

HOUSE BILL NO. 596

INTRODUCED BY O'KEEFE, JACOBSON, BARNHART,
WYATT, REAM, MCCAFFREE, BECKER, HARRINGTON, THOMAS,
CODY, BROOKE, MEASURE, J. BROWN, DAVIS, L. NELSON, WHALEN,
GERVAIS, ELLIOTT, DOLEZAL, G. BECK, RANEY, DARKO,
DRISCOLL, HARPER, KADAS, STANG, SOUTHWORTH, MCCULLOCH,
MADISON, GRADY, PHILLIPS, SQUIRES, BRADLEY

IN THE HOUSE

FEBRUARY 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON HUMAN SERVICES & AGING.

FEBRUARY 5, 1991 FIRST READING.

FEBRUARY 16, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 18, 1991 PRINTING REPORT.

FEBRUARY 21, 1991 POSTED ON ALTERNATIVE CONSENT CALENDAR.

FEBRUARY 23, 1991 THIRD READING, PASSED.
AYES, 85; NOES, 12.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 25, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

APRIL 1, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 4, 1991 SECOND READING, CONCURRED IN.

APRIL 5, 1991 THIRD READING, CONCURRED IN.
AYES, 44; NOES, 6.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 5, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *596*
 2 INTRODUCED BY *Steve Jackson BBamhart*
 3 *Wyatt Reaser Maffei Backer Hampton Thomas Jones*
 4 *Conn Bunde Meunier J Brown*
 5 *Milton Whalen Thomas Dett Dolcedo Beck*
 6 *Ray Harker Russell Hagan Radio King*
 7 *Southard McCullough Madigan Brady Miller Bradley*
 8 *Squires*

9 WHEREAS, Article II, section 4, of the Montana
 10 Constitution prohibits discrimination by the state or any
 11 person, firm, corporation, or institution against any person
 12 on account of social condition; and

13 WHEREAS, the Legislature has previously defined social
 14 condition to include marital status; and

15 WHEREAS, an individual may be subjected to
 16 discrimination because of marital status in the enjoyment of
 17 public accommodations and access to housing.

18 THEREFORE, it is appropriate for the Legislature to
 19 prohibit such discrimination.

20
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 49-2-304, MCA, is amended to read:

23 **"49-2-304. Discrimination in public accommodations.** (1)
 24 Except when the distinction is based on reasonable grounds,
 25 it is an unlawful discriminatory practice for the owner,

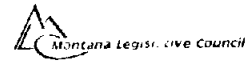
1 lessee, manager, agent, or employee of a public
 2 accommodation:

3 (a) to refuse, withhold from, or deny to a person any
 4 of its services, goods, facilities, advantages, or
 5 privileges because of sex, marital status, race, age,
 6 physical or mental handicap, creed, religion, color, or
 7 national origin;

8 (b) to publish, circulate, issue, display, post, or
 9 mail a written or printed communication, notice, or
 10 advertisement which states or implies that any of the
 11 services, goods, facilities, advantages, or privileges of
 12 the public accommodation will be refused, withheld from, or
 13 denied to a person of a certain race, creed, religion, sex,
 14 marital status, age, physical or mental handicap, color, or
 15 national origin.

16 (2) Except when the distinction is based on reasonable
 17 grounds, it is an unlawful discriminatory practice for a
 18 licensee under Title 16, chapter 4, to exclude from its
 19 membership or from its services, goods, facilities,
 20 advantages, privileges, or accommodations any individual on
 21 the grounds of race, color, religion, creed, sex, marital
 22 status, age, physical or mental handicap, or national
 23 origin. This subsection does not apply to any lodge of a
 24 recognized national fraternal organization.

25 (3) Nothing in this section prohibits public



-2-
 INTRODUCED BILL
 HB 596

1 accommodations from giving or providing special benefits,
2 incentives, discounts, or promotions for the benefit of
3 individuals based on age."

4 **Section 2.** Section 49-2-305, MCA, is amended to read:

5 "49-2-305. Discrimination in housing -- exemptions. (1)

6 Except when the distinction is based on reasonable grounds,
7 it is an unlawful discriminatory practice for the owner,
8 lessee, manager, or other person having the right to sell,
9 lease, or rent a housing accommodation or improved or
10 unimproved property:

11 (a) to refuse to sell, lease, or rent the housing
12 accommodation or property to a person because of sex,
13 marital status, race, creed, religion, color, age, familial
14 status, physical or mental handicap, or national origin;

15 (b) to discriminate against a person because of sex,
16 marital status, race, creed, religion, age, familial status,
17 physical or mental handicap, color, or national origin in a
18 term, condition, or privilege relating to the use, sale,
19 lease, or rental of the housing accommodation or property;

20 (c) to make a written or oral inquiry or record of the
21 sex, marital status, race, creed, religion, age, physical or
22 mental handicap, color, or national origin of a person
23 seeking to buy, lease, or rent the housing accommodation or
24 property; or

25 (d) to refuse to negotiate for a sale or to make a

1 housing accommodation or property unavailable because of
2 sex, marital status, race, creed, religion, age, familial
3 status, physical or mental handicap, color, or national
4 origin.

5 (2) A private residence designed for single-family
6 occupancy in which sleeping space is rented to guests and in
7 which the landlord also resides is excluded from the
8 provisions of subsection (1).

9 (3) It is also an unlawful discriminatory practice to
10 make, print, or publish or cause to be made, printed, or
11 published any notice, statement, or advertisement that
12 indicates any preference, limitation, or discrimination that
13 is prohibited by subsection (1) or any intention to make or
14 have such a preference, limitation, or discrimination.

15 (4) The prohibitions of this section against
16 discrimination because of age and familial status do not
17 extend to housing for older persons. "Housing for older
18 persons" means housing:

19 (a) provided under any state or federal program
20 specifically designed and operated to assist elderly
21 persons;

22 (b) intended for, and solely occupied by, persons 62
23 years of age or older; or

24 (c) intended and operated for occupancy by at least one
25 person 55 years of age or older per unit in accordance with

LC 1482/01

1 the provisions of 42 U.S.C. 3605(b)(2)(C) and (3) and 24
2 C.F.R. 100.304, as those sections read on October 1, 1989.

3 (5) The prohibitions of this section against
4 discrimination because of age and familial status do not
5 extend to rooms or units in dwellings containing living
6 quarters occupied or intended to be occupied by no more than
7 two families living independently of each other, if the
8 owner actually maintains and occupies one of the living
9 quarters as his residence.

10 (6) For purposes of this section, "familial status"
11 means having a child or children who live or will live with
12 a person. A distinction based on familial status includes
13 one that is based on the age of a child or children who live
14 or will live with a person."

-End-

APPROVED BY COMM. ON HUMAN SERVICES AND AGING

1 *House* BILL NO. *596*
 2 INTRODUCED BY *Rep. Jackson B. Baumhart*
 3 *Wright, Reagin, Maffei, Becker, Hamilton, Thomas, Jones*
 4 *Cody, Brink, Mearns, Brown*
 5 *Mulvaney, Whalen, Gomez, Pett, Dolzard, Bick*
 6 *Conroy, Haddock, Drenth, Hays, Kadosh, May*
 7 *Stith, McCallum, Madefor, Brady, Miller, Bradley*
 8 *Spencer*

9 WHEREAS, Article II, section 4, of the Montana
 10 Constitution prohibits discrimination by the state or any
 11 person, firm, corporation, or institution against any person
 12 on account of social condition; and

13 WHEREAS, the Legislature has previously defined social
 14 condition to include marital status; and

15 WHEREAS, an individual may be subjected to
 16 discrimination because of marital status in the enjoyment of
 17 public accommodations and access to housing.

18 THEREFORE, it is appropriate for the Legislature to
 19 prohibit such discrimination.

20
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 49-2-304, MCA, is amended to read:
 23 "49-2-304. Discrimination in public accommodations. (1)
 24 Except when the distinction is based on reasonable grounds,
 25 it is an unlawful discriminatory practice for the owner,

1 lessee, manager, agent, or employee of a public
 2 accommodation:

3 (a) to refuse, withhold from, or deny to a person any
 4 of its services, goods, facilities, advantages, or
 5 privileges because of sex, marital status, race, age,
 6 physical or mental handicap, creed, religion, color, or
 7 national origin;

8 (b) to publish, circulate, issue, display, post, or
 9 mail a written or printed communication, notice, or
 10 advertisement which states or implies that any of the
 11 services, goods, facilities, advantages, or privileges of
 12 the public accommodation will be refused, withheld from, or
 13 denied to a person of a certain race, creed, religion, sex,
 14 marital status, age, physical or mental handicap, color, or
 15 national origin.

16 (2) Except when the distinction is based on reasonable
 17 grounds, it is an unlawful discriminatory practice for a
 18 licensee under Title 16, chapter 4, to exclude from its
 19 membership or from its services, goods, facilities,
 20 advantages, privileges, or accommodations any individual on
 21 the grounds of race, color, religion, creed, sex, marital
 22 status, age, physical or mental handicap, or national
 23 origin. This subsection does not apply to any lodge of a
 24 recognized national fraternal organization.

25 (3) Nothing in this section prohibits public

SECOND READING



1 accommodations from giving or providing special benefits,
2 incentives, discounts, or promotions for the benefit of
3 individuals based on age."

4 **Section 2.** Section 49-2-305, MCA, is amended to read:

5 "49-2-305. Discrimination in housing -- exemptions. (1)
6 Except when the distinction is based on reasonable grounds,
7 it is an unlawful discriminatory practice for the owner,
8 lessee, manager, or other person having the right to sell,
9 lease, or rent a housing accommodation or improved or
10 unimproved property:

11 (a) to refuse to sell, lease, or rent the housing
12 accommodation or property to a person because of sex,
13 marital status, race, creed, religion, color, age, familial
14 status, physical or mental handicap, or national origin;

15 (b) to discriminate against a person because of sex,
16 marital status, race, creed, religion, age, familial status,
17 physical or mental handicap, color, or national origin in a
18 term, condition, or privilege relating to the use, sale,
19 lease, or rental of the housing accommodation or property;

20 (c) to make a written or oral inquiry or record of the
21 sex, marital status, race, creed, religion, age, physical or
22 mental handicap, color, or national origin of a person
23 seeking to buy, lease, or rent the housing accommodation or
24 property; or

25 (d) to refuse to negotiate for a sale or to make a

1 housing accommodation or property unavailable because of
2 sex, marital status, race, creed, religion, age, familial
3 status, physical or mental handicap, color, or national
4 origin.

5 (2) A private residence designed for single-family
6 occupancy in which sleeping space is rented to guests and in
7 which the landlord also resides is excluded from the
8 provisions of subsection (1).

9 (3) It is also an unlawful discriminatory practice to
10 make, print, or publish or cause to be made, printed, or
11 published any notice, statement, or advertisement that
12 indicates any preference, limitation, or discrimination that
13 is prohibited by subsection (1) or any intention to make or
14 have such a preference, limitation, or discrimination.

15 (4) The prohibitions of this section against
16 discrimination because of age and familial status do not
17 extend to housing for older persons. "Housing for older
18 persons" means housing:

19 (a) provided under any state or federal program
20 specifically designed and operated to assist elderly
21 persons;

22 (b) intended for, and solely occupied by, persons 62
23 years of age or older; or

24 (c) intended and operated for occupancy by at least one
25 person 55 years of age or older per unit in accordance with

1 the provisions of 42 U.S.C. 3605(b)(2)(C) and (3) and 24
2 C.F.R. 100.304, as those sections read on October 1, 1989.

3 (5) The prohibitions of this section against
4 discrimination because of age and familial status do not
5 extend to rooms or units in dwellings containing living
6 quarters occupied or intended to be occupied by no more than
7 two families living independently of each other, if the
8 owner actually maintains and occupies one of the living
9 quarters as his residence.

10 (6) For purposes of this section, "familial status"
11 means having a child or children who live or will live with
12 a person. A distinction based on familial status includes
13 one that is based on the age of a child or children who live
14 or will live with a person."

-End-

1 *House* BILL NO. *596*
 2 INTRODUCED BY *Rep. Jackson* *B. Brant*
 3 *Wright* *Reagan* *Steff* *Becker* *Hampton* *Thomas* *Jones*
 4 *Cody* *Brake* *Wright* *Johnson*
 5 AS BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING
 6 DISCRIMINATION IN PUBLIC ACCOMMODATIONS AND HOUSING ON THE
 7 BASIS OF MARITAL STATUS; AND AMENDING SECTIONS 49-2-304 AND
 8 49-2-305, MCA." *McCallister* *Malveston* *Tracy* *Phillips* *Credley*

9 WHEREAS, Article II, section 4, of the Montana
 10 Constitution prohibits discrimination by the state or any
 11 person, firm, corporation, or institution against any person
 12 on account of social condition; and

13 WHEREAS, the Legislature has previously defined social
 14 condition to include marital status; and

15 WHEREAS, an individual may be subjected to
 16 discrimination because of marital status in the enjoyment of
 17 public accommodations and access to housing.

18 THEREFORE, it is appropriate for the Legislature to
 19 prohibit such discrimination.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 Section 1. Section 49-2-304, MCA, is amended to read:

23 "49-2-304. Discrimination in public accommodations. (1)
 24 Except when the distinction is based on reasonable grounds,
 25 it is an unlawful discriminatory practice for the owner,

1 lessee, manager, agent, or employee of a public
 2 accommodation:

3 (a) to refuse, withhold from, or deny to a person any
 4 of its services, goods, facilities, advantages, or
 5 privileges because of sex, marital status, race, age,
 6 physical or mental handicap, creed, religion, color, or
 7 national origin;

8 (b) to publish, circulate, issue, display, post, or
 9 mail a written or printed communication, notice, or
 10 advertisement which states or implies that any of the
 11 services, goods, facilities, advantages, or privileges of
 12 the public accommodation will be refused, withheld from, or
 13 denied to a person of a certain race, creed, religion, sex,
 14 marital status, age, physical or mental handicap, color, or
 15 national origin.

16 (2) Except when the distinction is based on reasonable
 17 grounds, it is an unlawful discriminatory practice for a
 18 licensee under Title 16, chapter 4, to exclude from its
 19 membership or from its services, goods, facilities,
 20 advantages, privileges, or accommodations any individual on
 21 the grounds of race, color, religion, creed, sex, marital
 22 status, age, physical or mental handicap, or national
 23 origin. This subsection does not apply to any lodge of a
 24 recognized national fraternal organization.

25 (3) Nothing in this section prohibits public

1 accommodations from giving or providing special benefits,
2 incentives, discounts, or promotions for the benefit of
3 individuals based on age."

4 **Section 2.** Section 49-2-305, MCA, is amended to read:

5 "49-2-305. Discrimination in housing -- exemptions. (1)

6 Except when the distinction is based on reasonable grounds,
7 it is an unlawful discriminatory practice for the owner,
8 lessee, manager, or other person having the right to sell,
9 lease, or rent a housing accommodation or improved or
10 unimproved property:

11 (a) to refuse to sell, lease, or rent the housing
12 accommodation or property to a person because of sex,
13 marital status, race, creed, religion, color, age, familial
14 status, physical or mental handicap, or national origin;

15 (b) to discriminate against a person because of sex,
16 marital status, race, creed, religion, age, familial status,
17 physical or mental handicap, color, or national origin in a
18 term, condition, or privilege relating to the use, sale,
19 lease, or rental of the housing accommodation or property;

20 (c) to make a written or oral inquiry or record of the
21 sex, marital status, race, creed, religion, age, physical or
22 mental handicap, color, or national origin of a person
23 seeking to buy, lease, or rent the housing accommodation or
24 property; or

25 (d) to refuse to negotiate for a sale or to make a

1 housing accommodation or property unavailable because of
2 sex, marital status, race, creed, religion, age, familial
3 status, physical or mental handicap, color, or national
4 origin.

5 (2) A private residence designed for single-family
6 occupancy in which sleeping space is rented to guests and in
7 which the landlord also resides is excluded from the
8 provisions of subsection (1).

9 (3) It is also an unlawful discriminatory practice to
10 make, print, or publish or cause to be made, printed, or
11 published any notice, statement, or advertisement that
12 indicates any preference, limitation, or discrimination that
13 is prohibited by subsection (1) or any intention to make or
14 have such a preference, limitation, or discrimination.

15 (4) The prohibitions of this section against
16 discrimination because of age and familial status do not
17 extend to housing for older persons. "Housing for older
18 persons" means housing:

19 (a) provided under any state or federal program
20 specifically designed and operated to assist elderly
21 persons;

22 (b) intended for, and solely occupied by, persons 62
23 years of age or older; or

24 (c) intended and operated for occupancy by at least one
25 person 55 years of age or older per unit in accordance with

1 the provisions of 42 U.S.C. 3605(b)(2)(C) and (3) and 24
2 C.F.R. 100.304, as those sections read on October 1, 1989.

3 (5) The prohibitions of this section against
4 discrimination because of age and familial status do not
5 extend to rooms or units in dwellings containing living
6 quarters occupied or intended to be occupied by no more than
7 two families living independently of each other, if the
8 owner actually maintains and occupies one of the living
9 quarters as his residence.

10 (6) For purposes of this section, "familial status"
11 means having a child or children who live or will live with
12 a person. A distinction based on familial status includes
13 one that is based on the age of a child or children who live
14 or will live with a person."

-End-

1 HOUSE BILL NO. 596

2 INTRODUCED BY O'KEEFE, JACOBSON, BARNHART,

3 WYATT, REAM, MCCAFFREE, BECKER, HARRINGTON, THOMAS,

4 CODY, BROOKE, MEASURE, J. BROWN, DAVIS, L. NELSON, WHALEN,

5 GERVAIS, ELLIOTT, DOLEZAL, G. BECK, RANEY, DARKO,

6 DRISCOLL, HARPER, KADAS, STANG, SOUTHWORTH, MCCULLOCH,

7 MADISON, GRADY, PHILLIPS, SQUIRES, BRADLEY

8
 9 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING
 10 DISCRIMINATION IN PUBLIC ACCOMMODATIONS AND HOUSING ON THE
 11 BASIS OF MARITAL STATUS; AND AMENDING SECTIONS 49-2-304 AND
 12 49-2-305, MCA."
 13

14 WHEREAS, Article II, section 4, of the Montana
 15 Constitution prohibits discrimination by the state or any
 16 person, firm, corporation, or institution against any person
 17 on account of social condition; and

18 WHEREAS, the Legislature has previously defined social
 19 condition to include marital status; and

20 WHEREAS, an individual may be subjected to
 21 discrimination because of marital status in the enjoyment of
 22 public accommodations and access to housing.

23 THEREFORE, it is appropriate for the Legislature to
 24 prohibit such discrimination.
 25

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

2 Section 1. Section 49-2-304, MCA, is amended to read:

3 "49-2-304. Discrimination in public accommodations. (1)

4 Except when the distinction is based on reasonable grounds,
 5 it is an unlawful discriminatory practice for the owner,
 6 lessee, manager, agent, or employee of a public
 7 accommodation:

8 (a) to refuse, withhold from, or deny to a person any
 9 of its services, goods, facilities, advantages, or
 10 privileges because of sex, marital status, race, age,
 11 physical or mental handicap, creed, religion, color, or
 12 national origin;

13 (b) to publish, circulate, issue, display, post, or
 14 mail a written or printed communication, notice, or
 15 advertisement which states or implies that any of the
 16 services, goods, facilities, advantages, or privileges of
 17 the public accommodation will be refused, withheld from, or
 18 denied to a person of a certain race, creed, religion, sex,
 19 marital status, age, physical or mental handicap, color, or
 20 national origin.

21 (2) Except when the distinction is based on reasonable
 22 grounds, it is an unlawful discriminatory practice for a
 23 licensee under Title 16, chapter 4, to exclude from its
 24 membership or from its services, goods, facilities,
 25 advantages, privileges, or accommodations any individual on

1 the grounds of race, color, religion, creed, sex, marital
 2 status, age, physical or mental handicap, or national
 3 origin. This subsection does not apply to any lodge of a
 4 recognized national fraternal organization.

5 (3) Nothing in this section prohibits public
 6 accommodations from giving or providing special benefits,
 7 incentives, discounts, or promotions for the benefit of
 8 individuals based on age."

9 **Section 2.** Section 49-2-305, MCA, is amended to read:

10 **"49-2-305. Discrimination in housing -- exemptions.** (1)
 11 Except when the distinction is based on reasonable grounds,
 12 it is an unlawful discriminatory practice for the owner,
 13 lessee, manager, or other person having the right to sell,
 14 lease, or rent a housing accommodation or improved or
 15 unimproved property:

16 (a) to refuse to sell, lease, or rent the housing
 17 accommodation or property to a person because of sex,
 18 marital status, race, creed, religion, color, age, familial
 19 status, physical or mental handicap, or national origin;

20 (b) to discriminate against a person because of sex,
 21 marital status, race, creed, religion, age, familial status,
 22 physical or mental handicap, color, or national origin in a
 23 term, condition, or privilege relating to the use, sale,
 24 lease, or rental of the housing accommodation or property;

25 (c) to make a written or oral inquiry or record of the

1 sex, marital status, race, creed, religion, age, physical or
 2 mental handicap, color, or national origin of a person
 3 seeking to buy, lease, or rent the housing accommodation or
 4 property; or

5 (d) to refuse to negotiate for a sale or to make a
 6 housing accommodation or property unavailable because of
 7 sex, marital status, race, creed, religion, age, familial
 8 status, physical or mental handicap, color, or national
 9 origin.

10 (2) A private residence designed for single-family
 11 occupancy in which sleeping space is rented to guests and in
 12 which the landlord also resides is excluded from the
 13 provisions of subsection (1).

14 (3) It is also an unlawful discriminatory practice to
 15 make, print, or publish or cause to be made, printed, or
 16 published any notice, statement, or advertisement that
 17 indicates any preference, limitation, or discrimination that
 18 is prohibited by subsection (1) or any intention to make or
 19 have such a preference, limitation, or discrimination.

20 (4) The prohibitions of this section against
 21 discrimination because of age and familial status do not
 22 extend to housing for older persons. "Housing for older
 23 persons" means housing:

24 (a) provided under any state or federal program
 25 specifically designed and operated to assist elderly

1 persons;

2 (b) intended for, and solely occupied by, persons 62
3 years of age or older; or

4 (c) intended and operated for occupancy by at least one
5 person 55 years of age or older per unit in accordance with
6 the provisions of 42 U.S.C. 3605(b)(2)(C) and (3) and 24
7 C.F.R. 100.304, as those sections read on October 1, 1989.

8 (5) The prohibitions of this section against
9 discrimination because of age and familial status do not
10 extend to rooms or units in dwellings containing living
11 quarters occupied or intended to be occupied by no more than
12 two families living independently of each other, if the
13 owner actually maintains and occupies one of the living
14 quarters as his residence.

15 (6) For purposes of this section, "familial status"
16 means having a child or children who live or will live with
17 a person. A distinction based on familial status includes
18 one that is based on the age of a child or children who live
19 or will live with a person."

-End-

1 HOUSE BILL NO. 596

2 INTRODUCED BY O'KEEFE, JACOBSON, BARNHART,

3 WYATT, REAM, MCCAFFREE, BECKER, HARRINGTON, THOMAS,

4 CODY, BROOKE, MEASURE, J. BROWN, DAVIS, L. NELSON, WHALEN,

5 GERVAIS, ELLIOTT, DOLEZAL, G. BECK, RANEY, DARKO,

6 DRISCOLL, HARPER, KADAS, STANG, SOUTHWORTH, MCCULLOCH,

7 MADISON, GRADY, PHILLIPS, SQUIRES, BRADLEY

8
 9 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING
 10 DISCRIMINATION IN PUBLIC ACCOMMODATIONS AND HOUSING ON THE
 11 BASIS OF MARITAL STATUS; AND AMENDING SECTIONS 49-2-304 AND
 12 49-2-305, MCA."
 13

14 WHEREAS, Article II, section 4, of the Montana
 15 Constitution prohibits discrimination by the state or any
 16 person, firm, corporation, or institution against any person
 17 on account of social condition; and

18 WHEREAS, the Legislature has previously defined social
 19 condition to include marital status; and

20 WHEREAS, an individual may be subjected to
 21 discrimination because of marital status in the enjoyment of
 22 public accommodations and access to housing.

23 THEREFORE, it is appropriate for the Legislature to
 24 prohibit such discrimination.
 25

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

2 **Section 1.** Section 49-2-304, MCA, is amended to read:3 **"49-2-304. Discrimination in public accommodations. (1)**

4 Except when the distinction is based on reasonable grounds,
 5 it is an unlawful discriminatory practice for the owner,
 6 lessee, manager, agent, or employee of a public
 7 accommodation:

8 (a) to refuse, withhold from, or deny to a person any
 9 of its services, goods, facilities, advantages, or
 10 privileges because of sex, marital status, race, age,
 11 physical or mental handicap, creed, religion, color, or
 12 national origin;

13 (b) to publish, circulate, issue, display, post, or
 14 mail a written or printed communication, notice, or
 15 advertisement which states or implies that any of the
 16 services, goods, facilities, advantages, or privileges of
 17 the public accommodation will be refused, withheld from, or
 18 denied to a person of a certain race, creed, religion, sex,
 19 marital status, age, physical or mental handicap, color, or
 20 national origin.

21 (2) Except when the distinction is based on reasonable
 22 grounds, it is an unlawful discriminatory practice for a
 23 licensee under Title 16, chapter 4, to exclude from its
 24 membership or from its services, goods, facilities,
 25 advantages, privileges, or accommodations any individual on

1 the grounds of race, color, religion, creed, sex, marital
 2 status, age, physical or mental handicap, or national
 3 origin. This subsection does not apply to any lodge of a
 4 recognized national fraternal organization.

5 (3) Nothing in this section prohibits public
 6 accommodations from giving or providing special benefits,
 7 incentives, discounts, or promotions for the benefit of
 8 individuals based on age."

9 **Section 2.** Section 49-2-305, MCA, is amended to read:

10 **"49-2-305. Discrimination in housing -- exemptions.** (1)
 11 Except when the distinction is based on reasonable grounds,
 12 it is an unlawful discriminatory practice for the owner,
 13 lessee, manager, or other person having the right to sell,
 14 lease, or rent a housing accommodation or improved or
 15 unimproved property:

16 (a) to refuse to sell, lease, or rent the housing
 17 accommodation or property to a person because of sex,
 18 marital status, race, creed, religion, color, age, familial
 19 status, physical or mental handicap, or national origin;

20 (b) to discriminate against a person because of sex,
 21 marital status, race, creed, religion, age, familial status,
 22 physical or mental handicap, color, or national origin in a
 23 term, condition, or privilege relating to the use, sale,
 24 lease, or rental of the housing accommodation or property;

25 (c) to make a written or oral inquiry or record of the

1 sex, marital status, race, creed, religion, age, physical or
 2 mental handicap, color, or national origin of a person
 3 seeking to buy, lease, or rent the housing accommodation or
 4 property; or

5 (d) to refuse to negotiate for a sale or to make a
 6 housing accommodation or property unavailable because of
 7 sex, marital status, race, creed, religion, age, familial
 8 status, physical or mental handicap, color, or national
 9 origin.

10 (2) A private residence designed for single-family
 11 occupancy in which sleeping space is rented to guests and in
 12 which the landlord also resides is excluded from the
 13 provisions of subsection (1).

14 (3) It is also an unlawful discriminatory practice to
 15 make, print, or publish or cause to be made, printed, or
 16 published any notice, statement, or advertisement that
 17 indicates any preference, limitation, or discrimination that
 18 is prohibited by subsection (1) or any intention to make or
 19 have such a preference, limitation, or discrimination.

20 (4) The prohibitions of this section against
 21 discrimination because of age and familial status do not
 22 extend to housing for older persons. "Housing for older
 23 persons" means housing:

24 (a) provided under any state or federal program
 25 specifically designed and operated to assist elderly

1 persons;

2 (b) intended for, and solely occupied by, persons 62
3 years of age or older; or

4 (c) intended and operated for occupancy by at least one
5 person 55 years of age or older per unit in accordance with
6 the provisions of 42 U.S.C. 3605(b)(2)(C) and (3) and 24
7 C.F.R. 100.304, as those sections read on October 1, 1989.

8 (5) The prohibitions of this section against
9 discrimination because of age and familial status do not
10 extend to rooms or units in dwellings containing living
11 quarters occupied or intended to be occupied by no more than
12 two families living independently of each other, if the
13 owner actually maintains and occupies one of the living
14 quarters as his residence.

15 (6) For purposes of this section, "familial status"
16 means having a child or children who live or will live with
17 a person. A distinction based on familial status includes
18 one that is based on the age of a child or children who live
19 or will live with a person."

-End-