

CS FOR HOUSE BILL NO. 226(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/21/95
Referred: Judiciary

Sponsor(s): REPRESENTATIVES KELLY, Rokeberg

A BILL

FOR AN ACT ENTITLED

1 "An Act permitting the provision of different retirement and health benefits to
2 employees based on marital status except to marital or domestic partners of
3 employees."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 18.80.220(a) is amended to read:

6 (a) Except as provided in (c) of this section, it [IT] is unlawful for

7 (1) an employer to refuse employment to a person, or to bar a person
8 from employment, or to discriminate against a person in compensation or in a term,
9 condition, or privilege of employment because of the person's race, religion, color, or
10 national origin, or because of the person's age, physical or mental disability, sex,
11 marital status, changes in marital status, pregnancy, or parenthood when the reasonable
12 demands of the position do not require distinction on the basis of age, physical or
13 mental disability, sex, marital status, changes in marital status, pregnancy, or
14 parenthood;

1 (2) a labor organization, because of a person's sex, marital status,
2 changes in marital status, pregnancy, parenthood, age, race, religion, physical or mental
3 disability, color, or national origin, to exclude or to expel a person from its
4 membership, or to discriminate in any way against one of its members or an employer
5 or an employee;

6 (3) an employer or employment agency to print or circulate or cause
7 to be printed or circulated a statement, advertisement, or publication, or to use a form
8 of application for employment or to make an inquiry in connection with prospective
9 employment, that expresses, directly or indirectly, a limitation, specification, or
10 discrimination as to sex, physical or mental disability, marital status, changes in marital
11 status, pregnancy, parenthood, age, race, creed, color, or national origin, or an intent
12 to make the limitation, unless based upon a bona fide occupational qualification;

13 (4) an employer, labor organization, or employment agency to
14 discharge, expel, or otherwise discriminate against a person because the person has
15 opposed any practices forbidden under AS 18.80.200 - 18.80.280 or because the person
16 has filed a complaint, testified, or assisted in a proceeding under this chapter;

17 (5) an employer to discriminate in the payment of wages as between
18 the sexes, or to employ a female in an occupation in this state at a salary or wage rate
19 less than that paid to a male employee for work of comparable character or work in
20 the same operation, business, or type of work in the same locality; or

21 (6) a person to print, publish, broadcast, or otherwise circulate a
22 statement, inquiry, or advertisement in connection with prospective employment that
23 expresses directly a limitation, specification, or discrimination as to sex, physical or
24 mental disability, marital status, changes in marital status, pregnancy, parenthood, age,
25 race, religion, color, or national origin, unless based upon a bona fide occupational
26 qualification.

27 * **Sec. 2.** AS 18.80.220 is amended by adding new subsections to read:

28 (c) Notwithstanding the prohibition against employment discrimination on the
29 basis of marital status under (a) of this section,

30 (1) an employer may, without violating this chapter, refuse to provide
31 benefits to a person based on marital status unless the person

1 (A) is legally married to an employee; or
2 (B) is the domestic partner of an employee as established under
3 (d) of this section; and

4 (2) a labor organization may, without violating this chapter, negotiate
5 to preclude or may directly preclude the provision of benefit to a person based on
6 marital status unless the person

7 (A) is legally married to an employee; or
8 (B) is the domestic partner of an employee as established under
9 (d) of this section.

10 (d) An employee may not establish a domestic partnership for purposes of this
11 section unless both the employee and the individual with whom the domestic
12 partnership is established are unmarried, at least 18 years of age, and mentally
13 competent to consent to contract.

14 (e) In this section, "domestic partner" means an individual who

15 (1) is an employee's only domestic partner and who intends, and who
16 is intended by the employee, to remain the employee's domestic partner indefinitely;

17 (2) is not related to the employee by blood to a degree that would
18 prohibit legal marriage in the state;

19 (3) resides in the same residence as the employee and intends, and is
20 intended by the employee, to do so indefinitely;

21 (4) is, as established by at least five of the criteria set out in this
22 paragraph, jointly responsible with the employee for the employee's common welfare
23 and financial obligations and for whom the employee is jointly responsible in similar
24 fashion; the criteria are

25 (A) having entered into a legally binding domestic partnership
26 agreement with the employee;

27 (B) holding a joint deed, mortgage agreement, or lease of real
28 property with the employee;

29 (C) holding joint ownership of a motor vehicle with the
30 employee;

31 (D) having a joint bank account with the employee;

1 (E) having a joint credit account or other joint liabilities with
2 the employee;

3 (F) having a co-parenting agreement with the employee, having
4 adopted a child of the employee, or being the natural parent of a child of the
5 employee;

6 (G) being designated by the employee as primary beneficiary
7 on the employee's life insurance;

8 (H) being designated by the employee as primary beneficiary
9 of the employee's retirement benefits in case of the employee's death;

10 (I) being designated as the primary beneficiary under the
11 employee's will; and

12 (J) being named by the employee under a durable health care
13 or property power of attorney.