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Original sponsors: Duncan, Collins
and Gruenberg

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 172 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the rights of physically and
7 mentally disabled persons."

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

9 * Section 1. AS 18.06.020 is amended to read:

10 Sec. 18.06.020. RIGHTS. (a) The [BLIND, THE VISUALLY HANDI-
11 CAPPED, AND THE OTHERWISE] physically or mentally disabled have the
12 same right as the able-bodied to the full and free pedestrian use of
13 the streets, highways, sidewalks, walkways, public buildings, public
14 facilities, and other public places.

15 (b) The [BLIND, THE VISUALLY HANDICAPPED, AND THE OTHERWISE]
16 physically or mentally disabled are entitled to full and equal accom-
17 modations, advantages, facilities, and privileges of all common
18 carriers, airplanes, motor vehicles, railroad trains, motor buses,
19 street cars, boats or any other public conveyances or modes of trans-
20 portation, hotels, lodging places, places of public accommodation,
21 amusement or resort, and other places to which the general public is
22 invited, subject only to the conditions and limitations established by
23 law and applicable alike to all persons.

24 (c) Persons who are physically or mentally disabled [TOTALLY OR
25 PARTIALLY BLIND PERSONS] have the right to be accompanied or assisted
26 by a service animal that is certified by a training facility for
27 service animals as being able to function in a public setting [GUIDE
28 DOG, ESPECIALLY TRAINED FOR THE PURPOSE], in any of the places listed
29 in (b) of this section without being required to pay an extra charge

1 for the service animal [GUIDE DOG]; however, the person with the
2 animal [GUIDE DOG] is liable for any damage done to the premises or
3 facilities by the animal [DOG].

4 * Sec. 2. AS 18.06.030 is amended to read:

5 Sec. 18.06.030. RIGHTS AS PEDESTRIANS. The driver of a motor
6 vehicle approaching a physically or mentally disabled [TOTALLY OR
7 PARTIALLY BLIND] pedestrian who is carrying a cane predominantly white
8 or metallic in color, with or without a red tip, using special equip-
9 ment for mobility, or using a service animal [GUIDE DOG] shall take
10 all necessary precautions to avoid injury to the pedestrian, and a
11 driver who fails to take all necessary precautions and causes injury
12 to the pedestrian is liable in damages for the injury caused. A
13 physically or mentally disabled [TOTALLY BLIND OR PARTIALLY BLIND]
14 pedestrian not carrying a cane as described in this section or using a
15 service animal [GUIDE DOG] in any of the places, accommodations or
16 conveyances set out under AS 18.06.020 has all of the rights and
17 privileges conferred by law upon other persons, and the failure of a
18 physically or mentally disabled [TOTALLY OR PARTIALLY BLIND] pedestri-
19 an to carry a cane as described in this section or to use a service
20 animal [GUIDE DOG] is not by itself evidence of [CONTRIBUTORY] negli-
21 gence.

22 * Sec. 3. AS 18.06.040 is amended to read:

23 Sec. 18.06.040. PENALTY FOR DENYING RIGHTS. A person who denies
24 or interferes with admittance to or enjoyment of the public facilities
25 set out in AS 18.06.020 or otherwise interferes with the rights of a
26 physically or mentally [TOTALLY OR PARTIALLY BLIND OR OTHERWISE]
27 disabled person is guilty of a Class B misdemeanor [AND UPON
28 CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY
29 IMPRISONMENT FOR NOT MORE THAN 60 DAYS, OR BY BOTH].

1 * Sec. 4. AS 18.06.050 is amended to read:

2 Sec. 18.06.050. DEFINITIONS. In this chapter "physically or
3 mentally disabled" has the meaning given in AS 18.80.300 [TOTALLY
4 BLIND" OR "PARTIALLY BLIND" MEANS A PERSON WHOSE VISUAL ACUITY DOES
5 NOT EXCEED 20/200 IN THE BETTER EYE WITH CORRECTING LENSES OR WHOSE
6 WIDEST DIAMETER OF VISUAL FIELD SUBTENDS AN ANGLE NO GREATER THAN 20
7 DEGREES].

8 * Sec. 5. AS 18.80.060(a) is amended to read:

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

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

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

14 (3) exercise general supervision and direct the activities
15 of the executive director and other administrative staff;

16 (4) accept complaints under AS 18.80.100;

17 (5) study the problems of discrimination in all or specific
18 fields of human relationships, and foster through community effort or
19 goodwill, cooperation and conciliation among the groups and elements
20 of the population of the state, and publish results of investigations
21 and research as in its judgment will tend to eliminate discrimination
22 because of race, religion, color, national ancestry, physical or
23 mental disability [HANDICAP], age, sex, marital status, changes in
24 marital status, pregnancy or parenthood;

25 (6) make an overall assessment, at least once every three
26 years, of the progress made toward equal employment opportunity by
27 every department of state government; results of the assessment shall
28 be included in the annual report made under AS 18.80.150;

29 (7) enforce AS 18.06.

1 * Sec. 6. AS 18.80.200 is amended to read:

2 Sec. 18.80.200. PURPOSE. (a) It is determined and declared as
3 a matter of legislative finding that discrimination against an inhabi-
4 tant of the State because of race, religion, color, national origin,
5 age, sex, physical or mental disability, marital status, changes in
6 marital status, pregnancy or parenthood is a matter of public concern
7 and that such discrimination not only threatens the rights and privi-
8 leges of the inhabitants of the state but also menaces the institu-
9 tions of the state and threatens peace, order, health, safety and
10 general welfare of the state and its inhabitants.

11 (b) Therefore, it is the policy of the state and the purpose of
12 this chapter to eliminate and prevent discrimination in employment, in
13 credit and financing practices, in places of public accommodation, in
14 the sale, lease, or rental of real property because of race, religion,
15 color, national origin, sex, age, physical or mental disability,
16 marital status, changes in marital status, pregnancy or parenthood.
17 It is not the purpose of this chapter to supersede laws pertaining to
18 child labor, the age of majority or other age restrictions or require-
19 ments.

20 * Sec. 7. AS 18.80.210 is amended to read:

21 Sec. 18.80.210. CIVIL RIGHTS: The opportunity to obtain em-
22 ployment, credit and financing, public accommodations, housing accom-
23 modations and other property without discrimination because of sex,
24 physical or mental disability, marital status, changes in marital
25 status, pregnancy, parenthood, race, religion, color or national
26 origin is a civil right.

27 * Sec. 8. AS 18.80.220(a) is amended to read:

28 (a) It is unlawful for
29 (1) an employer to refuse employment to a person, or to bar

1 the person [HIM] from employment, or to discriminate against the
2 person [HIM] in compensation or in a term, condition, or privilege of
3 employment because of [HIS] race, religion, color or national origin,
4 or because of [HIS] age, physical or mental disability [HANDICAP],
5 sex, marital status, changes in marital status, pregnancy or parent-
6 hood when the reasonable demands of the position do not require dis-
7 tinction on the basis of age, physical or mental disability [HANDI-
8 CAP], sex, marital status, changes in marital status, pregnancy or
9 parenthood;

10 (2) a labor organization, because of a person's sex, mari-
11 tal status, changes in marital status, pregnancy, parenthood, age,
12 race, religion, color or national origin, to exclude or to expel the
13 person [HIM] from its membership, or to discriminate in any way
14 against one of its members or an employer or an employee;

15 (3) an employer or employment agency to print or circulate
16 or cause to be printed or circulated a statement, advertisement, or
17 publication, or to use a form of application for employment or to make
18 an inquiry in connection with prospective employment, which expresses,
19 directly or indirectly, a limitation, specification or discrimination
20 as to sex, physical or mental disability, marital status, changes in
21 marital status, pregnancy, parenthood, age, race, creed, color or
22 national origin, or an intent to make the limitation, unless based
23 upon a bona fide occupational qualification;

24 (4) an employer, labor organization or employment agency to
25 discharge, expel or otherwise discriminate against a person because
26 the person [HE] has opposed any practices forbidden under AS 18.80.-
27 200 - 18.80.280 or because the person [HE] has filed a complaint,
28 testified or assisted in a proceeding under this chapter;

29 (5) an employer to discriminate in the payment of wages as

1 between the sexes, or to employ a female in an occupation in this
2 state at a salary or wage rate less than that paid to a male employee
3 for work of comparable character or work in the same operation, busi-
4 ness or type of work in the same locality; or

5 (6) a person to print, publish, broadcast or otherwise
6 circulate a statement, inquiry or advertisement in connection with
7 prospective employment which expresses directly, a limitation, speci-
8 fication or discrimination as to sex, physical or mental disability,
9 marital status, changes in marital status, pregnancy, parenthood, age,
10 race, religion, color or national origin, unless based upon a bona
11 fide occupational qualification.

12 * Sec. 9. AS 18.80.230 is amended to read:

13 Sec. 18.80.230. UNLAWFUL PRACTICES IN PLACES OF PUBLIC ACCOMMO-
14 DATION. It is unlawful for the owner, lessee, manager, agent or
15 employee of a public accommodation

16 (1) to refuse, withhold from or deny to a person any of its
17 services, goods, facilities, advantages or privileges because of sex,
18 physical or mental disability, marital status, changes in marital
19 status, pregnancy, parenthood, race, religion, color or national
20 origin;

21 (2) to publish, circulate, issue, display, post or mail a
22 written or printed communication, notice or advertisement that [WHICH]
23 states or implies

24 (A) that any of the services, goods, facilities,
25 advantages or privileges of the public accommodation will be
26 refused, withheld from or denied to a person of a certain race,
27 religion, sex, physical or mental disability, marital status,
28 color or national origin or because of pregnancy, parenthood, or
29 a change in marital status, or

1 (B) that the patronage of a person belonging to a
2 particular race, creed, sex, marital status, color or national
3 origin or who, because of pregnancy, parenthood, physical or
4 mental disability, or a change in marital status, is unwelcome,
5 not desired or solicited.

6 * Sec. 10. AS 18.80.240 is amended to read:

7 Sec. 18.80.240. UNLAWFUL PRACTICES IN THE SALE OR RENTAL OF REAL
8 PROPERTY. It is unlawful for the owner, lessee, manager or other
9 person having the right to sell, lease or rent real property

10 (1) to refuse to sell, lease or rent the real property to a
11 person because of sex, marital status, changes in marital status,
12 pregnancy, race, religion, physical or mental disability, color or
13 national origin; however, nothing in this paragraph prohibits the
14 sale, lease or rental of classes of real property commonly known as
15 housing for "singles" or "married couples" only;

16 (2) to discriminate against a person because of sex, mari-
17 tal status, changes in marital status, pregnancy, race, religion,
18 physical or mental disability, color or national origin in a term,
19 condition or privilege relating to the use, sale, lease or rental of
20 real property; however, nothing in this paragraph prohibits the sale,
21 lease or rental of classes of real property commonly known as housing
22 for "singles" or "married couples" only;

23 (3) to make a written or oral inquiry or record of the sex,
24 marital status, changes in marital status, race, religion, physical or
25 mental disability, color or national origin of a person seeking to
26 buy, lease or rent real property;

27 (4) to offer, solicit, accept, use or retain a listing of
28 real property with the understanding that a person may be discrimi-
29 ated against in a real estate transaction or in the furnishing of

1 facilities or sources in connection therewith because of a person's
2 sex, marital status, changes in marital status, pregnancy, race,
3 religion, physical or mental disability, color, national origin or
4 age;

5 (5) to represent to a person that real property is not
6 available for inspection, sale, rental, or lease when in fact it is so
7 available, or to refuse a person to inspect real property because of
8 the race, religion, physical or mental disability, color, national
9 origin, age, sex, marital status, change in marital status or preg-
10 nancy of that person or of any person associated with that person;

11 (6) to engage in blockbusting;

12 (7) to make, print or publish, or cause to be made, printed
13 or published, any notice, statement or advertisement, with respect to
14 the sale or rental of real property that indicates any preference,
15 limitation, or discrimination based on race, color, religion, physical
16 or mental disability, sex, or national origin, or an intention to make
17 the preference, limitation or discrimination.

18 * Sec. 11. AS 18.80.250(a) is amended to read:

19 (a) It is unlawful for a financial institution or other commer-
20 cial institution extending secured or unsecured credit, upon receiving
21 an application for financial assistance or credit for the acquisition,
22 construction, rehabilitation, repair or maintenance of a housing
23 accommodation or other property or services, or the acquisition or
24 improvement of unimproved property, or upon receiving an application
25 for any sort of loan of money, to permit one of its officials or
26 employees during the execution of the official's or the employee's
27 [HIS] duties

28 (1) to discriminate against the applicant because of sex,
29 physical or mental disability, marital status, changes in marital

1 status, pregnancy, parenthood, race, religion, color or national
2 origin in a term, condition or privilege relating to the obtainment or
3 use of the institution's financial assistance or credit, except to the
4 extent of a federal statute or regulation applicable to a transaction
5 of the same character;

6 (2) to make or cause to be made a written or oral inquiry
7 or record of the sex, physical or mental disability, marital status,
8 changes in marital status, pregnancy, parenthood, race, religion,
9 color or national origin of a person seeking the institution's finan-
10 cial assistance or credit, unless the inquiry is for the purpose of
11 ascertaining the creditor's rights and remedies applicable to the
12 particular extension of credit and is not made or used in order to
13 discriminate in a determination of creditworthiness;

14 (3) to refuse to extend credit, issue a credit card or make
15 a loan to a married person, who is otherwise creditworthy, if so
16 requested by the person;

17 (4) to refuse to issue a credit card to a married person in
18 that person's name, if so requested by the person, provided, however,
19 that the person so requesting a card may be required to open an ac-
20 count in that name.

21 * Sec. 12. AS 18.80.300 is amended by adding new paragraphs to read:

22 (15) "major life activities" means functions such as caring
23 for one's self, performing manual tasks, walking, seeing, hearing,
24 speaking, breathing, learning, and working;

25 (16) "physical or mental disability" means
26 (A) a physical or mental impairment that substantially
27 limits one or more major life activities,

28 (B) a history of, or a misclassification as having, a
29 mental or physical impairment that substantially limits one or

1 more major life activities; or

2 (C) having

3 (i) a physical or mental impairment that does not
4 substantially limit a person's major life activities but
5 that is treated by the person as constituting such a limita-
6 tion;

7 (ii) a physical or mental impairment that sub-
8 stantially limits a person's major life activities only as a
9 result of the attitudes of others toward the impairment; or

10 (iii) none of the impairments defined in this
11 paragraph but being treated by others as having such an
12 impairment;

13 (D) a condition that may require the use of a
14 prosthesis, special equipment for mobility or service animal;

15 (17) "physical or mental impairment" means

16 (A) physiological disorder or condition, cosmetic
17 disfigurement, or anatomical loss affecting one or more of the
18 following body systems: neurological, musculoskeletal, special
19 sense organs, respiratory including speech organs, cardiovascu-
20 lar, reproductive, digestive, genito-urinary, hemic and lymph-
21 atic, skin, and endocrine; or

22 (B) mental or psychological disorder, including mental
23 retardation, organic brain syndrome, emotional or mental illness,
24 and specific learning disabilities.

25 * Sec. 13. AS 18.80.300(13) is repealed.