

SENATE BILL NO. 230

INTRODUCED BY TVEIT, GAGE, HARDING, AKLESTAD,
CONOVER, LANE, C. SMITH, JONES, POFF, E. SMITH

IN THE SENATE

January 24, 1985	Introduced and referred to Committee on Judiciary.
February 12, 1985	Committee recommend bill do pass. Report adopted.
February 13, 1985	Bill printed and placed on members' desks.
February 14, 1985	Second reading, do pass.
February 15, 1985	Considered correctly engrossed.
February 16, 1985	Third reading, passed. Ayes, 44; Noes, 3.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Judiciary.
March 14, 1985	Committee recommend bill be concurrent in. Report adopted.
March 16, 1985	Second reading, concurrent in.
March 18, 1985	On motion, taken from third reading and rereferred to Committee on Judiciary.
March 19, 1985	Committee recommend bill be concurrent in. Report adopted.

March 22, 1985

Second reading, concurred in.

March 23, 1985

Third reading, concurred in.

Returned to Senate.

IN THE SENATE

March 23, 1985

Received from House.

March 25, 1985

Sent to enrolling.

Reported correctly enrolled.

C. Smith Jones
Senate BILL NO. 230 *C. Smith*

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INTRODUCED BY *Trent Jeff*
Commer *LANE* *ARRESTAD*

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT PUBLIC AGENCIES FROM THE MONTANA HUMAN RIGHTS ACT AND THE GOVERNMENTAL CODE OF FAIR EMPLOYMENT PRACTICE TO THE EXTENT THAT THESE LAWS CONFLICT WITH THE PROHIBITION AGAINST NEPOTISM IN PUBLIC AGENCIES; AMENDING SECTIONS 49-2-303, 49-2-403, AND 49-3-201, MCA."

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

Section 1. Section 49-2-303, MCA, is amended to read:

"49-2-303. Discrimination in employment. (1) It is an unlawful discriminatory practice for:

(a) an employer to refuse employment to a person, to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, creed, religion, color, or national origin or because of his age, physical or mental handicap, marital status, or sex when the reasonable demands of the position do not require an age, physical or mental handicap, marital status, or sex distinction;

(b) a labor organization or joint labor management committee controlling apprenticeship to exclude or expel any person from its membership or from an apprenticeship or

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training program or to discriminate in any way against a member of or an applicant to the labor organization or an employer or employee because of race, creed, religion, color, or national origin or because of his age, physical or mental handicap, marital status, or sex when the reasonable demands of the program do not require an age, physical or mental handicap, marital status, or sex distinction;

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication or to use an employment application which expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(d) an employment agency to fail or refuse to refer for employment, to classify, or otherwise to discriminate against any individual because of sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin, unless based upon a bona fide occupational qualification.

(2) The exceptions permitted in subsection (1) based on bona fide occupational qualifications shall be strictly construed.

INTRODUCED BILL
SB 230



1 (3) Compliance with 2-2-302 and 2-2-303, which
 2 prohibit nepotism in public agencies, may not be construed
 3 as a violation of this section."

4 Section 2. Section 49-2-403, MCA, is amended to read:

5 "49-2-403. Specific limits on justification. (1) Sex;
 6 Except as permitted in 49-2-303(3) and 49-3-201(5), sex,
 7 marital status, age, physical or mental handicap, race,
 8 creed, religion, color, or national origin may not comprise
 9 justification for discrimination unless the nature of the
 10 service requires the discrimination for the legally
 11 demonstrable purpose of correcting a previous discriminatory
 12 practice.

13 (2) Age or mental handicap may represent a legitimate
 14 discriminatory criterion in credit transactions only as it
 15 relates to a person's capacity to make or be bound by
 16 contracts or other obligations."

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

18 "49-3-201. Employment of state and local government
 19 personnel. (1) State and local government officials and
 20 supervisory personnel shall recruit, appoint, assign, train,
 21 evaluate, and promote personnel on the basis of merit and
 22 qualifications without regard to race, color, religion,
 23 creed, political ideas, sex, age, marital status, physical
 24 or mental handicap, or national origin.

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

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

4 (b) regularly review their personnel practices to
 5 assure compliance; and

6 (c) conduct continuing orientation and training
 7 programs with emphasis on human relations and fair
 8 employment practices.

9 (3) The department of administration shall insure that
 10 the entire examination process, including appraisal of
 11 qualifications, is free from bias.

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

14 (5) Compliance with 2-2-302 and 2-2-303, which
 15 prohibit nepotism in public agencies, may not be construed
 16 as a violation of this section."

17 NEW SECTION. Section 4. Extension of authority. Any
 18 existing authority of the human rights commission to make
 19 rules on the subject of the provisions of this act is
 20 extended to the provisions of this act.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

C. Smith Jones
Senate BILL NO. 230

INTRODUCED BY *Frank J. Lane*
Committee on **LANE** *Assembly* **ARRESTAD**

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT PUBLIC
5 AGENCIES FROM THE MONTANA HUMAN RIGHTS ACT AND THE
6 GOVERNMENTAL CODE OF FAIR EMPLOYMENT PRACTICE TO THE EXTENT
7 THAT THESE LAWS CONFLICT WITH THE PROHIBITION AGAINST
8 NEPOTISM IN PUBLIC AGENCIES; AMENDING SECTIONS 49-2-303,
9 49-2-403, AND 49-3-201, MCA."

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19 national origin or because of his age, physical or mental
20 handicap, marital status, or sex when the reasonable demands
21 of the position do not require an age, physical or mental
22 handicap, marital status, or sex distinction;

23 (b) a labor organization or joint labor management
24 committee controlling apprenticeship to exclude or expel any
25 person from its membership or from an apprenticeship or

1 training program or to discriminate in any way against a
2 member of or an applicant to the labor organization or an
3 employer or employee because of race, creed, religion,
4 color, or national origin or because of his age, physical or
5 mental handicap, marital status, or sex when the reasonable
6 demands of the program do not require an age, physical or
7 mental handicap, marital status, or sex distinction;

8 (c) an employer or employment agency to print or
9 circulate or cause to be printed or circulated a statement,
10 advertisement, or publication or to use an employment
11 application which expresses, directly or indirectly, a
12 limitation, specification, or discrimination as to sex,
13 marital status, age, physical or mental handicap, race,
14 creed, religion, color, or national origin or an intent to
15 make the limitation, unless based upon a bona fide
16 occupational qualification;

17 (d) an employment agency to fail or refuse to refer
18 for employment, to classify, or otherwise to discriminate
19 against any individual because of sex, marital status, age,
20 physical or mental handicap, race, creed, religion, color,
21 or national origin, unless based upon a bona fide
22 occupational qualification.

23 (2) The exceptions permitted in subsection (1) based
24 on bona fide occupational qualifications shall be strictly
25 construed.

1 (3) Compliance with 2-2-302 and 2-2-303, which
 2 prohibit nepotism in public agencies, may not be construed
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5 "49-2-403. Specific limits on justification. (1) ~~Sex~~
 6 Except as permitted in 49-2-303(3) and 49-3-201(5), sex,
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 9 justification for discrimination unless the nature of the
 10 service requires the discrimination for the legally
 11 demonstrable purpose of correcting a previous discriminatory
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13 (2) Age or mental handicap may represent a legitimate
 14 discriminatory criterion in credit transactions only as it
 15 relates to a person's capacity to make or be bound by
 16 contracts or other obligations."

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

18 "49-3-201. Employment of state and local government
 19 personnel. (1) State and local government officials and
 20 supervisory personnel shall recruit, appoint, assign, train,
 21 evaluate, and promote personnel on the basis of merit and
 22 qualifications without regard to race, color, religion,
 23 creed, political ideas, sex, age, marital status, physical
 24 or mental handicap, or national origin.

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

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

4 (b) regularly review their personnel practices to
 5 assure compliance; and

6 (c) conduct continuing orientation and training
 7 programs with emphasis on human relations and fair
 8 employment practices.

9 (3) The department of administration shall insure that
 10 the entire examination process, including appraisal of
 11 qualifications, is free from bias.

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

14 (5) Compliance with 2-2-302 and 2-2-303, which
 15 prohibit nepotism in public agencies, may not be construed
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17 NEW SECTION. Section 4. Extension of authority. Any
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 19 rules on the subject of the provisions of this act is
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-End-

C. Smith Jones *P. H. E. Smith*
Senate BILL NO. 230

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(b) a labor organization or joint labor management committee controlling apprenticeship to exclude or expel any person from its membership or from an apprenticeship or

training program or to discriminate in any way against a member of or an applicant to the labor organization or an employer or employee because of race, creed, religion, color, or national origin or because of his age, physical or mental handicap, marital status, or sex when the reasonable demands of the program do not require an age, physical or mental handicap, marital status, or sex distinction;

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication or to use an employment application which expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin or an intent to make the limitation, unless based upon a bona fide occupational qualification;

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THIRD READING
SB 230



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