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BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE HOUSE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 172 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND 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 09.20.010 is amended by adding new subsections to read:

10 (b) A person is not disqualified to act as a juror solely be-
11 cause of the loss of hearing or sight in any degree or a disability
12 that substantially impairs or interferes with the person's mobility.

13 (c) The court shall provide, and pay the cost of services of, an
14 interpreter or reader when necessary to enable a person with impaired
15 hearing or sight to act as a juror.

16 * Sec. 2. AS 12.55.155(c)(22) is amended to read:

17 (22) the defendant knowingly directed the conduct consti-
18 tuting the offense at a victim because of that person's race, sex,
19 color, creed, physical or mental disability, ancestry, or national
20 origin;

21 * Sec. 3. AS 18.06.010 is amended to read:

22 Sec. 18.06.010. STATE POLICY. It is the policy of this state to
23 encourage and enable the [BLIND, THE VISUALLY HANDICAPPED, AND THE
24 OTHERWISE] physically or mentally disabled to participate fully in the
25 social and economic life of the state and to engage in remunerative
26 employment.

27 * Sec. 4. AS 18.06.020 is amended to read:

28 Sec. 18.06.020. RIGHTS. (a) The [BLIND, THE VISUALLY HANDI-
29 CAPPED, AND THE OTHERWISE] physically or mentally disabled have the

1 same right as the able-bodied to the full and free pedestrian use of
2 the streets, highways, sidewalks, walkways, public buildings, public
3 facilities, and other public places.

4 (b) The [BLIND, THE VISUALLY HANDICAPPED, AND THE OTHERWISE]
5 physically or mentally disabled are entitled to full and equal accom-
6 modations, advantages, facilities, and privileges of all common carri-
7 ers, airplanes, motor vehicles, railroad trains, motor buses, street
8 cars, boats or any other public conveyances or modes of transporta-
9 tion, hotels, lodging places, places of public accommodation, amuse-
10 ment or resort, and other places to which the general public is invit-
11 ed, subject only to the conditions and limitations established by law
12 and applicable alike to all persons.

13 (c) Persons who are physically or mentally disabled [TOTALLY OR
14 PARTIALLY BLIND PERSONS] have the right to be accompanied or assisted
15 by a service animal that is certified by a training facility for
16 service animals as being able to function in a public setting [GUIDE
17 DOG, ESPECIALLY TRAINED FOR THE PURPOSE], in any of the places listed
18 in (b) of this section without being required to pay an extra charge
19 for the service animal [GUIDE DOG]; however, the person with the
20 animal [GUIDE DOG] is liable for any damage done to the premises or
21 facilities by the animal [DOG].

22 * Sec. 5. AS 18.06.030 is amended to read:

23 Sec. 18.06.030. RIGHTS AS PEDESTRIANS. The driver of a motor
24 vehicle approaching a physically or mentally disabled [TOTALLY OR
25 PARTIALLY BLIND] pedestrian who is carrying a cane predominantly white
26 or metallic in color, with or without a red tip, using special equip-
27 ment for mobility, or using a service animal [GUIDE DOG] shall take
28 all necessary precautions to avoid injury to the pedestrian, and a
29 driver who fails to take all necessary precautions and causes injury

1 to the pedestrian is liable in damages for the injury caused. A
2 physically or mentally disabled [TOTALLY BLIND OR PARTIALLY BLIND]
3 pedestrian not carrying a cane as described in this section or using a
4 service animal [GUIDE DOG] in any of the places, accommodations or
5 conveyances set out under AS 18.06.020 has all of the rights and
6 privileges conferred by law upon other persons, and the failure of a
7 physically or mentally disabled [TOTALLY OR PARTIALLY BLIND] pedestri-
8 an to carry a cane as described in this section or to use a service
9 animal [GUIDE DOG] is not by itself evidence of [CONTRIBUTORY] negli-
10 gence.

11 * Sec. 6. AS 18.06.040 is amended to read:

12 Sec. 18.06.040. ENFORCEMENT AND PENALTY [FOR DENYING RIGHTS].
13 Enforcement of this chapter shall be by the state Human Rights Commis-
14 sion under AS 18.80.010 - 18.80.145. A person who denies or inter-
15 feres with admittance to or enjoyment of the public facilities set out
16 in AS 18.06.020 or otherwise interferes with the rights of a physical-
17 ly or mentally [TOTALLY OR PARTIALLY BLIND OR OTHERWISE] disabled
18 person is guilty of a class B misdemeanor [AND UPON CONVICTION IS
19 PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR
20 NOT MORE THAN 60 DAYS, OR BY BOTH].

21 * Sec. 7. AS 18.06.050 is amended to read:

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

28 * Sec. 8. AS 18.80.050 is amended by adding a new subsection to read:

29 (b) The commission shall adopt regulations relating to

1 discrimination because of physical and mental disability. The regula-
2 tions shall furnish guidance concerning the circumstances under which
3 it is permissible, appropriate, and relevant to consider a person's
4 physical or mental disability in deciding whether to provide the
5 person with employment, credit, financing, public accommodations,
6 housing accommodations, or other goods or services under this chapter.

7 * Sec. 9. AS 18.80.060(a) is amended to read:

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

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

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

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

15 (4) accept complaints under AS 18.80.100;

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

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

28 (7) enforce AS 18.06.

29 * Sec. 10. AS 18.80.200 is amended to read:

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

10 (b) Therefore, it is the policy of the state and the purpose of
11 this chapter to eliminate and prevent discrimination in employment, in
12 credit and financing practices, in places of public accommodation, in
13 the sale, lease, or rental of real property because of race, religion,
14 color, national origin, sex, age, physical or mental disability,
15 marital status, changes in marital status, pregnancy or parenthood.
16 It is also the purpose of this chapter to eliminate or prevent dis-
17 crimination or inequity resulting from ignorance or misconceptions
18 concerning the nature and effects of physical and mental disabilities.

19 It is not the purpose of this chapter to supersede laws pertaining to
20 child labor, the age of majority or other age restrictions or require-
21 ments.

22 * Sec. 11. AS 18.80.210 is amended to read:

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

29 * Sec. 12. AS 18.80.220(a) is amended to read:

1 (a) It is unlawful for

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

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

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

27 (4) an employer, labor organization or employment agency to
28 discharge, expel or otherwise discriminate against a person because
29 the person [HE] has opposed any practices forbidden under

1 AS 18.80.200 - 18.80.280 or because the person [HE] has filed a com-
2 plaint, testified or assisted in a proceeding under this chapter;

3 (5) an employer to discriminate in the payment of wages as
4 between the sexes, or to employ a female in an occupation in this
5 state at a salary or wage rate less than that paid to a male employee
6 for work of comparable character or work in the same operation, busi-
7 ness or type of work in the same locality; or

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

15 * Sec. 13. AS 18.80.230 is amended to read:

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

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

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

27 (A) that any of the services, goods, facilities,
28 advantages or privileges of the public accommodation will be
29 refused, withheld from or denied to a person of a certain race,

1 religion, sex, physical or mental disability, marital status,
2 color or national origin or because of pregnancy, parenthood, or
3 a change in marital status, or

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

9 * Sec. 14. AS 18.80.240 is amended to read:

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

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

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

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

1 (4) to offer, solicit, accept, use or retain a listing of
2 real property with the understanding that a person may be discrimin-
3 ated against in a real estate transaction or in the furnishing of
4 facilities or sources in connection therewith because of a person's
5 sex, marital status, changes in marital status, pregnancy, race,
6 religion, physical or mental disability, color, national origin or
7 age;

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

14 (6) to engage in blockbusting;

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

21 * Sec. 15. AS 18.80.250(a) is amended to read:

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

1 [HIS] duties

2 (1) to discriminate against the applicant because of sex,
3 physical or mental disability, marital status, changes in marital
4 status, pregnancy, parenthood, race, religion, color or national
5 origin in a term, condition or privilege relating to the obtainment or
6 use of the institution's financial assistance or credit, except to the
7 extent of a federal statute or regulation applicable to a transaction
8 of the same character;

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

17 (3) to refuse to extend credit, issue a credit card or make
18 a loan to a married person or a person with a physical or mental
19 disability, who is otherwise creditworthy, if so requested by the
20 person;

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

25 * Sec. 16. AS 18.80.255 is amended to read:

26 Sec. 18.80.255. UNLAWFUL PRACTICES BY THE STATE OR ITS POLITICAL
27 SUBDIVISIONS. It is unlawful for the state or any of its political
28 subdivisions

29 (1) to refuse, withhold from or deny to a person any local,

1 state or federal funds, services, goods, facilities, advantages or
2 privileges because of race, religion, sex, color or national origin;

3 (2) to publish, circulate, issue, display, post or mail a
4 written or printed communication, notice or advertisement which states
5 or implies that any local, state or federal funds, services, goods,
6 facilities, advantages or privileges of the office or agency will be
7 refused, withheld from or denied to a physically or mentally disabled
8 person or a person of a certain race, religion, sex, color or national
9 origin or that the patronage of a physically or mentally disabled
10 person or a person belonging to a particular race, creed, sex, color
11 or national origin is unwelcome, not desired or solicited; it is not
12 unlawful to post notice that facilities to accommodate the physically
13 or mentally disabled are not available;

14 (3) to refuse or deny to a person any local, state, or
15 federal funds, services, goods, facilities, advantages or privileges
16 because of physical or mental disability.

17 * Sec. 17. AS 18.80 is amended by adding a new section to read:

18 Sec. 18.80.256. ALTERATIONS NOT REQUIRED. This chapter may not
19 be construed to require, or affect other laws that require or provide
20 for, the alteration or remodeling of buildings, facilities, or vehi-
21 cles in order to provide access to or accommodate the needs of a
22 person with a physical disability.

23 * Sec. 18. AS 18.80.300 is amended by adding new paragraphs to read:

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

27 (16) "physical or mental disability" means

28 (A) a physical or mental impairment that substantially
29 limits one or more major life activities,

1 (B) a history of, or a misclassification as having, a
2 mental or physical impairment that substantially limits one or
3 more major life activities; or

4 (C) having

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

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

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

15 (D) a condition that may require the use of a prosthe-
16 sis, special equipment for mobility or service animal;

17 (17) "physical or mental impairment" means

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

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

27 * Sec. 19. AS 18.80.300(13) is repealed.