

SENATE BILL NO. 131

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 16, 1979	Introduced and referred to Committee on State Administration.
January 23, 1979	Committee recommend bill do pass. Report adopted.
January 24, 1979	Printed and placed on members' desks.
January 25, 1979	Second reading, do pass.
January 26, 1979	Considered correctly engrossed.
January 27, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

January 29, 1979	Introduced and referred to Committee on State Administration.
March 2, 1979	Committee recommend bill be concurred in. Report adopted.
March 6, 1979	Second reading, concurred in.
March 8, 1979	Third reading, concurred in.

IN THE SENATE

March 9, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
---------------	---

1 *Senate* BILL NO. 131
2 INTRODUCED BY *B. Baylock*
3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO HUMAN RIGHTS; AND REPEALING
7 SECTION 64-104, R.C.M. 1947."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 49-1-101, MCA, is amended to read:

11 "49-1-101. Right of protection from personal injury.
12 Besides the personal rights mentioned or recognized in other
13 statutes and subject to the qualifications and restrictions
14 provided by law, every person has the right of protection
15 from bodily restraint or harm, personal insult, defamation,
16 and injury to his personal relations."

17 Section 2. Section 49-2-101, MCA, is amended to read:

18 "49-2-101. Definitions. As used in this chapter,
19 unless the context requires otherwise, the following
20 definitions apply:

21 (1) "Age" means number of years since birth. It does
22 not mean level of maturity or ability to handle
23 responsibility. These latter criteria may represent
24 legitimate considerations as reasonable grounds for
25 discrimination without reference to age.

1 (2) "Commission" means the commission for human rights
2 provided for in 2-15-1706.

3 (3) "Credit" means the right granted by a creditor to
4 a person to defer payment of a debt, to incur debt and defer
5 its payment, or to purchase property or services and defer
6 payment therefor, ~~including but not limited to it~~ includes
7 without limitation the right to incur and defer debt which
8 is secured by residential real property.

9 (4) "Credit transaction" means any invitation to apply
10 for credit, application for credit, extension of credit, or
11 credit sale.

12 (5) "Creditor" means a person who, regularly or as a
13 part of his business, arranges for the extension of credit
14 for which the payment of a financial charge or interest is
15 required, whether in connection with loans, sale of property
16 or services, or otherwise.

17 (6) "Educational institution" means a public or
18 private institution and includes an academy; college;
19 elementary or secondary school; extension course;
20 kindergarten; nursery; school system; university; business,
21 nursing, professional, secretarial, technical, or vocational
22 school; or agent of an educational institution.

23 (7) "Employee" means any individual employed by an
24 employer.

25 (8) "Employer" means an employer of one or more

persons but does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide ~~accommodation~~ accommodations or services that are available on a nonmembership basis.

(9) "Employment agency" means a person undertaking to procure employees or opportunities to work.

(10) "Financial institution" means a commercial bank, trust company, ~~mutual~~ savings bank, cooperative--bank, ~~homestead-association,~~ finance company, ~~mutual~~ savings and loan association, investment company, or insurance company.

(11) "Housing accommodation" means a building or portion of a building, whether constructed or to be constructed, which is or will be used as the sleeping quarters of its occupants.

(12) "Labor organization" means an organization or an agent of the ~~an~~ organization organized for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms or conditions of employment, or of other mutual aid and protection of employees.

(13) "Mental handicap" means any mental disability resulting in subaverage intellectual functioning or impaired social competence.

(14) "National origin" means ancestry.

(15) "Person" means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated ~~employees~~ employers' associations, employers, employment agencies, or labor organizations.

(16) "Physical handicap" means a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including epilepsy. It ~~shall include~~ includes without limitation any degree of paralysis; amputation; lack of physical coordination; blindness or visual impediment; deafness or hearing impediment; muteness or speech impediment; or physical reliance on a guide dog for the blind, a wheelchair, or any other remedial appliance or device.

(17) "Public accommodation" means a place which caters or offers its services, goods, or facilities to the general public--~~including--but--not--limited--to~~ subject only to the conditions and limitations established by law and applicable to all persons alike. It includes without limitation a public inn, restaurant, eating house, hotel, roadhouse, place where food or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, ~~night-club~~ nightclub, trailer park, resort, campground, ~~barber-shop~~ barbershop, beauty parlor, bathroom, ~~rest--house~~ resthouse, theater, swimming pool, skating rink,

1 golf course, cafe, ice cream parlor, transportation company,
2 or hospital, and all other public amusement and business
3 establishments, ~~subject only to the conditions and~~
4 ~~limitations established by law and applicable alike to all~~
5 persons.

6 (18) "Staff" or "commission staff" means the staff of
7 the commission for human rights."

8 Section 3. Section 49-2-202, MCA, is amended to read:

9 "49-2-202. Authority to require posted notice. The
10 commission may require any employer, employment agency,
11 labor union, educational institution, or financial
12 institution, or the owner, lessee, manager, agent, or
13 employee of any public accommodation or housing
14 accommodation subject to this chapter to post, in a
15 conspicuous place on his premises or in the accommodation, a
16 notice to be prepared or approved by the commission
17 containing relevant information that the commission deems
18 considers necessary to explain this chapter. Any person or
19 institution subject to this section ~~refusing who refuses~~ to
20 comply with an order of the commission respecting the
21 posting of a notice is guilty of a misdemeanor and
22 punishable by a fine of not more than \$50."

23 Section 4. Section 49-2-301, MCA, is amended to read:

24 "49-2-301. Retaliation prohibited. ~~It~~ It is an
25 unlawful discriminatory practice for a person, educational

1 institution, financial institution, or governmental entity
2 or agency to discharge, expel, blacklist, or otherwise
3 discriminate against an individual because he has opposed
4 any practices forbidden under this chapter or because he has
5 filed a complaint, testified, assisted, or participated in
6 any manner in an investigation or proceeding under this
7 chapter.

8 ~~It~~ ~~No person or institution may discharge or~~
9 ~~discriminate against any other person because he or she has~~
10 ~~made a complaint, assisted with an investigation or~~
11 ~~proceeding under this chapter, or in any other manner~~
12 ~~opposed any practice made unlawful under this chapter."~~

13 Section 5. Section 49-2-302, MCA, is amended to read:

14 "49-2-302. Aiding, coercing, or attempting. It is
15 unlawful for a person, educational institution, financial
16 institution, or governmental entity or agency to aid, abet,
17 incite, compel, or coerce the doing of an act forbidden
18 under this chapter or to attempt to do so."

19 Section 6. Section 49-2-305, MCA, is amended to read:

20 "49-2-305. Discrimination in housing. (1) Except when
21 the distinction is based on reasonable grounds, it is an
22 unlawful discriminatory practice for the owner, lessee,
23 manager, or other person having the right to sell, lease, or
24 rent a housing accommodation or improved or unimproved
25 property:

1 (a) to refuse to sell, lease, or rent the housing
2 accommodation or property to a person because of sex, race,
3 creed, religion, color, age, physical or mental handicap, or
4 national origin;

5 (b) to discriminate against a person because of sex,
6 race, creed, religion, age, physical or mental handicap,
7 color, or national origin in a term, condition, or privilege
8 relating to the use, sale, lease, or rental of ~~a the~~ housing
9 accommodation or ~~improved-or-unimproved~~ property; or

10 (c) to make a written or oral inquiry or record of the
11 sex, race, creed, religion, age, physical or mental
12 handicap, color, or national origin of a person seeking to
13 buy, lease, or rent ~~a the~~ housing accommodation or ~~improved~~
14 ~~or-unimproved~~ property.

15 (2) A private residence designed for single-family
16 occupancy in which sleeping space is rented to guests and in
17 which the landlord also resides is excluded from the
18 provisions of this section."

19 Section 7. Section 49-2-401, MCA, is amended to read:

20 "49-2-401. Procedure for claiming exemption. A person,
21 ~~educational institution, financial institution, or~~
22 ~~governmental entity or agency~~ who ~~or which~~ seeks to be
23 exempted from the requirements of part 3 of this chapter may
24 petition the commission for a declaratory ruling as provided
25 in 2-4-501 of the Montana Administrative Procedure Act. If

1 the commission finds that reasonable grounds for granting an
2 exemption exist, it may issue a ruling exempting the
3 petitioner from the particular provision. This section,
4 however, shall be strictly construed, and the burden ~~shall~~
5 ~~be is~~ on the petitioner to demonstrate that an exemption
6 should be granted."

7 Section 8. Section 49-2-501, MCA, is amended to read:

8 "49-2-501. Filing complaints. (1) A complaint may be
9 filed by or on behalf of any person claiming to be aggrieved
10 by any discriminatory practice prohibited by this chapter.
11 The complaint ~~shall~~ ~~must~~ be in the form of a written,
12 verified complaint stating the name and address of the
13 person, ~~educational institution, financial institution, or~~
14 ~~governmental entity or agency~~ alleged to have engaged in the
15 discriminatory practice and the particulars of the alleged
16 discriminatory practice. The commission staff may file a
17 complaint in like manner when a discriminatory practice
18 comes to its attention.

19 (2) A complaint under this chapter must be filed with
20 the commission within 180 days after the alleged unlawful
21 discriminatory practice occurred or was discovered. Any
22 complaint not filed within the time set forth herein may not
23 be considered by the commission."

24 Section 9. Section 49-2-505, MCA, is amended to read:

25 "49-2-505. Contested case hearing. (1) If the informal

efforts to eliminate the alleged discrimination are unsuccessful, the staff shall inform the commission of the failure and the commission shall cause written notice to be served, together with a copy of the complaint, requiring the person, ~~employer, business, corporation~~ educational institution, financial institution, or governmental entity or agency charged in the complaint to answer the allegations of the complaint at a hearing before the commission.

(2) The hearing ~~shall~~ must be held by the commission in the county where the unlawful conduct is alleged to have occurred unless the person, ~~employer, business, corporation, organization, institution, entity, or agency, charged in the complaint~~ or the commission requests a change of venue for good cause shown. The case in support of the complaint may be presented before the commission by the staff, the complainant, or an attorney representing the complainant. The hearing and any subsequent proceedings under this chapter ~~except as permitted under 49-2-506, shall~~ must be held in accordance with the Montana Administrative Procedure Act except as provided in 49-2-508.

(3) The commission may make provision ~~provisions~~ for defraying the expenses of ~~any an~~ indigent party in a contested case hearing held pursuant to this chapter."

Section 10. Section 49-2-506, MCA, is amended to read:

"49-2-506. Procedure upon a finding of discrimination.

(1) If the commission finds that a person, ~~institution, entity, or agency~~ against whom a complaint was filed has engaged in the discriminatory practice alleged in the complaint, ~~it the commission~~ shall order him ~~or it~~ to refrain from engaging in the discriminatory conduct. The order may:

(a) prescribe conditions on the accused's future conduct relevant to the type of discriminatory practice found;

(b) require any reasonable measure to correct the discriminatory practice and to rectify any harm, pecuniary or otherwise, to the person discriminated against;

(c) require a report on the manner of compliance.

(2) The order may not require the payment of any punitive damages ~~as defined by the Montana Code Annotated.~~

(3) Whenever a commission order or conciliation agreement requires inspection by the commission staff for a period of time to determine if the respondent is complying with that order or agreement, the period of time ~~shall~~ may ~~not~~ be no more than 3 years."

Section 11. Section 49-2-507, MCA, is amended to read:

"49-2-507. Procedure upon failure to find discrimination. If the commission finds that a person, ~~institution, entity, or agency~~ against whom ~~or which~~ a complaint was filed has not engaged in the discriminatory

1 practice alleged in the complaint, it shall issue and cause
2 to be served on the complainant an order dismissing the
3 complaint."

4 Section 12. Section 49-2-601, MCA, is amended to read:

5 "49-2-601. Criminal penalty. A person, employer,
6 ~~business, organization, corporation, or agency~~ educational
7 ~~institutions, or financial institution,~~ both either public
8 ~~and or private, or a governmental entity or agency~~ who or
9 which willfully engages in an unlawful discriminatory
10 practice prohibited by this chapter or willfully resists,
11 prevents, impedes, or interferes with the commission, the
12 department, or any of its authorized representatives in the
13 performance of a duty under this chapter or who or which
14 willfully violates an order of the commission or willfully
15 violates this chapter in any other manner is guilty of a
16 misdemeanor and is punishable by a fine of not more than
17 \$500 or by imprisonment for not more than 6 months, or
18 both."

19 Section 13. Section 49-3-101, MCA, is amended to read:

20 "49-3-101. Definitions. As used in this chapter, the
21 following definitions apply:

22 (1) "State and local governmental agencies" means:

23 ~~(a) all branches, departments, offices, boards,~~
24 ~~bureaus, commissions, agencies, university units, colleges,~~
25 ~~or any and other instrumentality instrumentalities~~ of state

1 government; and

2 ~~(b) counties, cities, towns, school districts, or any~~
3 ~~other instrumentality and other units of local government~~
4 ~~and all instrumentalities~~ of local government.

5 (2) "Qualifications" means such qualifications as are
6 genuinely related to competent performance of the particular
7 occupational task."

8 Section 14. Section 49-3-201, MCA, is amended to read:

9 "49-3-201. Employment of state and local government
10 personnel. (1) State and local government officials and
11 supervisory personnel shall recruit, appoint, assign, train,
12 evaluate, and promote personnel on the basis of merit and
13 qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin.

16 (2) All state and local governmental agencies shall:

17 (a) promulgate written directives to carry out this
18 policy and to guarantee equal employment opportunities at
19 all levels of state and local government;

20 (b) regularly review their personnel practices to
21 assure compliance; and

22 (c) conduct continuing orientation and training
23 programs with emphasis on human relations and fair
24 employment practices.

25 (3) The department of administration shall insure that

1 the entire examination process, including appraisal of
2 qualifications, is free from bias.

3 (4) Appointing authorities shall exercise care to
4 insure utilization of minority group persons."

5 Section 15. Section 49-3-203, MCA, is amended to read:

6 "49-3-203. Educational, counseling, and training
7 programs. All ~~education~~ educational, counseling, and
8 vocational guidance programs and all apprenticeship and
9 on-the-job training programs of state ~~or~~ and local
10 governmental agencies or in which state ~~or~~ and local
11 governmental agencies participate ~~shall~~ must be open to all
12 persons, who ~~shall~~ must be accepted on the basis of merit
13 and qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin. Such programs ~~shall~~
16 must be conducted to encourage the full development of the
17 interests, aptitudes, skills, and capacities of all students
18 and trainees, with special attention to the problems of
19 culturally deprived, educationally handicapped, or
20 economically disadvantaged persons. Expansion of training
21 opportunities under these programs ~~shall~~ must be encouraged
22 to involve larger numbers of participants from those
23 segments of the labor force where in which the need for
24 upgrading levels of skill is greatest."

25 Section 16. Section 49-3-204, MCA, is amended to read:

1 "49-3-204. Licensing. No state or local department
2 ~~board, or~~ governmental agency may grant, deny, or revoke the
3 license or charter of a person on the grounds of race,
4 color, religion, creed, political ideas, sex, age, marital
5 status, physical or mental handicap, or national origin.
6 Each state ~~and~~ or local governmental agency shall take such
7 appropriate action in the exercise of its licensing or
8 regulatory power as will assure equal treatment of all
9 persons, eliminate discrimination, and enforce compliance
10 with the policy of this chapter."

11 Section 17. Section 49-3-205, MCA, is amended to read:

12 "49-3-205. Governmental services. (1) All services of
13 every state ~~and~~ or local governmental agency ~~shall~~ must be
14 performed without discrimination based upon race, color,
15 religion, creed, political ideas, sex, age, marital status,
16 physical or mental handicap, or national origin.

17 (2) No state or local facility may be used in the
18 furtherance of any discriminatory practice, nor may a state
19 or local governmental agency become a party to an agreement,
20 arrangement, or plan which has the effect of sanctioning
21 discriminatory practices.

22 (3) Each state ~~and~~ or local governmental agency shall
23 analyze all of its operations to ascertain possible
24 instances of noncompliance with the policy of this chapter
25 and shall initiate comprehensive programs to remedy any

1 defect found to exist."

2 Section 18. Section 49-3-207, MCA, is amended to read:

3 "49-3-207. Nondiscrimination provision in all public
4 contracts. Every state or local contract or subcontract for
5 construction of public buildings or for other public work or
6 for goods and ~~or~~ services shall contain a provision that all
7 hiring shall ~~must~~ be on the basis of merit and
8 qualifications and a provision that there may be no
9 discrimination on the basis of race, color, religion, creed,
10 political ideas, sex, age, marital status, physical or
11 mental handicap, or national origin by the persons
12 performing the contract."

13 Section 19. Section 49-3-208, MCA, is amended to read:

14 "49-3-208. Public accommodations laws. No state or
15 local ~~department, board, or governmental~~ agency shall may
16 permit any violation of the public accommodations provisions
17 of 49-2-304."

18 Section 20. Section 49-3-301, MCA, is amended to read:

19 "49-3-301. Cooperation with commission for human
20 rights. All state and local governmental agencies shall
21 cooperate with the commission for human rights in the
22 commission's enforcement and educational programs. They
23 shall comply with the commission's request ~~requests~~ for
24 information concerning practices inconsistent with the state
25 policy against discrimination and shall consider its

1 recommendations for effectuating and implementing that
2 policy. The ~~commission for human rights~~ shall continue to
3 augment its enforcement and education educational programs
4 which seek to eliminate all discrimination."

5 Section 21. Section 49-3-302, MCA, is amended to read:

6 "49-3-302. Annual reports to governor. All
7 ~~departments, agencies, commissions, and other bodies of the~~
8 ~~state government~~ governmental agencies which report to the
9 governor shall include in their annual reports to the
10 governor activities undertaken in the past year to
11 effectuate this chapter. Such reports shall cover both
12 internal activities and external relations with the public
13 or with other state agencies and shall contain other
14 information as specifically requested by the governor."

15 Section 22. Section 49-4-211, MCA, is amended to read:

16 "49-4-211. Right to use public places and
17 accommodations. (1) The blind and the visually handicapped
18 have the same right as the able-bodied to the full and free
19 use of the streets, highways, sidewalks, walkways, public
20 buildings, public facilities, and other public places.

21 (2) The blind and the visually handicapped are
22 entitled to full and equal accommodations, advantages,
23 facilities, and privileges of all common carriers,
24 ~~airplanes, motor vehicles, railroad trains, motor buses,~~
25 ~~boats, or any other public conveyances or modes of~~

1 ~~transportation-hotels-lodging-places-places-of~~ as defined
2 ~~in 69-11-101, and all public accommodations-amusement-or~~
3 ~~resort-and-other-places-to-which-the-general-public-is~~
4 ~~invited accommodations, as defined in 49-2-101, subject only~~
5 to the conditions and limitations established by law and
6 applicable alike to all persons."

7 Section 23. Section 49-4-214, MCA, is amended to read:

8 "49-4-214. Right to be accompanied by a guide dog. (1)

9 Every totally or partially blind person ~~shall have~~ has the
10 right to be accompanied by a guide dog, especially trained
11 for the purpose, in any of the places where ~~the public is~~
12 ~~invited--(hotels--motels--public-conveyances--public-eating~~
13 ~~places--and-places-of-amusement)~~ mentioned in 49-4-211(2)
14 without being charged extra for the guide dog. He ~~shall be~~
15 is liable for any damage done to the premises or facilities
16 by such dog.

17 (2) Every totally or partially blind person who has a
18 guide dog or who obtains a guide dog ~~shall be~~ is entitled to
19 full and equal access to all housing accommodations as
20 provided in 49-2-305 and 49-4-212. He ~~shall may~~ not be
21 required to pay extra compensation for ~~such the~~ guide dog
22 but ~~shall be~~ is liable for any damage done to the premises
23 by ~~such-a the~~ guide dog."

24 Section 24. Section 49-4-216, MCA, is amended to read:

25 "49-4-216. Duty and civil liability of pedestrian or

1 driver approaching blind person. (1) Any ~~A~~ pedestrian who is
2 not ~~wholly~~ totally or partially blind or ~~any a~~ driver of a
3 vehicle who approaches or comes in contact with a person
4 ~~wholly~~ who is totally or partially blind ~~and is~~ carrying a
5 cane or walking stick predominately white or ~~metallic~~ in
6 color or white tipped with red or is being led by a trained
7 guide dog wearing a harness and walking on either side of or
8 slightly in front of ~~said such~~ blind person shall
9 immediately come to a full stop and take such precautions
10 before proceeding as may be necessary to avoid accident or
11 injury to the such blind person ~~wholly-or-partially-blind~~.

12 (2) Any ~~A~~ driver or pedestrian who fails to take such
13 precautions ~~shall be~~ is liable in damages for any injury
14 caused ~~such--pedestrian the~~ totally or partially blind
15 person. A totally or partially blind pedestrian who is not
16 carrying such a cane or using a guide dog in any of the
17 ~~places--accommodations--or--conveyances~~ listed in 49-4-211
18 ~~shall have~~ has all of the rights and privileges conferred by
19 law upon other persons, and the failure of such a totally-or
20 partially-blind pedestrian to carry such a cane or to use a
21 guide dog in any such ~~places--accommodations--or--conveyances~~
22 ~~shall place may~~ not be held to constitute or be evidence of
23 contributory negligence."

24 Section 25. Repealer. Section 64-104, R.C.M. 1947, is
25 repealed.

Approved by Committee
on State Administration

1 Senate BILL NO. 131
2 INTRODUCED BY D. Taylor
3 BY REQUEST OF THE CODE COMMISSIONER
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO HUMAN RIGHTS; AND REPEALING
7 SECTION 64-104, R.C.M. 1947."
8

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

10 Section 1. Section 49-1-101, MCA, is amended to read:
11 "49-1-101. Right of protection from personal injury.

12 Besides the personal rights mentioned or recognized in other
13 statutes and subject to the qualifications and restrictions
14 provided by law, every person has the right of protection
15 from bodily restraint or harm, personal insult, defamation,
16 and injury to his personal relations."

17 Section 2. Section 49-2-101, MCA, is amended to read:
18 "49-2-101. Definitions. As used in this chapter,
19 unless the context requires otherwise, the following
20 definitions apply:

21 (1) "Age" means number of years since birth. It does
22 not mean level of maturity or ability to handle
23 responsibility. These latter criteria may represent
24 legitimate considerations as reasonable grounds for
25 discrimination without reference to age.

There are no changes in SB 131, & will not be re-run.
Please refer to white copy for complete text.

1 (2) "Commission" means the commission for human rights
2 provided for in 2-15-1706.

3 (3) "Credit" means the right granted by a creditor to
4 a person to defer payment of a debt, to incur debt and defer
5 its payment, or to purchase property or services and defer
6 payment therefor, ~~including but not limited to it includes~~
7 without limitation the right to incur and defer debt which
8 is secured by residential real property.

9 (4) "Credit transaction" means any invitation to apply
10 for credit, application for credit, extension of credit, or
11 credit sale.

12 (5) "Creditor" means a person who, regularly or as a
13 part of his business, arranges for the extension of credit
14 for which the payment of a financial charge or interest is
15 required, whether in connection with loans, sale of property
16 or services, or otherwise.

17 (6) "Educational institution" means a public or
18 private institution and includes an academy; college;
19 elementary or secondary school; extension course;
20 kindergarten; nursery; school system; university; business,
21 nursing, professional, secretarial, technical, or vocational
22 school; or agent of an educational institution.

23 (7) "Employee" means any individual employed by an
24 employer.

25 (8) "Employer" means an employer of one or more

persons but does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide ~~accommodation~~ accommodations or services that are available on a nonmembership basis.

(9) "Employment agency" means a person undertaking to procure employees or opportunities to work.

(10) "Financial institution" means a commercial bank, trust company, ~~mutual~~ savings bank, ~~cooperative-bank~~ homestead-association, finance company, ~~mutual~~ savings and loan association, ~~investment company~~, or insurance company.

(11) "Housing accommodation" means a building or portion of a building, whether constructed or to be constructed, which is or will be used as the sleeping quarters of its occupants.

(12) "Labor organization" means an organization or an agent of the ~~an~~ organization organized for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms or conditions of employment, or of other mutual aid and protection of employees.

(13) "Mental handicap" means any mental disability resulting in subaverage intellectual functioning or impaired social competence.

(14) "National origin" means ancestry.

(15) "Person" means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated ~~employees~~ ^{employees'} associations, employers, employment agencies, or labor organizations.

(16) "Physical handicap" means a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including epilepsy. It ~~shall include~~ includes without limitation any degree of paralysis; amputation; lack of physical coordination; blindness or visual impediment; deafness or hearing impediment; muteness or speech impediment; or physical reliance on a guide dog for the blind, a wheelchair, or any other remedial appliance or device.

(17) "Public accommodation" means a place which caters or offers its services, goods, or facilities to the general public, ~~including but not limited to~~ subject only to the conditions and limitations established by law and applicable to all persons alike. It includes without limitation a public inn, restaurant, eating house, hotel, roadhouse, place where food or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, ~~night-club~~ nightclub, trailer park, resort, campground, ~~barber-shop~~ barbershop, beauty parlor, bathroom, ~~rest-house~~ resthouse, theater, swimming pool, skating rink,

1 *Senate* BILL NO. 131
2 INTRODUCED BY B. Baylock
3 BY REQUEST OF THE CODE COMMISSIONER
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO HUMAN RIGHTS; AND REPEALING
7 SECTION 64-104, R.C.M. 1947."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 Section 1. Section 49-1-101, MCA, is amended to read:
11 "49-1-101. Right of protection from personal injury.
12 Besides the personal rights mentioned or recognized in other
13 statutes and subject to the qualifications and restrictions
14 provided by law, every person has the right of protection
15 from bodily restraint or harm, personal insult, defamation,
16 and injury to his personal relations."
17 Section 2. Section 49-2-101, MCA, is amended to read:
18 "49-2-101. Definitions. As used in this chapter,
19 unless the context requires otherwise, the following
20 definitions apply:
21 (1) "Age" means number of years since birth. It does
22 not mean level of maturity or ability to handle
23 responsibility. These latter criteria may represent
24 legitimate considerations as reasonable grounds for
25 discrimination without reference to age.

1 (2) "Commission" means the commission for human rights
2 provided for in 2-15-1706.
3 (3) "Credit" means the right granted by a creditor to
4 a person to defer payment of a debt, to incur debt and defer
5 its payment, or to purchase property or services and defer
6 payment therefor, ~~including but not limited to it~~ includes
7 without limitation the right to incur and defer debt which
8 is secured by residential real property.
9 (4) "Credit transaction" means any invitation to apply
10 for credit, application for credit, extension of credit, or
11 credit sale.
12 (5) "Creditor" means a person who, regularly or as a
13 part of his business, arranges for the extension of credit
14 for which the payment of a financial charge or interest is
15 required, whether in connection with loans, sale of property
16 or services, or otherwise.
17 (6) "Educational institution" means a public or
18 private institution and includes an academy; college;
19 elementary or secondary school; extension course;
20 kindergarten; nursery; school system; university; business,
21 nursing, professional, secretarial, technical, or vocational
22 school; or agent of an educational institution.
23 (7) "Employee" means any individual employed by an
24 employer.
25 (8) "Employer" means an employer of one or more

1 persons but does not include a fraternal, charitable, or
 2 religious association or corporation if the association or
 3 corporation is not organized either for private profit or to
 4 provide ~~accommodation~~ accommodations or services that are
 5 available on a nonmembership basis.

6 (9) "Employment agency" means a person undertaking to
 7 procure employees or opportunities to work.

8 (10) "Financial institution" means a commercial bank,
 9 trust company, ~~mutual~~ savings bank, cooperative--bank,
 10 ~~homestead-association,~~ finance company, ~~mutual~~ savings and
 11 loan association, investment company, or insurance company.

12 (11) "Housing accommodation" means a building or
 13 portion of a building, whether constructed or to be
 14 constructed, which is or will be used as the sleeping
 15 quarters of its occupants.

16 (12) "Labor organization" means an organization or an
 17 agent of the ~~an~~ organization organized for the purpose, in
 18 whole or in part, of collective bargaining, of dealing with
 19 employers concerning grievances or terms or conditions of
 20 employment, or of other mutual aid ~~and~~ protection of
 21 employees.

22 (13) "Mental handicap" means any mental disability
 23 resulting in subaverage intellectual functioning or impaired
 24 social competence.

25 (14) "National origin" means ancestry.

1 (15) "Person" means one or more individuals, labor
 2 unions, partnerships, associations, corporations, legal
 3 representatives, mutual companies, joint-stock companies,
 4 trusts, unincorporated ~~employees~~ employees' associations,
 5 employers, employment agencies, or labor organizations.

6 (16) "Physical handicap" means a physical disability,
 7 infirmity, malformation, or disfigurement which is caused by
 8 bodily injury, birth defect, or illness, including epilepsy.
 9 It ~~shall include~~ includes without limitation any degree of
 10 paralysis; amputation; lack of physical coordination;
 11 blindness or visual impediment; deafness or hearing
 12 impediment; muteness or speech impediment; or physical
 13 reliance on a guide dog for the blind, a wheelchair, or any
 14 other remedial appliance or device.

15 (17) "Public accommodation" means a place which caters
 16 or offers its services, goods, or facilities to the general
 17 public--~~including--but--not--limited--to~~ subject only to the
 18 conditions and limitations established by law and applicable
 19 to all persons alike. It includes without limitation a
 20 public inn, restaurant, eating house, hotel, roadhouse,
 21 place where food or alcoholic beverages or malt liquors are
 22 sold for consumption, motel, soda fountain, soft drink
 23 parlor, tavern, ~~night-club~~ nightclub, trailer park, resort,
 24 campground, ~~barber-shop~~ barbershop, beauty parlor, bathroom,
 25 rest--house resthouse, theater, swimming pool, skating rink,

1 golf course, cafe, ice cream parlor, transportation company,
2 or hospital, and all other public amusement and business
3 establishments---subject---only---to---the---conditions---and
4 limitations---established---by---law---and---applicable---also---to---all
5 persons.

6 (18) "Staff" or "commission staff" means the staff of
7 the commission for human rights."

8 Section 3. Section 49-2-202, MCA, is amended to read:

9 "49-2-202. Authority to require posted notice. The
10 commission may require any employer, employment agency,
11 labor union, educational institution, or financial
12 institution, or the owner, lessee, manager, agent, or
13 employee of any public accommodation or housing
14 accommodation subject to this chapter to post, in a
15 conspicuous place on his premises or in the accommodation, a
16 notice to be prepared or approved by the commission
17 containing relevant information that the commission ~~deems~~
18 ~~considers~~ necessary to explain this chapter. Any person or
19 institution subject to this section ~~refusing who refuses~~ to
20 comply with an order of the commission respecting the
21 posting of a notice is guilty of a misdemeanor, and
22 punishable by a fine of not more than \$50."

23 Section 4. Section 49-2-301, MCA, is amended to read:

24 "49-2-301. Retaliation prohibited. ~~It~~ It is an
25 unlawful discriminatory practice for a person, educational

1 institution, financial institution, or governmental entity
2 or agency to discharge, expel, blacklist, or otherwise
3 discriminate against an individual because he has opposed
4 any practices forbidden under this chapter or because he has
5 filed a complaint, testified, assisted, or participated in
6 any manner in an investigation or proceeding under this
7 chapter.

8 ~~(2) No person or institution may discharge or~~
9 ~~discriminate against any other person because he or she has~~
10 ~~made a complaint, assisted with an investigation or~~
11 ~~proceeding under this chapter, or in any other manner~~
12 ~~opposed any practice made unlawful under this chapter."~~

13 Section 5. Section 49-2-302, MCA, is amended to read:

14 "49-2-302. Aiding, coercing, or attempting. It is
15 unlawful for a person, educational institution, financial
16 institution, or governmental entity or agency to aid, abet,
17 incite, compel, or coerce the doing of an act forbidden
18 under this chapter or to attempt to do so."

19 Section 6. Section 49-2-305, MCA, is amended to read:

20 "49-2-305. Discrimination in housing. (1) Except when
21 the distinction is based on reasonable grounds, it is an
22 unlawful discriminatory practice for the owner, lessee,
23 manager, or other person having the right to sell, lease, or
24 rent a housing accommodation or improved or unimproved
25 property:

SB/31

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

(b) to discriminate against a person because of sex, race, creed, religion, age, physical or mental handicap, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of a ~~the~~ housing accommodation or ~~improved or unimproved~~ property; or

(c) to make a written or oral inquiry or record of the sex, race, creed, religion, age, physical or mental handicap, color, or national origin of a person seeking to buy, lease, or rent a ~~the~~ housing accommodation or ~~improved or unimproved~~ property.

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

Section 7. Section 49-2-401, MCA, is amended to read:

"49-2-401. Procedure for claiming exemption. A person's ~~educational institution, financial institution, or governmental entity or agency~~ who ~~or which~~ seeks to be exempted from the requirements of part 3 of this chapter may petition the commission for a declaratory ruling as provided in 2-4-501 of the Montana Administrative Procedure Act. If

the commission finds that reasonable grounds for granting an exemption exist, it may issue a ruling exempting the petitioner from the particular provision. This section, however, shall be strictly construed, and the burden ~~shall~~ be ~~is~~ on the petitioner to demonstrate that an exemption should be granted."

Section 8. Section 49-2-501, MCA, is amended to read:

"49-2-501. Filing complaints. (1) A complaint may be filed by or on behalf of any person claiming to be aggrieved by any discriminatory practice prohibited by this chapter. The complaint ~~shall~~ must be in the form of a written, verified complaint stating the name and address of the person, ~~educational institution, financial institution, or governmental entity or agency~~ alleged to have engaged in the discriminatory practice and the particulars of the alleged discriminatory practice. The commission staff may file a complaint in like manner when a discriminatory practice comes to its attention.

(2) A complaint under this chapter must be filed with the commission within 180 days after the alleged unlawful discriminatory practice occurred or was discovered. Any complaint not filed within the time set forth herein may not be considered by the commission."

Section 9. Section 49-2-505, MCA, is amended to read:

"49-2-505. Contested case hearing. (1) If the informal

efforts to eliminate the alleged discrimination are unsuccessful, the staff shall inform the commission of the failure and the commission shall cause written notice to be served, together with a copy of the complaint, requiring the person, ~~employer, business, corporation~~ educational institution, financial institution, or governmental entity or agency charged in the complaint to answer the allegations of the complaint at a hearing before the commission.

(2) The hearing ~~shall~~ must be held by the commission in the county where the unlawful conduct is alleged to have occurred unless the person, ~~employer, business, corporation, organization, institution, entity, or agency charged in the complaint~~ or the commission requests a change of venue for good cause shown. The case in support of the complaint may be presented before the commission by the staff, the complainant, or an attorney representing the complainant. The hearing and any subsequent proceedings under this chapter ~~except as permitted under 49-2-508, shall~~ must be held in accordance with the Montana Administrative Procedure Act except as provided in 49-2-508.

(3) The commission may make provision provisions for defraying the expenses of any ~~an~~ indigent party in a contested case hearing held pursuant to this chapter."

Section 10. Section 49-2-506, MCA, is amended to read:

"49-2-506. Procedure upon a finding of discrimination.

(1) If the commission finds that a person, institution, entity, or agency against whom a complaint was filed has engaged in the discriminatory practice alleged in the complaint, ~~it~~ the commission shall order him or it to refrain from engaging in the discriminatory conduct. The order may:

(a) prescribe conditions on the accused's future conduct relevant to the type of discriminatory practice found;

(b) require any reasonable measure to correct the discriminatory practice and to rectify any harm, pecuniary or otherwise, to the person discriminated against;

(c) require a report on the manner of compliance.

(2) The order may not require the payment of any punitive damages ~~as defined by the Montana Code Annotated.~~

(3) Whenever a commission order or conciliation agreement requires inspection by the commission staff for a period of time to determine if the respondent is complying with that order or agreement, the period of time ~~shall~~ may ~~not~~ be no more than 3 years."

Section 11. Section 49-2-507, MCA, is amended to read:

"49-2-507. Procedure upon failure to find discrimination. If the commission finds that a person, institution, entity, or agency against whom or which a complaint was filed has not engaged in the discriminatory

1 practice alleged in the complaint, it shall issue and cause
2 to be served on the complainant an order dismissing the
3 complaint."

4 Section 12. Section 49-2-601, MCA, is amended to read:

5 "49-2-601. Criminal penalty. A person, employer,
6 business, ~~organization, corporation, or agency~~ educational
7 institution, or financial institution, both ~~either~~ public
8 ~~and or~~ private, or a governmental entity or agency who or
9 which willfully engages in an unlawful discriminatory
10 practice prohibited by this chapter or willfully resists,
11 prevents, impedes, or interferes with the commission, the
12 department, or any of its authorized representatives in the
13 performance of a duty under this chapter or who or which
14 willfully violates an order of the commission or ~~willfully~~
15 violates this chapter in any other manner is guilty of a
16 misdemeanor and is punishable by a fine of not more than
17 \$500 or by imprisonment for not more than 6 months, or
18 both."

19 Section 13. Section 49-3-101, MCA, is amended to read:

20 "49-3-101. Definitions. As used in this chapter, the
21 following definitions apply:

22 (1) "State and local governmental agencies" means:

23 (a) all branches, departments, offices, boards,
24 bureaus, commissions, agencies, university units, colleges,
25 ~~or any and other instrumentality~~ instrumentalities of state

1 government; and

2 (b) counties, cities, towns, school districts, or any
3 ~~other instrumentality and other units of local government~~
4 and all instrumentalities of local government.

5 (2) "Qualifications" means such qualifications as are
6 genuinely related to competent performance of the particular
7 occupational task."

8 Section 14. Section 49-3-201, MCA, is amended to read:

9 "49-3-201. Employment of state and local government
10 personnel. (1) State and local government officials and
11 supervisory personnel shall recruit, appoint, assign, train,
12 evaluate, and promote personnel on the basis of merit and
13 qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin.

16 (2) All state and local governmental agencies shall:

17 (a) promulgate written directives to carry out this
18 policy and to guarantee equal employment opportunities at
19 all levels of state and local government;

20 (b) regularly review their personnel practices to
21 assure compliance; and

22 (c) conduct continuing orientation and training
23 programs with emphasis on human relations and fair
24 employment practices.

25 (3) The department of administration shall insure that

1 the entire examination process, including appraisal of
2 qualifications, is free from bias.

3 {4} Appointing authorities shall exercise care to
4 insure utilization of minority group persons."

5 Section 15. Section 49-3-203, MCA, is amended to read:

6 "49-3-203. Educational, counseling, and training
7 programs. All ~~education~~ educational, counseling, and
8 vocational guidance programs and all apprenticeship and
9 on-the-job training programs of state or ~~and~~ local
10 governmental agencies or in which state or ~~and~~ local
11 governmental agencies participate ~~shall~~ must be open to all
12 persons, who ~~shall~~ must be accepted on the basis of merit
13 and qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin. Such programs ~~shall~~
16 must be conducted to encourage the full development of the
17 interests, aptitudes, skills, and capacities of all students
18 and trainees, with special attention to the problems of
19 culturally deprived, educationally handicapped, or
20 economically disadvantaged persons. Expansion of training
21 opportunities under these programs ~~shall~~ must be encouraged
22 to involve larger numbers of participants from those
23 segments of the labor force where in which the need for
24 upgrading levels of skill is greatest."

25 Section 16. Section 49-3-204, MCA, is amended to read:

1 "49-3-204. Licensing. No state or local department
2 ~~board~~ or governmental agency may grant, deny, or revoke the
3 license or charter of a person on the grounds of race,
4 color, religion, creed, political ideas, sex, age, marital
5 status, physical or mental handicap, or national origin.
6 Each state ~~and~~ or local governmental agency shall take such
7 appropriate action in the exercise of its licensing or
8 regulatory power as will assure equal treatment of all
9 persons, eliminate discrimination, and enforce compliance
10 with the policy of this chapter."

11 Section 17. Section 49-3-205, MCA, is amended to read:

12 "49-3-205. Governmental services. (1) All services of
13 every state ~~and~~ or local governmental agency ~~shall~~ must be
14 performed without discrimination based upon race, color,
15 religion, creed, political ideas, sex, age, marital status,
16 physical or mental handicap, or national origin.

17 (2) No state or local facility may be used in the
18 furtherance of any discriminatory practice, nor may a state
19 or local governmental agency become a party to an agreement,
20 arrangement, or plan which has the effect of sanctioning
21 discriminatory practices.

22 (3) Each state ~~and~~ or local governmental agency shall
23 analyze all of its operations to ascertain possible
24 instances of noncompliance with the policy of this chapter
25 and shall initiate comprehensive programs to remedy any

1 defect found to exist."

2 Section 18. Section 49-3-207, MCA, is amended to read:

3 "49-3-207. Nondiscrimination provision in all public
4 contracts. Every state or local contract or subcontract for
5 construction of public buildings or for other public work or
6 for goods and ~~or~~ services shall contain a provision that all
7 hiring shall ~~must~~ be on the basis of merit and
8 qualifications and a provision that there may be no
9 discrimination on the basis of race, color, religion, creed,
10 political ideas, sex, age, marital status, physical or
11 mental handicap, or national origin by the persons
12 performing the contract."

13 Section 19. Section 49-3-208, MCA, is amended to read:

14 "49-3-208. Public accommodations laws. No state or
15 local ~~department, board, or governmental~~ agency shall ~~may~~
16 permit any violation of the public accommodations provisions
17 of 49-2-304."

18 Section 20. Section 49-3-301, MCA, is amended to read:

19 "49-3-301. Cooperation with commission for human
20 rights. All state and local governmental agencies shall
21 cooperate with the commission for human rights in the
22 commission's enforcement and educational programs. They
23 shall comply with the commission's request ~~requests~~ for
24 information concerning practices inconsistent with the state
25 policy against discrimination and shall consider its

1 recommendations for effectuating and implementing that
2 policy. The ~~commission for human rights~~ shall continue to
3 augment its enforcement and education educational programs
4 which seek to eliminate all discrimination."

5 Section 21. Section 49-3-302, MCA, is amended to read:

6 "49-3-302. Annual reports to governor. All
7 ~~departments, agencies, commissions, and other bodies of the~~
8 state government governmental agencies which report to the
9 governor shall include in their annual reports to the
10 governor activities undertaken in the past year to
11 effectuate this chapter. Such reports shall cover both
12 internal activities and external relations with the public
13 or with other state agencies and shall contain other
14 information as specifically requested by the governor."

15 Section 22. Section 49-4-211, MCA, is amended to read:

16 "49-4-211. Right to use public places and
17 accommodations. (1) The blind and the visually handicapped
18 have the same right as the able-bodied to the full and free
19 use of the streets, highways, sidewalks, walkways, public
20 buildings, public facilities, and other public places.

21 (2) The blind and the visually handicapped are
22 entitled to full and equal accommodations, advantages,
23 facilities, and privileges of all common carriers,
24 ~~airplanes, motor vehicles, railroad trains, motor buses,~~
25 ~~boats, or any other public conveyances or modes of~~

1 ~~transportation, hotel, lodging places, places of as defined~~
 2 ~~in 49-11-101, and all public accommodations, amusement, or~~
 3 ~~resort, and other places to which the general public is~~
 4 ~~invited accommodations, as defined in 49-2-101, subject only~~
 5 ~~to the conditions and limitations established by law and~~
 6 ~~applicable alike to all persons."~~

7 Section 23. Section 49-4-214, MCA, is amended to read:

8 "49-4-214. Right to be accompanied by a guide dog. (1)
 9 Every totally or partially blind person ~~shall have~~ has the
 10 right to be accompanied by a guide dog, especially trained
 11 for the purpose, in any of the places where ~~the public is~~
 12 ~~invited (hotels, motels, public conveyances, public eating~~
 13 ~~places, and places of amusement) mentioned in 49-4-211(2)~~
 14 without being charged extra for the guide dog. He ~~shall be~~
 15 is liable for any damage done to the premises or facilities
 16 by such dog.

17 (2) Every totally or partially blind person who has a
 18 guide dog or who obtains a guide dog ~~shall be~~ is entitled to
 19 full and equal access to all housing accommodations as
 20 provided in 49-2-305 and 49-4-212. He ~~shall~~ may not be
 21 required to pay extra compensation for such ~~the~~ guide dog
 22 but ~~shall be~~ is liable for any damage done to the premises
 23 by such ~~a the~~ guide dog."

24 Section 24. Section 49-4-216, MCA, is amended to read:

25 "49-4-216. Duty and civil liability of pedestrian or

1 driver approaching blind person. (1) Any A pedestrian who is
 2 not ~~wholly~~ totally or partially blind or any a driver of a
 3 vehicle who approaches or comes in contact with a person
 4 ~~wholly who is~~ totally or partially blind ~~and is~~ carrying a
 5 cane or walking stick predominately white or metallic in
 6 color or white tipped with red or is being led by a trained
 7 guide dog wearing a harness and walking on either side of or
 8 slightly in front of ~~and such~~ blind person shall
 9 immediately come to a full stop and take such precautions
 10 before proceeding as may be necessary to avoid accident or
 11 injury to the such blind person ~~wholly or partially blind~~.

12 (2) Any A driver or pedestrian who fails to take such
 13 precautions ~~shall be~~ is liable in damages for any injury
 14 caused ~~such pedestrian the~~ totally or partially blind
 15 person. A totally or partially blind pedestrian who is not
 16 carrying such a cane or using a guide dog in any of the
 17 places, ~~accommodations, or conveyances~~ listed in 49-4-211
 18 ~~shall have~~ has all of the rights and privileges conferred by
 19 law upon other persons, and the failure of such a ~~totally or~~
 20 ~~partially blind~~ pedestrian to carry such a cane or to use a
 21 guide dog in any such places, ~~accommodations, or conveyances~~
 22 ~~shall place~~ may not be held to constitute or be evidence of
 23 contributory negligence."

24 Section 25. Repealer. Section 64-104, R.C.M. 1947, is
 25 repealed.

SENATE BILL NO. 131

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HUMAN RIGHTS; AND REPEALING SECTION 64-104, R.C.M. 1947."

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

Section 1. Section 49-1-101, MCA, is amended to read:

"49-1-101. Right of protection from personal injury.

Besides the personal rights mentioned or recognized in other statutes and subject to the qualifications and restrictions provided by law, every person has the right of protection from bodily restraint or harm, personal insult, defamation, and injury to his personal relations."

Section 2. Section 49-2-101, MCA, is amended to read:

"49-2-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Commission" means the commission for human rights provided for in 2-15-1706.

(3) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment therefor, ~~including-but-not-limited-to~~ it includes ~~without limitation~~ the right to incur and defer debt which is secured by residential real property.

(4) "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit, or credit sale.

(5) "Creditor" means a person who, regularly or as a part of his business, arranges for the extension of credit for which the payment of a financial charge or interest is required, whether in connection with loans, sale of property or services, or otherwise.

(6) "Educational institution" means a public or private institution and includes an academy; college; elementary or secondary school; extension course; kindergarten; nursery; school system; university; business, nursing, professional, secretarial, technical, or vocational school; or agent of an educational institution.

(7) "Employee" means any individual employed by an employer.

(8) "Employer" means an employer of one or more

1 persons but does not include a fraternal, charitable, or
 2 religious association or corporation if the association or
 3 corporation is not organized either for private profit or to
 4 provide ~~accommodation~~ accommodations or services that are
 5 available on a nonmembership basis.

6 (9) "Employment agency" means a person undertaking to
 7 procure employees or opportunities to work.

8 (10) "Financial institution" means a commercial bank,
 9 trust company, ~~mutual~~ savings bank, cooperative--bank,
 10 homestead-association, finance company, ~~mutual~~ savings and
 11 loan association, ~~investment company~~, or insurance company.

12 (11) "Housing accommodation" means a building or
 13 portion of a building, whether constructed or to be
 14 constructed, which is or will be used as the sleeping
 15 quarters of its occupants.

16 (12) "Labor organization" means an organization or an
 17 agent of the ~~an~~ organization organized for the purpose, in
 18 whole or in part, of collective bargaining, of dealing with
 19 employers concerning grievances or terms or conditions of
 20 employment, or of other mutual aid ~~and~~ protection of
 21 employees.

22 (13) "Mental handicap" means any mental disability
 23 resulting in subaverage intellectual functioning or impaired
 24 social competence.

25 (14) "National origin" means ancestry.

1 (15) "Person" means one or more individuals, labor
 2 unions, partnerships, associations, corporations, legal
 3 representatives, mutual companies, joint-stock companies,
 4 trusts, unincorporated ~~employees~~ ~~employees'~~ associations,
 5 employers, employment agencies, or labor organizations.

6 (16) "Physical handicap" means a physical disability,
 7 infirmity, malformation, or disfigurement which is caused by
 8 bodily injury, birth defect, or illness, including epilepsy.
 9 It ~~shall include~~ ~~includes~~ without limitation any degree of
 10 paralysis; amputation; lack of physical coordination;
 11 blindness or visual impediment; deafness or hearing
 12 impediment; muteness or speech impediment; or physical
 13 reliance on a guide dog for the blind, a wheelchair, or any
 14 other remedial appliance or device.

15 (17) "Public accommodation" means a place which caters
 16 or offers its services, goods, or facilities to the general
 17 public--~~including--but--not--limited--to~~ subject only to the
 18 conditions and limitations established by law and applicable
 19 to all persons alike. It includes without limitation a
 20 public inn, restaurant, eating house, hotel, roadhouse,
 21 place where food or alcoholic beverages or malt liquors are
 22 sold for consumption, motel, soda fountain, soft drink
 23 parlor, tavern, ~~night-club~~ ~~nightclub~~, trailer park, resort,
 24 campground, ~~barber-shop~~ ~~barbershop~~, beauty parlor, bathroom,
 25 ~~rest--house~~ ~~resthouse~~, theater, swimming pool, skating rink,

1 golf course, cafe, ice cream parlor, transportation company,
2 or hospital, and all other public amusement and business
3 establishments, ~~---subject---only---to---the---conditions---and~~
4 ~~limitations-established-by-law-and-applicable-like---to---all~~
5 persons.

6 (18) "Staff" or "commission staff" means the staff of
7 the commission for human rights."

8 Section 3. Section 49-2-202, MCA, is amended to read:

9 "49-2-202. Authority to require posted notice. The
10 commission may require any employer, employment agency,
11 labor union, educational institution, or financial
12 institution, or the owner, lessee, manager, agent, or
13 employee of any public accommodation or housing
14 accommodation subject to this chapter to post, in a
15 conspicuous place on his premises or in the accommodation, a
16 notice to be prepared or approved by the commission
17 containing relevant information that the commission deems
18 ~~considers~~ necessary to explain this chapter. Any person or
19 institution subject to this section ~~refusing who refuses~~ to
20 comply with an order of the commission respecting the
21 posting of a notice is guilty of a misdemeanor, and
22 punishable by a fine of not more than \$50."

23 Section 4. Section 49-2-301, MCA, is amended to read:

24 "49-2-301. Retaliation prohibited. ~~{1}~~ It is an
25 unlawful discriminatory practice for a person, educational

1 institution, financial institution, or governmental entity
2 or agency to discharge, expel, blacklist, or otherwise
3 discriminate against an individual because he has opposed
4 any practices forbidden under this chapter or because he has
5 filed a complaint, testified, assisted, or participated in
6 any manner in an investigation or proceeding under this
7 chapter.

8 ~~{2}--No--person--or--institution--may--discharge--or~~
9 ~~discriminate--against-any-other-person--because--he--or--she--has~~
10 ~~made--a--complaint--assisted--with--an--investigation--or~~
11 ~~proceeding--under--this--chapter--or--in--any--other--manner~~
12 ~~opposed-any-practice-made-unlawful-under-this-chapter."~~

13 Section 5. Section 49-2-302, MCA, is amended to read:

14 "49-2-302. Aiding, coercing, or attempting. It is
15 unlawful for a person, educational institution, financial
16 institution, or governmental entity or agency to aid, abet,
17 incite, compel, or coerce the doing of an act forbidden
18 under this chapter or to attempt to do so."

19 Section 6. Section 49-2-305, MCA, is amended to read:

20 "49-2-305. Discrimination in housing. (1) Except when
21 the distinction is based on reasonable grounds, it is an
22 unlawful discriminatory practice for the owner, lessee,
23 manager, or other person having the right to sell, lease, or
24 rent a housing accommodation or improved or unimproved
25 property:

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

(b) to discriminate against a person because of sex, race, creed, religion, age, physical or mental handicap, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of a ~~the~~ housing accommodation or ~~improved-or-unimproved~~ property; or

(c) to make a written or oral inquiry or record of the sex, race, creed, religion, age, physical or mental handicap, color, or national origin of a person seeking to buy, lease, or rent a ~~the~~ housing accommodation or ~~improved or-unimproved~~ property.

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

Section 7. Section 49-2-401, MCA, is amended to read:

"49-2-401. Procedure for claiming exemption. A person, ~~educational institution, financial institution, or governmental entity or agency~~ who or which seeks to be exempted from the requirements of part 3 of this chapter may petition the commission for a declaratory ruling as provided in 2-4-501 of the Montana Administrative Procedure Act. If

the commission finds that reasonable grounds for granting an exemption exist, it may issue a ruling exempting the petitioner from the particular provision. This section, however, shall be strictly construed, and the burden shall be ~~is~~ on the petitioner to demonstrate that an exemption should be granted."

Section 8. Section 49-2-501, MCA, is amended to read:

"49-2-501. Filing complaints. (1) A complaint may be filed by or on behalf of any person claiming to be aggrieved by any discriminatory practice prohibited by this chapter. The complaint shall ~~must~~ be in the form of a written, verified complaint stating the name and address of the person, ~~educational institution, financial institution, or governmental entity or agency~~ alleged to have engaged in the discriminatory practice and the particulars of the alleged discriminatory practice. The commission staff may file a complaint in like manner when a discriminatory practice comes to its attention.

(2) A complaint under this chapter must be filed with the commission within 180 days after the alleged unlawful discriminatory practice occurred or was discovered. Any complaint not filed within the time set forth herein may not be considered by the commission."

Section 9. Section 49-2-505, MCA, is amended to read:

"49-2-505. Contested case hearing. (1) If the informal

1 efforts to eliminate the alleged discrimination are
 2 unsuccessful, the staff shall inform the commission of the
 3 failure and the commission shall cause written notice to be
 4 served, together with a copy of the complaint, requiring the
 5 person, ~~employers---business---corporation~~ educational
 6 institutions, financial institution, or governmental entity
 7 or agency charged in the complaint to answer the allegations
 8 of the complaint at a hearing before the commission.

9 (2) The hearing ~~shall~~ must be held by the commission
 10 in the county where the unlawful conduct is alleged to have
 11 occurred unless the person, ~~employers---business---corporation~~
 12 ~~organization~~ institutions, entity, or agency, charged in the
 13 complaint or the commission requests a change of venue for
 14 good cause shown. The case in support of the complaint may
 15 be presented before the commission by the staff, the
 16 complainant, or an attorney representing the complainant.
 17 The hearing and any subsequent proceedings under this
 18 chapter ~~except as permitted under 49-2-500, shall~~ must be
 19 held in accordance with the Montana Administrative Procedure
 20 Act ~~except as provided in 49-2-508.~~

21 (3) The commission ~~may make provision~~ provisions for
 22 defraying the expenses of ~~any an~~ indigent party in a
 23 contested case hearing held pursuant to this chapter."

24 Section 10. Section 49-2-506, MCA, is amended to read:
 25 "49-2-506. Procedure upon a finding of discrimination.

1 (1) If the commission finds that a person, institutions,
 2 entity, or agency against whom a complaint was filed has
 3 engaged in the discriminatory practice alleged in the
 4 complaint, ~~it the commission~~ shall order him or it to
 5 refrain from engaging in the discriminatory conduct. The
 6 order may:

7 (a) prescribe conditions on the accused's future
 8 conduct relevant to the type of discriminatory practice
 9 found;

10 (b) require any reasonable measure to correct the
 11 discriminatory practice and to rectify any harm, pecuniary
 12 or otherwise, to the person discriminated against;

13 (c) require a report on the manner of compliance.

14 (2) The order may not require the payment of any
 15 punitive damages ~~as defined by the Montana Code Annotated.~~

16 (3) Whenever a commission order or conciliation
 17 agreement requires inspection by the commission staff for a
 18 period of time to determine if the respondent is complying
 19 with that order or agreement, the period of time ~~shall~~ may
 20 not be no more than 3 years."

21 Section 11. Section 49-2-507, MCA, is amended to read:

22 "49-2-507. Procedure upon failure to find
 23 discrimination. If the commission finds that a person,
 24 institutions, entity, or agency against whom or which a
 25 complaint was filed has not engaged in the discriminatory

1 practice alleged in the complaint, it shall issue and cause
2 to be served on the complainant an order dismissing the
3 complaint."

4 Section 12. Section 49-2-601, MCA, is amended to read:

5 "49-2-601. Criminal penalty. A person, employerv
6 ~~business--organization--corporation--or--agency~~ educational
7 institutions or financial institution, both either public
8 and or private, or a governmental entity or agency who or
9 which willfully engages in an unlawful discriminatory
10 practice prohibited by this chapter or willfully resists,
11 prevents, impedes, or interferes with the commission, the
12 department, or any of its authorized representatives in the
13 performance of a duty under this chapter or who or which
14 willfully violates an order of the commission or willfully
15 violates this chapter in any other manner is guilty of a
16 misdemeanor and is punishable by a fine of not more than
17 \$500 or by imprisonment for not more than 6 months, or
18 both."

19 Section 13. Section 49-3-101, MCA, is amended to read:

20 "49-3-101. Definitions. As used in this chapter, the
21 following definitions apply:

22 (1) "State and local governmental agencies" means:
23 (a) all branches, departments, offices, boards,
24 bureaus, commissions, agencies, university units, colleges,
25 or any and other instrumentality instrumentalities of state

1 government; and

2 (b) counties, cities, towns, school districts, or any
3 other instrumentality and other units of local government
4 and all instrumentalities of local government.

5 (2) "Qualifications" means such qualifications as are
6 genuinely related to competent performance of the particular
7 occupational task."

8 Section 14. Section 49-3-201, MCA, is amended to read:

9 "49-3-201. Employment of state and local government
10 personnel. (1) State and local government officials and
11 supervisory personnel shall recruit, appoint, assign, train,
12 evaluate, and promote personnel on the basis of merit and
13 qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin.

16 (2) All state and local governmental agencies shall:

17 (a) promulgate written directives to carry out this
18 policy and to guarantee equal employment opportunities at
19 all levels of state and local government;

20 (b) regularly review their personnel practices to
21 assure compliance; and

22 (c) conduct continuing orientation and training
23 programs with emphasis on human relations and fair
24 employment practices.

25 (3) The department of administration shall insure that

1 the entire examination process, including appraisal of
2 qualifications, is free from bias.

3 (4) Appointing authorities shall exercise care to
4 insure utilization of minority group persons."

5 Section 15. Section 49-3-203, MCA, is amended to read:

6 "49-3-203. Educational, counseling, and training
7 programs. All ~~education~~ educational, counseling, and
8 vocational guidance programs and all apprenticeship and
9 on-the-job training programs of state or ~~and~~ local
10 governmental agencies or in which state or ~~and~~ local
11 governmental agencies participate ~~shall~~ must be open to all
12 persons, who ~~shall~~ must be accepted on the basis of merit
13 and qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin. Such programs ~~shall~~
16 must be conducted to encourage the full development of the
17 interests, aptitudes, skills, and capacities of all students
18 and trainees, with special attention to the problems of
19 culturally deprived, educationally handicapped, or
20 economically disadvantaged persons. Expansion of training
21 opportunities under these programs ~~shall~~ must be encouraged
22 to involve larger numbers of participants from those
23 segments of the labor force ~~where in which~~ the need for
24 upgrading levels of skill is greatest."

25 Section 16. Section 49-3-204, MCA, is amended to read:

1 "49-3-204. Licensing. No state or local department
2 ~~board or governmental~~ agency may grant, deny, or revoke the
3 license or charter of a person on the grounds of race,
4 color, religion, creed, political ideas, sex, age, marital
5 status, physical or mental handicap, or national origin.
6 Each state ~~and or~~ local governmental agency shall take such
7 appropriate action in the exercise of its licensing or
8 regulatory power as will assure equal treatment of all
9 persons, eliminate discrimination, and enforce compliance
10 with the policy of this chapter."

11 Section 17. Section 49-3-205, MCA, is amended to read:

12 "49-3-205. Governmental services. (1) All services of
13 every state ~~and or~~ local governmental agency ~~shall~~ must be
14 performed without discrimination based upon race, color,
15 religion, creed, political ideas, sex, age, marital status,
16 physical or mental handicap, or national origin.

17 (2) No state or local facility may be used in the
18 furtherance of any discriminatory practice, nor may a state
19 or local governmental agency become a party to an agreement,
20 arrangement, or plan which has the effect of sanctioning
21 discriminatory practices.

22 (3) Each state ~~and or~~ local governmental agency shall
23 analyze all of its operations to ascertain possible
24 instances of noncompliance with the policy of this chapter
25 and shall initiate comprehensive programs to remedy any

1 defect found to exist."

2 Section 18. Section 49-3-207, MCA, is amended to read:

3 "49-3-207. Nondiscrimination provision in all public
4 contracts. Every state or local contract or subcontract for
5 construction of public buildings or for other public work or
6 for goods and ~~or~~ services shall contain a provision that all
7 hiring ~~shall~~ **must** be on the basis of merit and
8 qualifications and a provision that there may be no
9 discrimination on the basis of race, color, religion, creed,
10 political ideas, sex, age, marital status, physical or
11 mental handicap, or national origin by the persons
12 performing the contract."

13 Section 19. Section 49-3-208, MCA, is amended to read:

14 "49-3-208. Public accommodations laws. No state or
15 local ~~department, board, or governmental~~ agency ~~shall~~ **may**
16 permit any violation of the public accommodations provisions
17 of 49-2-304."

18 Section 20. Section 49-3-301, MCA, is amended to read:

19 "49-3-301. Cooperation with commission for human
20 rights. All state and local governmental agencies shall
21 cooperate with the commission for human rights in the
22 commission's enforcement and educational programs. They
23 shall comply with the commission's request ~~requests~~ for
24 information concerning practices inconsistent with the state
25 policy against discrimination and shall consider its

1 recommendations for effectuating and implementing that
2 policy. The ~~commission for human rights~~ shall continue to
3 augment its enforcement and education educational programs
4 which seek to eliminate all discrimination."

5 Section 21. Section 49-3-302, MCA, is amended to read:

6 "49-3-302. Annual reports to governor. All
7 ~~departments, agencies, commissions, and other bodies of the~~
8 state government governmental agencies which report to the
9 governor shall include in their annual reports to the
10 governor activities undertaken in the past year to
11 effectuate this chapter. Such reports shall cover both
12 internal activities and external relations with the public
13 or with other state agencies and shall contain other
14 information as specifically requested by the governor."

15 Section 22. Section 49-4-211, MCA, is amended to read:

16 "49-4-211. Right to use public places and
17 accommodations. (1) The blind and the visually handicapped
18 have the same right as the able-bodied to the full and free
19 use of the streets, highways, sidewalks, walkways, public
20 buildings, public facilities, and other public places.

21 (2) The blind and the visually handicapped are
22 entitled to full and equal accommodations, advantages,
23 facilities, and privileges of all common carriers,
24 ~~airplanes, motor vehicles, railroad, trains, motor buses,~~
25 ~~boats, or any other public conveyances or modes of~~

1 ~~transportation, hotels, lodging places, places of as defined~~
 2 ~~in 69-11-101, and all public accommodations, amusement, or~~
 3 ~~resorts and other places to which the general public is~~
 4 ~~invited accommodations, as defined in 49-2-101, subject only~~
 5 to the conditions and limitations established by law and
 6 applicable alike to all persons."

7 Section 23. Section 49-4-214, MCA, is amended to read:

8 "49-4-214. Right to be accompanied by a guide dog. (1)
 9 Every totally or partially blind person ~~shall have~~ has the
 10 right to be accompanied by a guide dog, especially trained
 11 for the purpose, in any of the places ~~where the public is~~
 12 ~~invited--(hotels, motels, public conveyances, public eating~~
 13 ~~places, and places of amusement)~~ mentioned in 49-4-211(2)
 14 without being charged extra for the guide dog. He ~~shall be~~
 15 is liable for any damage done to the premises or facilities
 16 by such dog.

17 (2) Every totally or partially blind person who has a
 18 guide dog or who obtains a guide dog ~~shall be~~ is entitled to
 19 full and equal access to all housing accommodations as
 20 provided in 49-2-305 and 49-4-212. He ~~shall~~ may not be
 21 required to pay extra compensation for ~~such~~ the guide dog
 22 but ~~shall be~~ is liable for any damage done to the premises
 23 by ~~such a~~ the guide dog."

24 Section 24. Section 49-4-216, MCA, is amended to read:

25 "49-4-216. Duty and civil liability of pedestrian or

1 driver approaching blind person. (1) Any ~~A~~ pedestrian who is
 2 not ~~wholly~~ totally or partially blind or ~~any a~~ driver of a
 3 vehicle who approaches or comes in contact with a person
 4 ~~wholly~~ who is totally or partially blind ~~and is~~ carrying a
 5 cane or walking stick predominately white or metallic in
 6 color or white tipped with red or ~~is~~ being led by a trained
 7 guide dog wearing a harness and walking on either side of or
 8 slightly in front of ~~said~~ such blind person shall
 9 immediately come to a full stop and take such precautions
 10 before proceeding as may be necessary to avoid accident or
 11 injury to the such blind person ~~wholly or partially blind~~.

12 (2) Any ~~A~~ driver or pedestrian who fails to take such
 13 precautions ~~shall be~~ is liable in damages for any injury
 14 caused ~~such~~ pedestrian ~~the~~ totally or partially blind
 15 ~~person~~. A totally or partially blind pedestrian ~~who is~~ not
 16 carrying such a cane or using a guide dog in any of the
 17 places ~~accommodations, or conveyances~~ listed in 49-4-211
 18 ~~shall have~~ has all of the rights and privileges conferred by
 19 law upon other persons, and the failure of ~~such a~~ totally or
 20 ~~partially blind~~ pedestrian to carry such a cane or to use a
 21 guide dog in any such ~~places, accommodations, or conveyances~~
 22 ~~shall~~ place may not be held to constitute or be evidence of
 23 contributory negligence."

24 Section 25. Repealer. Section 64-104, R.C.M. 1947, is
 25 repealed.

SENATE BILL NO. 131

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HUMAN RIGHTS; AND REPEALING SECTION 64-104, R.C.M. 1947."

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

Section 1. Section 49-1-101, MCA, is amended to read:

"49-1-101. Right of protection from personal injury. Besides the personal rights mentioned or recognized in ~~other statutes~~ and subject to the qualifications and restrictions provided by law, every person has the right of protection from bodily restraint or harm, personal insult, defamation, and injury to his personal relations."

Section 2. Section 49-2-101, MCA, is amended to read:

"49-2-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Commission" means the commission for human rights provided for in 2-15-1706.

(3) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment therefor, ~~including-but-not-limited-to~~ it includes ~~without limitation~~ the right to incur and defer debt which is secured by residential real property.

(4) "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit, or credit sale.

(5) "Creditor" means a person who, regularly or as a part of his business, arranges for the extension of credit for which the payment of a financial charge or interest is required, whether in connection with loans, sale of property or services, or otherwise.

(6) "Educational institution" means a public or private institution and includes an academy; college; elementary or secondary school; extension course; kindergarten; nursery; school system; university; business, nursing, professional, secretarial, technical, or vocational school; or agent of an educational institution.

(7) "Employee" means any individual employed by an employer.

(8) "Employer" means an employer of one or more

1 persons but does not include a fraternal, charitable, or
2 religious association or corporation if the association or
3 corporation is not organized either for private profit or to
4 provide ~~accommodation~~ accommodations or services that are
5 available on a nonmembership basis.

6 (9) "Employment agency" means a person undertaking to
7 procure employees or opportunities to work.

8 (10) "Financial institution" means a commercial bank,
9 trust company, ~~mutual~~ savings bank, cooperative--bank,
10 homestead-association, finance company, ~~mutual~~ savings and
11 loan association, ~~investment company~~, or insurance company.

12 (11) "Housing accommodation" means a building or
13 portion of a building, whether constructed or to be
14 constructed, which is or will be used as the sleeping
15 quarters of its occupants.

16 (12) "Labor organization" means an organization or an
17 agent of the ~~an~~ organization organized for the purpose, in
18 whole or in part, of collective bargaining, of dealing with
19 employers concerning grievances or terms or conditions of
20 employment, or of other mutual aid ~~and~~ protection of
21 employees.

22 (13) "Mental handicap" means any mental disability
23 resulting in subaverage intellectual functioning or impaired
24 social competence.

25 (14) "National origin" means ancestry.

1 (15) "Person" means one or more individuals, labor
2 unions, partnerships, associations, corporations, legal
3 representatives, mutual companies, joint-stock companies,
4 trusts, unincorporated ~~employees~~ ~~employees'~~ associations,
5 employers, employment agencies, or labor organizations.

6 (16) "Physical handicap" means a physical disability,
7 infirmity, malformation, or disfigurement which is caused by
8 bodily injury, birth defect, or illness, including epilepsy.
9 It ~~shall include~~ ~~includes~~ without limitation any degree of
10 paralysis; amputation; lack of physical coordination;
11 blindness or visual impediment; deafness or hearing
12 impediment; muteness or speech impediment; or physical
13 reliance on a guide dog for the blind, a wheelchair, or any
14 other remedial appliance or device.

15 (17) "Public accommodation" means a place which caters
16 or offers its services, goods, or facilities to the general
17 public--~~including--but--not--limited--to~~ ~~subject only to the~~
18 ~~conditions and limitations established by law and applicable~~
19 ~~to all persons alike. It includes without limitation a~~
20 public inn, restaurant, eating house, hotel, roadhouse,
21 place where food or alcoholic beverages or malt liquors are
22 sold for consumption, motel, soda fountain, soft drink
23 parlor, tavern, ~~night-club~~ ~~nightclub~~, trailer park, resort,
24 campground, barber-shop ~~barbershop~~, beauty parlor, bathroom,
25 ~~rest--house~~ ~~resthouse~~, theater, swimming pool, skating rink,

1 golf course, cafe, ice cream parlor, transportation company,
2 or hospital, and all other public amusement and business
3 establishments,---subject---only---to---the---conditions---and
4 limitations-established-by-law-and-applicable-at-the-time-to-all
5 persons.

6 (19) "Staff" or "commission staff" means the staff of
7 the commission for human rights."

8 Section 3. Section 49-2-202, MCA, is amended to read:

9 "49-2-202. Authority to require posted notice. The
10 commission may require any employer, employment agency,
11 labor union, educational institution, or financial
12 institution, or the owner, lessee, manager, agent, or
13 employee of any public accommodation or housing
14 accommodation subject to this chapter to post, in a
15 conspicuous place on his premises or in the accommodation, a
16 notice to be prepared or approved by the commission
17 containing relevant information that the commission deems
18 considers necessary to explain this chapter. Any person or
19 institution subject to this section refusing who_refuses to
20 comply with an order of the commission respecting the
21 posting of a notice is guilty of a misdemeanor and
22 punishable by a fine of not more than \$50."

23 Section 4. Section 49-2-301, MCA, is amended to read:

24 "49-2-301. Retaliation prohibited. {t} It is an
25 unlawful discriminatory practice for a person, educational

1 institutions, financial institutions, or governmental entity
2 or agency to discharge, expel, blacklist, or otherwise
3 discriminate against an individual because he has opposed
4 any practices forbidden under this chapter or because he has
5 filed a complaint, testified, assisted, or participated in
6 any manner in an investigation or proceeding under this
7 chapter.

8 {2}--No--person--or--institution---may---discharge---or
9 discriminate--against-any-other-person-because-he-or-she-has
10 made--a--complaint--assisted--with--an--investigation---or
11 proceeding--under--this--chapter--or--in--any--other-manner
12 opposed-any-practice-made-unlawful-under-this-chapter."

13 Section 5. Section 49-2-302, MCA, is amended to read:

14 "49-2-302. Aiding, coercing, or attempting. It is
15 unlawful for a person, educational institution, financial
16 institution, or governmental entity or agency to aid, abet,
17 incite, compel, or coerce the doing of an act forbidden
18 under this chapter or to attempt to do so."

19 Section 6. Section 49-2-305, MCA, is amended to read:

20 "49-2-305. Discrimination in housing. (1) Except when
21 the distinction is based on reasonable grounds, it is an
22 unlawful discriminatory practice for the owner, lessee,
23 manager, or other person having the right to sell, lease, or
24 rent a housing accommodation or improved or unimproved
25 property:

1 (a) to refuse to sell, lease, or rent the housing
2 accommodation or property to a person because of sex, race,
3 creed, religion, color, age, physical or mental handicap, or
4 national origin;

5 (b) to discriminate against a person because of sex,
6 race, creed, religion, age, physical or mental handicap,
7 color, or national origin in a term, condition, or privilege
8 relating to the use, sale, lease, or rental of ~~a the~~ housing
9 accommodation or ~~improved-or-unimproved~~ property; or

10 (c) to make a written or oral inquiry or record of the
11 sex, race, creed, religion, age, physical or mental
12 handicap, color, or national origin of a person seeking to
13 buy, lease, or rent ~~a the~~ housing accommodation or ~~improved~~
14 ~~or-unimproved~~ property.

15 (2) A private residence designed for single-family
16 occupancy in which sleeping space is rented to guests and in
17 which the landlord also resides is excluded from the
18 provisions of this section."

19 Section 7. Section 49-2-401, MCA, is amended to read:

20 "49-2-401. Procedure for claiming exemption. A person,
21 educational institution, financial institution, or
22 governmental entity or agency who ~~or which~~ seeks to be
23 exempted from the requirements of part 3 of this chapter may
24 petition the commission for a declaratory ruling as provided
25 in 2-4-501 of the Montana Administrative Procedure Act. If

1 the commission finds that reasonable grounds for granting an
2 exemption exist, it may issue a ruling exempting the
3 petitioner from the particular provision. This section,
4 however, shall be strictly construed, and the burden ~~shall~~
5 ~~be is~~ on the petitioner to demonstrate that an exemption
6 should be granted."

7 Section 8. Section 49-2-501, MCA, is amended to read:

8 "49-2-501. Filing complaints. (1) A complaint may be
9 filed by or on behalf of any person claiming to be aggrieved
10 by any discriminatory practice prohibited by this chapter.
11 The complaint ~~shall~~ must be in the form of a written,
12 verified complaint stating the name and address of the
13 person, educational institution, financial institution, or
14 governmental entity or agency alleged to have engaged in the
15 discriminatory practice and the particulars of the alleged
16 discriminatory practice. The commission staff may file a
17 complaint in like manner when a discriminatory practice
18 comes to its attention.

19 (2) A complaint under this chapter must be filed with
20 the commission within 180 days after the alleged unlawful
21 discriminatory practice occurred or was discovered. Any
22 complaint not filed within the time set forth herein may not
23 be considered by the commission."

24 Section 9. Section 49-2-505, MCA, is amended to read:

25 "49-2-505. Contested case hearing. (1) If the informal

1 efforts to eliminate the alleged discrimination are
 2 unsuccessful, the staff shall inform the commission of the
 3 failure and the commission shall cause written notice to be
 4 served, together with a copy of the complaint, requiring the
 5 person, ~~employerv---businessv---corporation~~ educational
 6 institutions, financial institution, or governmental entity
 7 or agency charged in the complaint to answer the allegations
 8 of the complaint at a hearing before the commission.

9 (2) The hearing ~~shall~~ must be held by the commission
 10 in the county where the unlawful conduct is alleged to have
 11 occurred unless the person, ~~employerv-businessv-corporationv~~
 12 ~~organizationv~~ institution, entity, or agency charged in the
 13 complaint or the commission requests a change of venue for
 14 good cause shown. The case in support of the complaint may
 15 be presented before the commission by the staff, the
 16 complainant, or an attorney representing the complainant.
 17 The hearing and any subsequent proceedings under this
 18 ~~chapter-except-as-permitted-under-49-2-508v-~~ shall must be
 19 held in accordance with the Montana Administrative Procedure
 20 Act except as provided in 49-2-508.

21 (3) The commission may make provision ~~provisions~~ for
 22 defraying the expenses of any ~~an~~ indigent party in a
 23 contested case hearing held pursuant to this chapter."

24 Section 10. Section 49-2-506, MCA, is amended to read:
 25 "49-2-506. Procedure upon a finding of discrimination.

1 (1) If the commission finds that a person, institution,
 2 entity, or agency against whom a complaint was filed has
 3 engaged in the discriminatory practice alleged in the
 4 complaint, ~~it the commission~~ shall order him ~~or it~~ to
 5 refrain from engaging in the discriminatory conduct. The
 6 order may:

7 (a) prescribe conditions on the accused's future
 8 conduct relevant to the type of discriminatory practice
 9 found;

10 (b) require any reasonable measure to correct the
 11 discriminatory practice and to rectify any harm, pecuniary
 12 or otherwise, to the person discriminated against;

13 (c) require a report on the manner of compliance.

14 (2) The order may not require the payment of any
 15 punitive damages ~~as-defined-by-the-Montana-Code-Annotated.~~

16 (3) Whenever a commission order or conciliation
 17 agreement requires inspection by the commission staff for a
 18 period of time to determine if the respondent is complying
 19 with that order or agreement, the period of time ~~shall~~ may
 20 not be no more than 3 years."

21 Section 11. Section 49-2-507, MCA, is amended to read:
 22 "49-2-507. Procedure upon failure to find
 23 discrimination. If the commission finds that a person,
 24 institution, entity, or agency against whom ~~or which~~ a
 25 complaint was filed has not engaged in the discriminatory

1 practice alleged in the complaint, it shall issue and cause
2 to be served on the complainant an order dismissing the
3 complaint."

4 Section 12. Section 49-2-601, MCA, is amended to read:

5 "49-2-601. Criminal penalty. A person, employer,
6 business--organization--corporation--or agency educational
7 institutions, or financial institution, both either public
8 and or private, or a governmental entity or agency who or
9 which willfully engages in an unlawful discriminatory
10 practice prohibited by this chapter or willfully resists,
11 prevents, impedes, or interferes with the commission, the
12 department, or any of its authorized representatives in the
13 performance of a duty under this chapter or who or which
14 willfully violates an order of the commission or willfully
15 violates this chapter in any other manner is guilty of a
16 misdemeanor and is punishable by a fine of not more than
17 \$500 or by imprisonment for not more than 6 months, or
18 both."

19 Section 13. Section 49-3-101, MCA, is amended to read:

20 "49-3-101. Definitions. As used in this chapter, the
21 following definitions apply:

22 (1) "State and local governmental agencies" means:

23 (a) all branches, departments, offices, boards,
24 bureaus, commissions, agencies, university units, colleges,
25 or any and other instrumentality instrumentalities of state

1 government; and

2 (b) counties, cities, towns, school districts, or any
3 other instrumentality and other units of local government
4 and all instrumentalities of local government.

5 (2) "Qualifications" means such qualifications as are
6 genuinely related to competent performance of the particular
7 occupational task."

8 Section 14. Section 49-3-201, MCA, is amended to read:

9 "49-3-201. Employment of state and local government
10 personnel. (1) State and local government officials and
11 supervisory personnel shall recruit, appoint, assign, train,
12 evaluate, and promote personnel on the basis of merit and
13 qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin.

16 (2) All state and local governmental agencies shall:

17 (a) promulgate written directives to carry out this
18 policy and to guarantee equal employment opportunities at
19 all levels of state and local government;

20 (b) regularly review their personnel practices to
21 assure compliance; and

22 (c) conduct continuing orientation and training
23 programs with emphasis on human relations and fair
24 employment practices.

25 (3) The department of administration shall insure that

1 the entire examination process, including appraisal of
2 qualifications, is free from bias.

3 (4) Appointing authorities shall exercise care to
4 insure utilization of minority group persons."

5 Section 15. Section 49-3-203, MCA, is amended to read:

6 "49-3-203. Educational, counseling, and training
7 programs. All education ~~educational~~, counseling, and
8 vocational guidance programs and all apprenticeship and
9 on-the-job training programs of state or ~~and~~ local
10 ~~governmental~~ agencies or in which state or ~~and~~ local
11 ~~governmental~~ agencies participate ~~shall~~ **must** be open to all
12 persons, who ~~shall~~ **must** be accepted on the basis of merit
13 and qualifications without regard to race, color, religion,
14 creed, political ideas, sex, age, marital status, physical
15 or mental handicap, or national origin. Such programs ~~shall~~
16 **must** be conducted to encourage the full development of the
17 interests, aptitudes, skills, and capacities of all students
18 and trainees, with special attention to the problems of
19 culturally deprived, educationally handicapped, or
20 economically disadvantaged persons. Expansion of training
21 opportunities under these programs ~~shall~~ **must** be encouraged
22 to involve larger numbers of participants from those
23 segments of the labor force ~~where in which~~ the need for
24 upgrading levels of skill is greatest."

25 Section 16. Section 49-3-204, MCA, is amended to read:

1 "49-3-204. Licensing. No state or local department,
2 board, or ~~governmental~~ agency may grant, deny, or revoke the
3 license or charter of a person on the grounds of race,
4 color, religion, creed, political ideas, sex, age, marital
5 status, physical or mental handicap, or national origin.
6 Each state ~~and~~ ~~or~~ local ~~governmental~~ agency shall take such
7 appropriate action in the exercise of its licensing or
8 regulatory power as will assure equal treatment of all
9 persons, eliminate discrimination, and enforce compliance
10 with the policy of this chapter."

11 Section 17. Section 49-3-205, MCA, is amended to read:

12 "49-3-205. Governmental services. (1) All services of
13 every state ~~and~~ ~~or~~ local governmental agency ~~shall~~ **must** be
14 performed without discrimination based upon race, color,
15 religion, creed, political ideas, sex, age, marital status,
16 physical or mental handicap, or national origin.

17 (2) No state or local facility may be used in the
18 furtherance of any discriminatory practice, nor may a state
19 or local ~~governmental~~ agency become a party to an agreement,
20 arrangement, or plan which has the effect of sanctioning
21 discriminatory practices.

22 (3) Each state ~~and~~ ~~or~~ local ~~governmental~~ agency shall
23 analyze all of its operations to ascertain possible
24 instances of noncompliance with the policy of this chapter
25 and shall initiate comprehensive programs to remedy any

1 defect found to exist."

2 Section 18. Section 49-3-207, MCA, is amended to read:

3 "49-3-207. Nondiscrimination provision in all public
4 contracts. Every state or local contract or subcontract for
5 construction of public buildings or for other public work or
6 for goods and ~~or~~ services shall contain a provision that all
7 hiring ~~shall~~ **must** be on the basis of merit and
8 qualifications and a provision that there may be no
9 discrimination on the basis of race, color, religion, creed,
10 political ideas, sex, age, marital status, physical or
11 mental handicap, or national origin by the persons
12 performing the contract."

13 Section 19. Section 49-3-208, MCA, is amended to read:

14 "49-3-208. Public accommodations laws. No state or
15 local ~~department, board, or governmental~~ agency ~~shall~~ **may**
16 permit any violation of the public accommodations provisions
17 of 49-2-304."

18 Section 20. Section 49-3-301, MCA, is amended to read:

19 "49-3-301. Cooperation with commission for human
20 rights. All state and local governmental agencies shall
21 cooperate with the commission for human rights in the
22 commission's enforcement and educational programs. They
23 shall comply with the commission's ~~request~~ **requests** for
24 information concerning practices inconsistent with the state
25 policy against discrimination and shall consider its

1 recommendations for effectuating and implementing that
2 policy. The commission for-human-rights shall continue to
3 augment its enforcement and ~~education~~ **educational** programs
4 which seek to eliminate all discrimination."

5 Section 21. Section 49-3-302, MCA, is amended to read:

6 "49-3-302. Annual reports to governor. All
7 ~~departments, agencies, commissions, and other bodies of the~~
8 state government governmental agencies which report to the
9 governor shall include in their annual reports to the
10 governor activities undertaken in the past year to
11 effectuate this chapter. Such reports shall cover both
12 internal activities and external relations with the public
13 or with other state agencies and shall contain other
14 information as specifically requested by the governor."

15 Section 22. Section 49-4-211, MCA, is amended to read:

16 "49-4-211. Right to use public places and
17 accommodations. (1) The blind and the visually handicapped
18 have the same right as the able-bodied to the full and free
19 use of the streets, highways, sidewalks, walkways, public
20 buildings, public facilities, and other public places.

21 (2) The blind and the visually handicapped are
22 entitled to full and equal accommodations, advantages,
23 facilities, and privileges of all common carriers,
24 ~~airplanes, motor vehicles, railroad trains, motor buses,~~
25 ~~boats, or any other public conveyances or modes of~~

1 ~~transportation, hotels, lodging places, places of~~ as defined
 2 in 49-11-101, and all public accommodations, amusement, or
 3 ~~resorts and other places to which the general public is~~
 4 invited accommodations, as defined in 49-2-101, subject only
 5 to the conditions and limitations established by law and
 6 applicable alike to all persons."

7 Section 23. Section 49-4-214, MCA, is amended to read:

8 "49-4-214. Right to be accompanied by a guide dog. (1)
 9 Every totally or partially blind person ~~shall have~~ has the
 10 right to be accompanied by a guide dog, especially trained
 11 for the purpose, in any of the places where ~~the public is~~
 12 ~~invited--(hotels, motels, public conveyances, public eating~~
 13 ~~places, and places of amusement)~~ mentioned in 49-4-211(2)
 14 without being charged extra for the guide dog. He ~~shall be~~
 15 is liable for any damage done to the premises or facilities
 16 by such dog.

17 (2) Every totally or partially blind person who has a
 18 guide dog or who obtains a guide dog ~~shall be~~ is entitled to
 19 full and equal access to all housing accommodations as
 20 provided in 49-2-305 and 49-4-212. He ~~shall may~~ not be
 21 required to pay extra compensation for such ~~the~~ guide dog
 22 but ~~shall be~~ is liable for any damage done to the premises
 23 by such ~~a the~~ guide dog."

24 Section 24. Section 49-4-216, MCA, is amended to read:

25 "49-4-216. Duty and civil liability of pedestrian or

1 driver approaching blind person. (1) ~~Any~~ A pedestrian who is
 2 not ~~wholly totally~~ or partially blind or ~~any~~ a driver of a
 3 vehicle who approaches or comes in contact with a person
 4 ~~wholly who is totally~~ or partially blind and is carrying a
 5 cane or walking stick predominately white or metallic in
 6 color or white tipped with red or is being led by a trained
 7 guide dog wearing a harness and walking on either side of or
 8 slightly in front of ~~said~~ such blind person shall
 9 immediately come to a full stop and take such precautions
 10 before proceeding as may be necessary to avoid accident or
 11 injury to the such blind person ~~wholly or partially blind~~.

12 (2) Any ~~A~~ driver or pedestrian who fails to take such
 13 precautions ~~shall be~~ is liable in damages for any injury
 14 caused ~~such--pedestrian the totally or partially blind~~
 15 person. A totally or partially blind pedestrian who is not
 16 carrying such a cane or using a guide dog in any of the
 17 ~~places--accommodations--or--conveyances~~ listed in 49-4-211
 18 ~~shall have~~ has all of the rights and privileges conferred by
 19 law upon other persons, and the failure of such a ~~totally or~~
 20 ~~partially blind~~ pedestrian to carry such a cane or to use a
 21 guide dog in any such ~~places--accommodations--or--conveyances~~
 22 ~~shall place may~~ not be held to constitute or be evidence of
 23 contributory negligence."

24 Section 25. Repealer. Section 64-104, R.C.M. 1947, is
 25 repealed.

-End-

-18-