

# CHAPTER NO. 172.

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 *Sergey* BILL NO. 131

2 INTRODUCED BY Saylock

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

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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--banks,  
 10 homestead--associations, finance company, mutual savings and  
 11 loan association, investment companies 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 courses, cafe, ice cream parlor, transportation company,  
 2 or hospitals and all other public amusement and business  
 3 establishments---subject---only---to---the---conditions---and  
 4 ~~titutions-established-by-law-and-applicable-at-the---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  
 10 "49-2-202. Authority to require posted notice. The  
 11 commission may require any employer, employment agency,  
 12 labor union, educational institution, or financial  
 13 institution or the owner, lessee, manager, agent, or  
 14 employee of any public accommodation or housing  
 15 accommodation subject to this chapter to post in a  
 16 conspicuous place on his premises or in the accommodation, a  
 17 notice to be prepared or approved by the commission  
 18 containing relevant information that the commission deems  
 19 considers necessary to explain this chapter. Any person or  
 20 institution subject to this section refusing who refuses to  
 21 comply with an order of the commission respecting the  
 22 posting of a notice is guilty of a misdemeanor and  
 23 punishable by a fine of not more than \$50."

24 Section 4. Section 49-2-301, MCA, is amended to read:  
 25  
 26 "49-2-301. Retaliation prohibited. It is an  
 27 unlawful discriminatory practice for a person educational

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

20 Section 6. Section 49-2-305, MCA, is amended to read:  
 21  
 22 "49-2-305. Discrimination in housing. (1) Except when  
 23 the distinction is based on reasonable grounds, it is an  
 24 unlawful discriminatory practice for the owner, lessee,  
 25 manager, or other person having the right to sell, lease, or  
 rent a housing accommodation or improved or unimproved  
 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, ~~employer---business---corporation~~ ~~educational~~  
~~institution, financial institution, or governmental entity~~  
 6 ~~or agency charged in the complaint~~ to answer the allegations  
 7 of the complaint at a hearing before the commission.

8 (2) The hearing ~~shall~~ ~~must~~ be held by the commission  
 9 in the county where the unlawful conduct is alleged to have  
 10 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  
 11 good cause shown. The case in support of the complaint may  
 12 be presented before the commission by the staff, the  
 13 complainant, or an attorney representing the complainant.  
 14 The hearing and any subsequent proceedings under this  
 15 chapter, except as permitted under 49-2-508, ~~shall~~ ~~must~~ be  
 16 held in accordance with the Montana Administrative Procedure  
 17 Act ~~except as provided in 49-2-508.~~

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

21 Section 10. Section 49-2-506, MCA, is amended to read:  
 22 "49-2-506. Procedure upon a finding of discrimination.

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

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

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

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

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

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

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

41 "49-2-507. Procedure upon failure to find  
 42 discrimination. If the commission finds that a person,  
 43 ~~institution, entity, or agency~~ against whom ~~or~~ which a  
 44 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."

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:

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

1 government; and  
2 (b) counties, cities, towns, school districts, or any  
3 other instrumentalities 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.

(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.

(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  
7 "49-3-203. Educational, counseling, and training  
8 programs. All ~~education~~ educational, counseling, and  
9 vocational guidance programs and all apprenticeship and  
10 on-the-job training programs of state ~~or~~ and local  
11 ~~governmental~~ agencies or in which state ~~or~~ and local  
12 ~~governmental~~ agencies participate ~~shall~~ must be open to all  
13 persons who ~~shall~~ must be accepted on the basis of merit  
14 and qualifications without regard to race, color, religion,  
15 creed, political ideas, sex, age, marital status, physical  
16 or mental handicap, or national origin. Such programs ~~shall~~  
17 must be conducted to encourage the full development of the  
18 interests, aptitudes, skills, and capacities of all students  
19 and trainees, with special attention to the problems of  
20 culturally deprived, educationally handicapped, or  
21 economically disadvantaged persons. Expansion of training  
22 opportunities under these programs ~~shall~~ must be encouraged  
23 to involve larger numbers of participants from those  
24 segments of the labor force where in which the need for  
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  
13 "49-3-205. Governmental services. (1) All services of  
14 every state ~~and~~ or local ~~governmental~~ agency ~~shall~~ must be  
15 performed without discrimination based upon race, color,  
16 religion, creed, political ideas, sex, age, marital status,  
17 physical or mental handicap, or national origin.

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

23 (3) Each state ~~and~~ or local ~~governmental~~ agency shall  
24 analyze all of its operations to ascertain possible  
25 instances of noncompliance with the policy of this chapter  
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 ~~departments--boards--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-todging-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 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 *Annette* BILL NO. 131  
2 INTRODUCED BY *Blaylock*  
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

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 *Senate* BILL NO. 131  
2 INTRODUCED BY 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--associations 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 defects, or illness, including epilepsy.  
 9 It ~~shall--include~~ includes without limitation any degree of  
 10 paraplegia; 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 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 institutions 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 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 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 ¶ 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:

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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 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, ~~employer---business---corporation~~ ~~educational~~  
~~institutions financial institution, or governmental entity~~  
 6 ~~or agency charged in the complaint to answer the allegations~~  
 7 ~~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, ~~employer---business---corporation~~  
~~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~~s~~ except as permitted under 49-2-508~~s~~ ~~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, 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 all all branches, departments, offices, boards,  
 24 bureaus, commissions, agencies, university units, colleges,  
 25 or-any and other instrumentality instrumentalities of state

1 governmenti and  
 2 ibl 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 departments  
 2 ~~boards~~ 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 ~~transportations--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~~ is  
 15 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 ~~setd~~ 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--~~accommadations~~--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--~~accommadations~~--or--conveyances  
 22 ~~shall~~ place ~~may not be held to constitute or be evidence of~~  
 23 ~~contributory negligence."~~  
 24 Section 25. Repeater. Section 64-104, R.C.M. 1947, is  
 25 repealed.

1 SENATE BILL NO. 131  
2 INTRODUCED BY BLAYLOCK  
3 BY REQUEST OF THE CODE COMMISSIONER  
4  
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6 CLARIFY THE LAWS RELATING TO HUMAN RIGHTS; AND REPEALING  
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12 Besides the personal rights mentioned or recognized in other

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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:  
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22 not mean level of maturity or ability to handle  
23 responsibility. These latter criteria may represent  
24 legitimate considerations as reasonable grounds for  
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10               for credit, application for credit, extension of credit, or  
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16 or services, or otherwise.

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18 private institution and includes an academy; college;  
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21 nursing, professional, secretarial, technical, or vocational  
22 school; or agent of an educational institution.

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24 employer.

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

24 Section 4. Section 49-2-301, MCA, is amended to read:  
 25  
 26 "49-2-301. Retaliation prohibited. (1) It is an  
 27 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  
 15 "49-2-302. Aiding, coercing, or attempting. It is  
 16 unlawful for a person, educational institution, financial  
 17 institution, or governmental entity or agency to aid, abet,  
 18 incite, compel, or coerce the doing of an act forbidden  
 19 under this chapter or to attempt to do so."

20 Section 6. Section 49-2-305, MCA, is amended to read:  
 21  
 22 "49-2-305. Discrimination in housing. (1) Except when  
 23 the distinction is based on reasonable grounds, it is an  
 24 unlawful discriminatory practice for the owner, lessee,  
 25 manager, or other person having the right to sell, lease, or  
 rent a housing accommodation or improved or unimproved  
 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, ~~employer---business---corporation~~ ~~educational~~  
 6 ~~institution, 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, ~~employer---business---corporation~~  
 12 ~~organization, 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-49-2-508---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, ~~institution~~  
 24 ~~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 all 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 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 ~~departments--boards--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-todging-places-places-of as defined  
 2 in 49-2-101 and all public accommodations-entertainment-  
 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-entertainment 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

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."

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.

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.

(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.

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--banks,  
 10 homestead--associations, finance company, mutual savings and  
 11 loan association, investment companies 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 paraparesis; 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,  
 26

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---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 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 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 ~~tit--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  
institution, or governmental entity or agency to aid, abet,  
 16 incite, compel, or coerce the doing of an act forbidden  
 17 under this chapter or to attempt to do so."

18 Section 6. Section 49-2-305, MCA, is amended to read:  
 19 "49-2-305. Discrimination in housing. (1) Except when  
 20 the distinction is based on reasonable grounds, it is an  
 21 unlawful discriminatory practice for the owner, lessee,  
 22 manager, or other person having the right to sell, lease, or  
 23 rent a housing accommodation or improved or unimproved  
 24 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 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 informa-

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~~v-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~~s, 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~~s, institutions~~  
 24 ~~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 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 ~~and~~ 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 tasks."

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 ~~departments--boards--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--recreational--trains--motor--buses--~~  
25 boats--or--any--other--public--conveyances--or--modes--of

1 transportation-not-to-be-places-of as defined  
 2 in 49-11-101, and all public accommodations-amusements-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 49-4-211/21  
 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-

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