

HOUSE BILL 323

Introduced by Driscoll

1/20	Introduced
1/21	Referred to Labor & Employment Relations
1/31	Hearing
2/07	Tabled in Committee

1 HOUSE BILL NO. 323
2 INTRODUCED BY Smith
3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REDEFINE THE TERM
6 "EMPLOYER" AS USED IN THE HUMAN RIGHTS STATUTES TO ENSURE
7 THAT THE DEFINITION INCLUDES PERSONS, FIRMS, CORPORATIONS,
8 AND INSTITUTIONS; AND AMENDING SECTION 49-2-101, MCA."
9
10 WHEREAS, Article II, section 4, of the 1972 Montana
11 Constitution prohibits discrimination by the state or any
12 person, firm, corporation, or institution against any person
13 on account of social condition; and
14 WHEREAS, the intent of the 1972 Constitutional
15 Convention should be implemented by defining the term
16 "employer" to include a broad range of business
17 relationships, such as agents, contractors, successors, and
18 assigns; and
19 WHEREAS, the definition of "employer" should be
20 clarified to provide that the employment relationship
21 includes situations where there is control of another who
22 provides services for compensation or consideration.
23 THEREFORE, the Legislature finds it appropriate to
24 amend the current definition of "employer" in section
25 49-2-101, MCA.

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2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
3 **Section 1.** Section 49-2-101, MCA, is amended to read:
4 **"49-2-101. Definitions.** As used in this chapter,
5 unless the context requires otherwise, the following
6 definitions apply:
7 (1) "Age" means number of years since birth. It does
8 not mean level of maturity or ability to handle
9 responsibility. These latter criteria may represent
10 legitimate considerations as reasonable grounds for
11 discrimination without reference to age.
12 (2) "Commission" means the commission for human rights
13 provided for in 2-15-1706.
14 (3) "Credit" means the right granted by a creditor to
15 a person to defer payment of a debt, to incur debt and defer
16 its payment, or to purchase property or services and defer
17 payment therefor. It includes without limitation the right
18 to incur and defer debt which is secured by residential real
19 property.
20 (4) "Credit transaction" means any invitation to apply
21 for credit, application for credit, extension of credit, or
22 credit sale.
23 (5) "Creditor" means a person who, regularly or as a
24 part of his business, arranges for the extension of credit
25 for which the payment of a financial charge or interest is

required, whether in connection with loans, sale of property or services, or otherwise.

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

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

(8) "Employer" means ~~an--employer--of--one--or--more persons--but any person, firm, corporation, or institution (including agents, contractors, successors, and assigns), and those under its direction or control, that engages one or more persons in its service for compensation or consideration of any kind.~~ The term does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide accommodations or services that are available on a nonmembership basis.

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

(10) "Financial institution" means a commercial bank, trust company, savings bank, finance company, savings and

loan association, investment company, or insurance company.

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

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

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

(14) "National origin" means ancestry.

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

(16) "Physical handicap" means a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including epilepsy. It includes without limitation any degree of paralysis; amputation; lack of physical coordination; blindness or

1 visual impediment; deafness or hearing impediment; muteness
2 or speech impediment; or physical reliance on a guide dog
3 for the blind, a wheelchair, or any other remedial appliance
4 or device.

5 (17) "Public accommodation" means a place which caters
6 or offers its services, goods, or facilities to the general
7 public subject only to the conditions and limitations
8 established by law and applicable to all persons alike. It
9 includes without limitation a public inn, restaurant, eating
10 house, hotel, roadhouse, place where food or alcoholic
11 beverages or malt liquors are sold for consumption, motel,
12 soda fountain, soft drink parlor, tavern, nightclub, trailer
13 park, resort, campground, barbershop, beauty parlor,
14 bathroom, resthouse, theater, swimming pool, skating rink,
15 golf course, cafe, ice cream parlor, transportation company,
16 or hospital and all other public amusement and business
17 establishments.

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

20 NEW SECTION. **Section 2. Extension of authority.** Any
21 existing authority to make rules on the subject of the
22 provisions of [this act] is extended to the provisions of
23 [this act].

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