[;].

23 (f) It is an unlawful employment practice for an employer to discriminate
24 against any of his employees or applicants for employment, for an employment agency
25 to discriminate against any individual, or for a labor organization to discriminate
26 against any member thereof or applicant for membership, because he has opposed
27 any practice made an unlawful employment practice by this subtitle or because he
28 has made a charge, testified, assisted, or participated in any manner in an
29 investigation, proceeding, or hearing under this subtitle[;].

30 (g) Notwithstanding any other provision of this subtitle, (1) it is not an
31 unlawful employment practice for an employer to hire and employ employees, for an
32 employment agency to classify, or refer for employment any individual, for a labor
33 organization to classify its membership or to classify or refer for employment any
34 individual, or for an employer, labor organization or joint labor-management
35 committee controlling apprenticeship or other training or retraining programs to
36 admit or employ any individual in any such program, on the basis of his religion,
37 national origin or [physical or mental qualification] DISABILITY in those instances
38 where sex, age, religion, national origin or [physical or mental qualification]
39 DISABILITY is a bona fide occupational qualification reasonably necessary to the
40 normal operation of that particular business or enterprise; (2) it is not an unlawful
41 employment practice for an employer to establish standards concerning an employee's
42 dress and grooming if the standards are directly related to the nature of the
43 employment of the employee; (3) it is not an unlawful employment practice for a
44 school, college, university, or other educational institution or institution of learning to
45 hire and employ employees of a particular religion if the school, college, university, or

1 other educational institution or institution of learning is, in whole or in substantial
2 part, owned, supported, controlled, or managed by a particular religion or by a
3 particular religious corporation, association, or society or if the curriculum of the
4 school, college, university, or other educational institution or institution of learning is
5 directed toward the propagation of a particular religion; and (4) it is not unlawful for
6 an employer, employment agency or labor organization to observe the terms of a bona
7 fide seniority system or any bona fide employee benefit plan such as a retirement,
8 pension or insurance plan, which is not a subterfuge to evade the purposes of this
9 subtitle; however, no employee benefit plan shall excuse the failure to hire any
10 individual[;].

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

27 19.

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

34 20.

35 (k) (1) ["Handicap"] "DISABILITY" means for an individual:

36 (i) A [physical or mental impairment] DISABILITY that
37 substantially limits 1 or more of an individual's major life activities;

38 (ii) A record of having a [physical or mental impairment]
39 DISABILITY that substantially limits 1 or more of an individual's major life activities;
40 or

41 (iii) Being regarded as having a [physical or mental impairment]
42 DISABILITY that substantially limits 1 or more of an individual's major life activities.

1 (2) ["Handicap"] "DISABILITY" does not include current illegal use of or
2 addiction to:

3 (i) A controlled dangerous substance defined under Article 27, §
4 277 of this Code; or

5 (ii) A controlled substance defined under § 102 of the Federal
6 Controlled Substances Act (21 U.S.C. 802).

7 (t) "Restrictive covenants" means any specification limiting the transfer,
8 rental, or lease of any dwelling because of race, color, religion, marital status, sex,
9 familial status, [handicap] DISABILITY, or national origin.

10 21.

11 (c) This subtitle may not be construed to invalidate or limit any law of a
12 political subdivision of the State that requires dwellings to be designed and
13 constructed in a manner that affords [a handicapped] AN individual WITH A
14 DISABILITY greater access than is required by § 22(b) of this subtitle.

15 22.

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

17 (1) To refuse to sell or rent after the making of a bona fide offer, or to
18 refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a
19 dwelling to any person because of race, color, religion, sex, [handicap] DISABILITY,
20 marital status, familial status, or national origin;

21 (2) To discriminate against any person in the terms, conditions, or
22 privileges of sale or rental of a dwelling, or in the provision of services or facilities in
23 connection with the sale or rental of a dwelling, because of race, color, religion, sex,
24 [handicap] DISABILITY, marital status, familial status, or national origin;

25 (3) To make, print, or publish, or cause to be made, printed, or published
26 any notice, statement, or advertisement, with respect to the sale or rental of a
27 dwelling that indicates any preference, limitation, or discrimination based on race,
28 color, religion, sex, [handicap] DISABILITY, marital status, familial status, or
29 national origin, or an intention to make any preference, limitation, or discrimination;

30 (4) To represent to any person because of race, color, religion, sex,
31 [handicap] DISABILITY, marital status, familial status, or national origin that any
32 dwelling is not available for inspection, sale, or rental when the dwelling is in fact
33 available;

34 (5) For profit, to induce or attempt to induce any person to sell or rent
35 any dwelling by representations regarding the entry or prospective entry into the
36 neighborhood of a person or persons of a particular race, color, religion, sex,
37 [handicap] DISABILITY, marital status, familial status, or national origin;

1 (6) To discriminate in the sale or rental, or otherwise make unavailable
2 or deny, a dwelling to any buyer or renter because of a [handicap] DISABILITY of:

3 (i) The buyer or renter; or

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

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

9 (i) The person; or

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

12 (8) To refuse to permit, at the expense of the [handicapped] person
13 WITH A DISABILITY, reasonable modifications of existing premises occupied or to be
14 occupied by the individual if:

15 (i) The modifications may be necessary to afford the
16 [handicapped] person WITH A DISABILITY full enjoyment of the dwelling; and

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

20 (9) To refuse to make reasonable accommodations in rules, policies,
21 practices, or services when the accommodations may be necessary to afford [a
22 handicapped] AN individual WITH A DISABILITY equal opportunity to use and enjoy a
23 dwelling; or

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

26 (b) (1) On or after July 1, 1991, a covered multifamily dwelling for first
27 occupancy shall be designed and constructed so that:

28 (i) The public use and common use portions of such dwellings are
29 readily accessible to and usable to [handicapped persons] INDIVIDUALS WITH
30 DISABILITIES;

31 (ii) All the doors designed to allow passage into and within all
32 premises within the dwelling are sufficiently wide to allow passage by [handicapped
33 persons] INDIVIDUALS WITH DISABILITIES in wheelchairs; and

34 (iii) All premises within the dwellings contain the following features
35 of adaptive design:

36 1. An accessible route into and through the dwelling;

- 1 2. Light switches, electrical outlets, thermostats, and other
2 environmental controls in accessible locations;
- 3 3. Reinforcements in bathroom walls to allow later
4 installation of grab bars; and
- 5 4. Usable kitchens and bathrooms so that an individual in a
6 wheelchair can maneuver about the space.

7 23.

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

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

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

23 37.

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

27 (1) Any person because of race, color, religion, sex, [handicap]
28 DISABILITY, marital status, familial status, or national origin and because the person
29 is or has been:

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

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

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

1 (i) Participating without discrimination on account of race, color,
2 religion, sex, [handicap] DISABILITY, marital status, familial status, or national
3 origin in any of the activities, services, organizations, or facilities described in
4 paragraph (1) of this subsection; or

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

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

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

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
18 effect October 1, 1999.