

Introduced: 2/17/65
Referred: State Affairs

1 IN THE HOUSE

RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 139

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Commission for Human
7 Rights; and providing for an effective date."

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

9 * Section 1. AS 18.80.060 is repealed and re-enacted to read:

10 Sec. 18.80.060. POWERS AND DUTIES OF THE COMMISSION.

11 (a) In addition to the other powers and duties prescribed by
12 this chapter the commission shall

13 (1) appoint an executive director approved by the
14 governor;

15 (2) hire other administrative staff as may be
16 necessary to the commission's function;

17 (3) exercise general supervision and direct the
18 activities of the executive director and other administrative
19 staff;

20 (4) accept complaints pursuant to sec. 100 of
21 this chapter;

22 (5) study the problems of discrimination in all or
23 specific fields of human relationships, and foster through
24 community effort or goodwill, cooperation and conciliation
25 among the groups and elements of the population of the state,
26 and publish results of investigations and research as in its
27 judgment will tend to eliminate discrimination because of
28 race, creed, color or national ancestry.
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1 (b) In addition to the other powers and duties pre-
2 scribed by this chapter the commission may

3 (1) delegate to the executive director all powers
4 and duties given it by this chapter except the duties and
5 powers given it by secs. 120 and 130 of this chapter;
hold hearing *serve order*

6 (2) call upon the departments and agencies of the
7 state, with the approval of the governor, for cooperation and
8 assistance in carrying out the provisions of this chapter;

9 (3) hold hearings pursuant to sec. 120 of this
10 chapter, subpoena witnesses, take the testimony of any person
11 under oath, administer oaths, and in connection therewith, to
12 require the production for examination of any books or papers
13 relating to any matter under investigation or in question
14 before the commission.

15 * Sec. 2. AS 18.80.100 is amended to read:

16 Sec. 18.80.100. COMPLAINT. A person who believes he is
17 aggrieved by any discriminatory conduct prohibited by sec.
18 220 of this chapter [AS 11.60.230, 11.60.240, 23.10.155,
19 23.10.190 OR 23.10.255] may sign and file with the commis-
20 sion a written, verified complaint stating the name and
21 address of the person alleged to have engaged in discrimina-
22 tory conduct, and the particulars of the discrimination. The
23 executive director may file a complaint in like manner when
24 an alleged discrimination comes to his attention.

25 * Sec. 3. AS 18.80.120 is amended to read:

26 Sec. 18.80.120. HEARING. If the informal efforts to
27 eliminate the alleged discrimination are unsuccessful, the
28 executive director shall inform the commission of the failure,
29 and the commission shall serve written notice together with a

1 copy of such complaint, requiring the person, labor organiza-
2 tion or employment agency, charged in the complaint to answer
3 the allegations of the complaint at a hearing before the com-
4 mission. The hearing may be held at a place designated by the
5 commission in the judicial district where the offense is
6 alleged to have occurred. The case in support of the com-
7 plaint shall be presented before the commission by the execu-
8 tive director or his designee. The executive director may
9 request the assistance of the Department of Law in the pre-
10 paration and presentation of any complaint before the com-
11 mission. The person charged in the complaint may file a
12 written answer to the complaint and may appear at the hearing
13 in person or otherwise, with or without counsel, and submit
14 testimony. The executive director has the power reasonably
15 and fairly to amend the complaint, and the person charged has
16 the power reasonably and fairly to amend his answer. The
17 commission shall not be bound by the strict rules of evidence
18 prevailing in courts of law or equity. The testimony taken
19 at the hearing shall be under oath and be transcribed.

20 * Sec. 4. AS 18.80.130 is amended to read:

21 Sec. 18.80.130. ORDER. At the completion of the
22 hearing, if the commission finds that a person against whom a
23 complaint was filed has engaged in the discriminatory conduct
24 alleged in the complaint, it shall order him to refrain from
25 engaging in the discriminatory conduct. The order shall
26 include findings of fact, and may prescribe conditions on the
27 accused's future conduct which the commission determines are
28 relevant to the cessation of the discrimination, including,
29 but not limited to, hiring, reinstatement or upgrading of

1 employees, with or without back pay, restoration to membership
2 in any labor organization, admission to or participation in an
3 apprenticeship training program, on-the-job training program,
4 or other retraining program, or the extension of full, equal
5 and unsegregated accommodations, advantages, facilities and
6 privileges to all persons, as in the judgment of the commis-
7 sion, will effectuate the purposes of this chapter, and in-
8 cluding a requirement for reports of the manner of compliance.
9 If the commission finds that a person charged in a complaint
10 has not engaged in any unlawful discriminatory conduct, the
11 commission shall issue and cause to be served on the com-
12 plainant an order dismissing the complaint. A copy of the
13 order shall be delivered in all cases to the attorney general
14 of Alaska.

15 * Sec. 5. AS 18.80 is amended by adding a new section to read:

16 Sec. 18.80.135. JUDICIAL REVIEW AND ENFORCEMENT. (a)

17 Any complainant, or person against whom a complaint is filed
18 or other person aggrieved by an order of the commission, may
19 obtain judicial review of such order by filing a notice of
20 appeal with the superior court in the judicial district in
21 which the unlawful discriminatory conduct is alleged to have
22 occurred, within 20 days after the petitioner is served with
23 the commission's order.

24 (b) The commission may obtain a court order for the
25 enforcement of any of its orders by filing a complaint with
26 the superior court in the judicial district in which the
27 unlawful conduct is alleged to have occurred.

28 (c) Within 20 days after a notice of appeal or com-
29 plaint is filed pursuant to this section, or within such other

1 period of time as the court orders, the commission shall cause
2 to be filed with the court, a written transcript of the record
3 of the hearing that was held before the commission. The court
4 shall have jurisdiction of the proceeding and of the questions
5 determined therein, and shall have power to grant such tempo-
6 rary relief or restraining order as it deems just and proper
7 and to make and enter upon the pleadings, testimony, and pro-
8 ceedings set forth in such transcript, an order enforcing,
9 modifying, and enforcing as so modified, or setting aside in
10 whole or in part the order of the commission. No objection
11 that has not been urged before the commission shall be consi-
12 dered by the court, unless the failure or neglect to urge
13 such objection shall be excused because of extraordinary cir-
14 cumstances. Any party may move the court to remit the case
15 to the commission in the interests of justice for the purpose
16 of adducing additional evidence and seeking findings thereon,
17 provided he shows reasonable grounds for the failure to show
18 such evidence before the commission. The findings of the
19 commission as to the facts shall be conclusive, if supported
20 by sufficient evidence on the record considered as a whole.
21 The commission's copy of the testimony shall be available at
22 all reasonable times to all parties for examination without
23 cost for the purposes of judicial review of the order.

24 * Sec. 6. AS 18.80 is amended by adding a new section to read:

25 Sec. 18.80.145. DEFINITIONS. When used in this chapter

26 (1) "person" means one or more individuals, labor
27 unions, partnerships, associations, corporations, legal re-
28 presentatives, mutual companies, joint-stock companies,
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1 trusts, unincorporated organizations, trustees, trustees in
2 bankruptcy, or receivers;

3 (2) "employee" means an individual employed by an
4 employer but does not include an individual employed in the
5 domestic service of any person;

6 (3) "employer" means an employer of one or more
7 persons in the state but does not include a club that is
8 exclusively social, or a fraternal, charitable, educational,
9 or religious association or corporation, if the club, asso-
10 ciation or corporation is not organized for private profit;

11 (4) "employment agency" means a person undertaking
12 to procure employees or opportunities to work;

13 (5) "labor organization" means an organization and
14 any agent of such organization, for the purpose, in whole or
15 in part, of collective bargaining, dealing with employers
16 concerning grievances, terms or conditions of employment, or
17 of other mutual aid or protection of employees;

18 (6) "national origin" includes ancestry;

19 (7) "place of public accommodation, resort, or
20 amusement" means all places in the meaning of such terms as:
21 public inns, restaurants, eating houses, hotels, motels, soda
22 fountains, soft drink parlors, taverns, night clubs, road-
23 houses, or any place where food or spirituous or malt liquors
24 are sold for consumption, trailer parks, resorts, campgrounds,
25 barber shops, beauty parlors, bathrooms, resthouses, theaters,
26 swimming pools, skating rinks, golf courses, cafes, ice cream
27 parlors, transportation companies, and all conveyances,
28 housing accommodations, and all other public amusement and
29 business establishments, subject only to the conditions and

*or other
est. which
pro. lodging
a transient*

gas stations

concert hall

1 limitations established by law and applicable alike to all
2 persons. Public amusement and business establishments within
3 the meaning of this section include any establishment which
4 caters or offers its services or goods to the general public,
5 including but not limited to public housing and all forms of
6 publicly assisted housing, and any housing accommodation
7 offered for sale, rent, or lease.

8 * Sec. 7. AS 18.80 is amended by adding new sections to read:

9 ARTICLE 4. DISCRIMINATORY PRACTICES PROHIBITED.

10 Sec. 18.80.200. PURPOSE. (a) It is determined and
11 declared as a matter of legislative finding that discrimina-
12 tion against any of the inhabitants of the state because of
13 race, creed, color, national origin, age or sex is a matter of
14 public concern and that such discrimination not only threatens
15 the rights and privileges of the inhabitants of the state but
16 also menaces the institutions of the state and threatens
17 peace, order, health, safety and general welfare of the state
18 and its inhabitants.

19 (b) Therefore, it is the policy of the state and the
20 purpose of this article to eliminate and prevent discrimina-
21 tion in employment, in places of public accommodation, and in
22 housing accommodations because of race, creed, color, national
23 origin, or, in the case of employment, because of sex or age.

24 Sec. 18.80.210. CIVIL RIGHTS. The opportunity to obtain
25 employment, public accommodations and housing accommodations
26 without discrimination because of race, religion, color, or
27 national origin is a civil right.

28 Sec. 18.80.220. UNLAWFUL DISCRIMINATORY CONDUCT. It is
29 an unlawful discriminatory conduct for

1 (1) an employer to refuse employment to a person,
2 or to bar him from employment, or to discriminate against him
3 in compensation or in terms, conditions, or privileges of
4 employment, because of his age, race, religion, color or
5 national origin;

6 (2) a labor organization, because of a person's
7 age, race, religion, color or national origin, to exclude or
8 to expel him from its membership, or to discriminate in any
9 way against one of its members or an employer or an employee;

10 (3) an employer or employment agency to print or
11 circulate or cause to be printed or circulated any statement,
12 advertisement, or publication, or to use any form of applica-
13 tion for employment or to make any inquiry in connection with
14 prospective employment, which expresses, directly or indirect-
15 ly, any limitation, specification or discrimination as to age,
16 race, creed, color or national origin, or any intent to make
17 such limitation, unless based upon a bona fide occupational
18 qualification;

19 (4) any employer, labor organization or employment
20 agency to discharge, expel or otherwise discriminate against
21 any person because he has opposed any practices forbidden
22 under this article or because he has filed a complaint, testi-
23 fied or assisted in a proceeding under this chapter;

24 (5) an employer to discriminate in the payment of
25 wages as between the sexes, or to employ a female in an occupa-
26 tion in this state at a salary or wage rate less than paid to
27 a male employee for work of comparable character or work in the
28 same operations, business, or type of work in the same locality;

29 (6) a person being the owner, lessee, proprietor,

1 manager, superintendent, agent or employee of any place of
2 public accommodation, resort or amusement, because of the
3 race, creed, color or national origin of any person, directly
4 or indirectly, to refuse, withhold from or deny to such per-
5 son any of the accommodations, facilities or privileges
6 thereof, or, directly or indirectly, to publish, circulate,
7 issue, display, post or mail any written or printed communi-
8 cation, notice or advertisement, to the effect that any of
9 the accommodations, facilities, or privileges of any such
10 place shall be refused, withheld from, denied, or that the
11 patronage of any person belonging to any particular race,
12 creed, color or national origin is unwelcome, not acceptable,
13 desired or solicited;

14 (7) the owner, lessee, sub-lessee, assignee, or
15 managing agent of, or other person having the rights to sell,
16 rent or lease a housing accommodation, constructed or to be
17 constructed, or any agent or employee thereof to refuse to
18 sell, rent, lease or otherwise to deny to or withhold from
19 any person or group of persons such housing accommodations
20 because of the race, creed, color, or national origin of such
21 person or persons;

22 (8) a person to print or circulate or cause to be
23 printed or circulated any statement, advertisement or publi-
24 cation, or to use any form of application for the purchase,
25 rental or lease of such housing accommodations because of the
26 race, creed, color or national origin;

27 (9) a person, whether or not an employer or an
28 employee, to aid, abet, incite, compel or coerce the doing of
29 an act forbidden under this chapter or to attempt to do so.

1 Sec. 18.80.2~~30~~. PENALTY. Any person, employer, labor
2 organization, or employment agency, who or which shall wil-
3 fully engage in any unlawful discriminatory conduct as defined
4 by sec. 220, or shall wilfully resist, prevent, impede or
5 interfere with the commission or any of its authorized repre-
6 sentatives in the performance of duty under this chapter, or
7 shall wilfully violate an order of the commission, shall be
8 guilty of a misdemeanor and be punishable by a fine of not
9 more than \$500, or by imprisonment in a jail for not more
10 than 30 days, or by both.

11 Sec. 18.80.2~~40~~. DOUBLE JEOPARDY; SPECIFIC CRIMES AND
12 CRIMINAL CONTEMPTS. An acquittal or conviction in a prosecu-
13 tion for a specific crime under the laws of the State of
14 Alaska shall bar a proceeding for criminal contempt, which is
15 based upon the same act or omission and which arises under the
16 provisions of this chapter; and an acquittal or conviction in
17 a proceeding for criminal contempt, which arises under the
18 provisions of this chapter, shall bar a prosecution for a
19 specific crime under the laws of the State of Alaska based
20 upon the same act or omission.

21 * Sec. 8. AS 23.10.190 - 235; AS 23.10.240 - 320; and AS
22 11.60.230, 240 are repealed.

23 * Sec. 9. This Act takes effect on the day after its passage
24 and approval or on the day it becomes law without such approval.
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