

Original Sponsor: Rules Committee
By Request of the Governor

Offered: 3/10/65
Referred: Judiciary

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 CS FOR 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
7 Human Rights; and providing for an effective
8 date."

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

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 AS 18.80.060 is repealed and re-enacted to read:

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

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

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

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

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

21 (4) accept complaints under sec. 100 of this
22 chapter;

23 (5) study the problems of discrimination in all or
24 specific fields of human relationships, and foster through
25 community effort or goodwill, cooperation and conciliation
26 among the groups and elements of the population of the state,
27 and publish results of investigations and research as in its
28 judgment will tend to eliminate discrimination because of
29 race, creed, color, or national ancestry.

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;

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 this chapter;

9 (3) hold hearings under sec. 120 of this chapter,
10 subpoena witnesses, take the testimony of any person under
11 oath, administer oaths, and in connection therewith, to
12 require the production for examination of 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 the 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
5 the 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 hear-
22 ing, 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 member-
2 ship in any labor organization, admission to or participation
3 in an apprenticeship training program, on-the-job training
4 program, or other retraining program, or the extension of
5 full, equal and unsegregated accommodations, advantages,
6 facilities and privileges to all persons, as in the judgment
7 of the commission, will effectuate the purposes of this chap-
8 ter, and including a requirement for reports of the manner of
9 compliance. If the commission finds that a person charged in
10 a complaint has not engaged in unlawful discriminatory con-
11 duct, the commission shall issue and cause to be served on
12 the complainant an order dismissing the complaint. A copy of
13 the order shall be delivered in all cases to the attorney
14 general 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 A 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 the 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 under this section, or within such other

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

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

26 Sec. 18.80.145. DEFINITIONS. In this chapter

27 (1) "person" means one or more individuals, labor
28 unions, partnerships, associations, corporations, legal repre-
29 sentatives, mutual companies, joint-stock companies, trusts,

1 unincorporated organizations, trustees, trustees in bank-
2 ruptcy, 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 the 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 spiritous 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

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
14 of public concern and that such discrimination not only
15 threatens the rights and privileges of the inhabitants of the
16 state but also menaces the institutions of the state and
17 threatens peace, order, health, safety and general welfare
18 of the state and its inhabitants.

19 (b) Therefore, it is the policy of the state and the
20 purpose of secs. 200 - 260 of this chapter to eliminate and
21 prevent discrimination in employment, in places of public
22 accommodation, and in housing accommodations because of race,
23 creed, color, national origin, or, in the case of employment,
24 because of sex or age.

25 Sec. 18.80.210. CIVIL RIGHTS. The opportunity to ob-
26 tain employment, public accommodations and housing accommo-
27 dations without discrimination because of race, religion,
28 color, or national origin is a civil right.

29 Sec. 18.80.220. UNLAWFUL DISCRIMINATORY CONDUCT. It is

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unlawful discriminatory conduct for

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

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

(3) an employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color or national origin, or any intent to make such limitation, unless based upon a bona fide occupational qualification;

(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices forbidden under secs. 200 - 260 of this chapter or because he has filed a complaint, testified or assisted in a proceeding under this chapter;

(5) an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character

1 or work in the same operations, business, or type of work in
2 the same locality;

3 (6) a person being the owner, lessee, proprietor,
4 manager, superintendent, agent or employee of any place of
5 public accommodation, resort or amusement, because of the
6 race, creed, color or national origin of any person, directly
7 or indirectly, to refuse, withhold from or deny to a person
8 any of the accommodations, facilities or privileges thereof,
9 or, directly or indirectly, to publish, circulate, issue,
10 display, post or mail any written or printed communication,
11 notice or advertisement, to the effect that any of the
12 accommodations, facilities, or privileges of any such place
13 shall be refused, withheld from, denied, or that the
14 patronage of any person belonging to a particular race, creed,
15 color or national origin is unwelcome, not acceptable,
16 desired or solicited;

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

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

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

4 Sec. 18.80.230. LAWFUL EMPLOYMENT PRACTICES. It is
5 not unlawful discriminatory conduct for an employer

6 (1) to hire the most qualified person applying for
7 employment regardless of the applicant's race, religion,
8 color, sex or national origin;

9 (2) to refuse to hire a person for employment who
10 is not qualified to fulfill the requirements of that employ-
11 ment, regardless of that person's race, religion, color, sex
12 or national origin;

13 (3) to apply different standards of compensation,
14 or different terms, conditions, or privileges of employment
15 to employees if the differences are based on a bona fide
16 seniority or merit system or a system which measures earnings
17 by quantity or quality of production;

18 (4) to apply different standards of compensation,
19 or different terms, conditions, or privileges of employment
20 to employees who work in different locations if the differ-
21 ences are not the result of an intention to discriminate
22 because of race, religion, color, sex or national origin;

23 (5) to use any professionally-developed ability
24 test if the test is not designed, intended or used to dis-
25 criminate because of race, religion, color, sex or national
26 origin.

27 Sec. 18.80.240. PREFERENTIAL TREATMENT NOT REQUIRED
28 BECAUSE OF NUMBER OR PERCENTAGE IMBALANCE. Nothing in this
29 chapter shall be interpreted to require any employer,

1 employee, labor organization, employment agency or other
2 person to grant preferential treatment to any individual or
3 to any group because of the race, religion, color, sex or
4 national origin of the individual or group on account of an
5 imbalance which may exist with respect to the total number
6 or percentage of persons of any race, religion, color, sex
7 or national origin employed by any employer, referred or
8 classified for employment by any employment agency or labor
9 organization, admitted to membership or classified by any
10 labor organization, or admitted to, or employed in, any
11 apprenticeship or other training program, in comparison with
12 the total number or percentage of persons of such race,
13 religion, color, sex or national origin in any political
14 subdivision, section or area of the state, or in the available
15 work force in any political subdivision, section or area of
16 the state.

17 Sec. 18.80.250. PENALTY. A person, employer, labor
18 organization, or employment agency, who or which wilfully
19 engages in an unlawful discriminatory conduct defined by
20 sec. 220 of this chapter, or wilfully resists, prevents,
21 impedes or interferes with the commission or any of its
22 authorized representatives in the performance of duty under
23 this chapter, or wilfully violates an order of the commis-
24 sion, is guilty of a misdemeanor and is punishable by a fine
25 of not more than \$500, or by imprisonment in a jail for not
26 more than 30 days, or by both.

27 Sec. 18.80.260. DOUBLE JEOPARDY; SPECIFIC CRIMES AND
28 CRIMINAL CONTEMPTS. An acquittal or conviction in a prosecu-
29 tion for a specific crime under the laws of the state shall

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bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under secs. 200 - 260 of this chapter; and an acquittal or conviction in a proceeding for criminal contempt, which arises under secs. 200 - 260 of this chapter, shall bar a prosecution for a specific crime under the laws of the state based on the same act or omission.

* Sec. 8. AS 23.10.190 - 23.10.235; 23.10.240 - 23.10.320; 11.60.230, and 11.60.240 are repealed.

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