

1 *Senate* BILL NO. *198*
 2 INTRODUCED BY *Bob Brown Yellowstone Rice*
 3 BY REQUEST OF THE COMMISSION FOR HUMAN RIGHTS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE
 6 DISCRIMINATION LAWS TO CORRECT AN INCORRECT CITATION TO
 7 FEDERAL LAW; AMENDING SECTION 49-2-305, MCA; AND PROVIDING
 8 AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
 9 DATE."

10
 11 WHEREAS, section 49-2-305, MCA, of the Human Rights Act
 12 prohibits discrimination in housing; and

13 WHEREAS, that section exempts "housing for older
 14 persons" from the prohibitions against discrimination in
 15 housing based upon age and familial status; and

16 WHEREAS, the definition of "housing for older persons"
 17 refers to 42 U.S.C. 3605(b)(2)(C) and (3) of the federal
 18 Fair Housing Act; and

19 WHEREAS, this citation is incorrect and should read 42
 20 U.S.C. 3607(b)(2)(C) and (3), which define "housing for
 21 older persons" under federal law.

22 THEREFORE, it is appropriate for the Legislature to
 23 amend section 49-2-305, MCA, to correct this citation error.

24
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 **Section 1.** Section 49-2-305, MCA, is amended to read:

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

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

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

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

22 (d) to refuse to negotiate for a sale or to make a
 23 housing accommodation or property unavailable because of
 24 sex, race, creed, religion, age, familial status, physical
 25 or mental handicap, color, or national origin.



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

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

11 (4) The prohibitions of this section against
12 discrimination because of age and familial status do not
13 extend to housing for older persons. "Housing for older
14 persons" means housing:

15 (a) provided under any state or federal program
16 specifically designed and operated to assist elderly
17 persons;

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

20 (c) intended and operated for occupancy by at least one
21 person 55 years of age or older per unit in accordance with
22 the provisions of 42 U.S.C. 3605(b)(2)(c)---and
23 (3)3607(b)(2)(C) and (3) and 24 C.F.R. 100.304, as those
24 sections read on October 1, 1989.

25 (5) The prohibitions of this section against

1 discrimination because of age and familial status do not
2 extend to rooms or units in dwellings containing living
3 quarters occupied or intended to be occupied by no more than
4 two families living independently of each other, if the
5 owner actually maintains and occupies one of the living
6 quarters as his residence.

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

12 NEW SECTION. Section 2. Retroactive applicability.
13 [This act] applies retroactively, within the meaning of
14 1-2-109, to causes of action arising on or after October 1,
15 1989.

16 NEW SECTION. Section 3. Effective date. [This act] is
17 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

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