

SENATE BILL NO. 314

INTRODUCED BY REGAN, NATHE, BLAYLOCK, ECK,
B. BROWN, HALLIGAN, HAGER, PINSONEAULT, VAUGHN,
JACOBSON, FARRELL, ANDERSON, JERGESON, MANNING, MAZUREK

IN THE SENATE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
FEBRUARY 3, 1989	ON MOTION, REREFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 9, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 10, 1989	PRINTING REPORT.
FEBRUARY 11, 1989	SECOND READING, DO PASS.
FEBRUARY 13, 1989	ENGROSSING REPORT.
FEBRUARY 14, 1989	THIRD READING, PASSED. AYES, 34; NOES, 14.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 14, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 20, 1989	FIRST READING.
MARCH 1, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 7, 1989	THIRD READING, CONCURRED IN. AYES, 56; NOES, 40.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 11, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

MARCH 14, 1989

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

MARCH 16, 1989

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

MARCH 27, 1989

CONFERENCE COMMITTEE REPORTED.

MARCH 30, 1989

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

MARCH 31, 1989

CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 1, 1989

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *314*
 2 INTRODUCED BY *Bo Brown* NATH-*Blaylock* Edh
 3 *James L. Anderson* *Hager* *W. G. Smith* *Vaughn* *Jacobsen* *Hager*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING

5 DISCRIMINATION BY PRIVATE CLUBS; EXCLUDING FRATERNAL
 6 ORGANIZATIONS FROM THE DEFINITION OF "PUBLIC ACCOMMODATION";
 7 REVISING THE DEFINITION OF "PUBLIC ACCOMMODATION" TO
 8 PROHIBIT DISCRIMINATION BY ENTITIES THAT ARE NOT DISTINCTLY
 9 PRIVATE; ESTABLISHING CRITERIA FOR DISTINCTLY PRIVATE
 10 CATEGORIZATION; PROHIBITING DISCRIMINATION BY ALCOHOL
 11 LICENSEES; PROHIBITING THE ISSUANCE AND RENEWAL OF ALCOHOL
 12 LICENSES TO ENTITIES THAT DISCRIMINATE; AMENDING SECTIONS
 13 49-2-101, 49-2-304, AND 49-3-204, MCA; AND PROVIDING AN
 14 IMMEDIATE EFFECTIVE DATE."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **Section 1.** 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. It includes without limitation the right
 7 to incur and defer debt which is secured by residential real
 8 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 accommodations or services that are available on a
 5 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, savings bank, finance company, savings and
 10 loan association, investment company, or insurance company.

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

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

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

24 (14) "National origin" means ancestry.

25 (15) "Person" means one or more individuals, labor

1 unions, partnerships, associations, corporations, legal
 2 representatives, mutual companies, joint-stock companies,
 3 trusts, unincorporated employees' associations, employers,
 4 employment agencies, or labor organizations.

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

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

1 public amusement and business establishments.

2 (b) Public accommodation does not include an
 3 institution, club, or place of accommodation that proves
 4 that it is by its nature distinctly private. An institution,
 5 club, or place of accommodation may not be considered by its
 6 nature distinctly private if it has more than 100 members,
 7 provides regular meal service, and regularly receives
 8 payment for dues, fees, use of space, facilities, services,
 9 meals, or beverages, directly or indirectly, from or on
 10 behalf of nonmembers, for the furtherance of trade or
 11 business. For the purposes of this subsection (17), any
 12 lodge of a recognized national fraternal organization is
 13 considered by its nature distinctly private.

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

16 **Section 2.** Section 49-2-304, MCA, is amended to read:

17 **"49-2-304. Discrimination in public accommodations.**
 18 (1) Except when the distinction is based on reasonable
 19 grounds, it is an unlawful discriminatory practice for the
 20 owner, lessee, manager, agent, or employee of a public
 21 accommodation:

22 ††(a) to refuse, withhold from, or deny to a person
 23 any of its services, goods, facilities, advantages, or
 24 privileges because of sex, race, age, physical or mental
 25 handicap, creed, religion, color, or national origin;

1 †2(b) to publish, circulate, issue, display, post, or
 2 mail a written or printed communication, notice, or
 3 advertisement which states or implies that any of the
 4 services, goods, facilities, advantages, or privileges of
 5 the public accommodation will be refused, withheld from, or
 6 denied to a person of a certain race, creed, religion, sex,
 7 age, physical or mental handicap, color, or national origin.

8 (2) Except when the distinction is based on reasonable
 9 grounds, it is an unlawful discriminatory practice for a
 10 licensee under Title 16, chapter 4, to exclude from its
 11 membership or from its services, goods, facilities,
 12 advantages, privileges, or accommodations any individual on
 13 the grounds of race, color, religion, creed, sex, age,
 14 physical or mental handicap, or national origin. This
 15 subsection does not apply to any lodge of a recognized
 16 national fraternal organization."

17 **Section 3.** Section 49-3-204, MCA, is amended to read:

18 **"49-3-204. Licensing. (1) No A state or local**
 19 **governmental agency may not grant, deny, or revoke the**
 20 **license or charter of a person on the grounds of race,**
 21 **color, religion, creed, political ideas, sex, age, marital**
 22 **status, physical or mental handicap, or national origin.**
 23 **Each state or local governmental agency shall take such**
 24 **appropriate action in the exercise of its licensing or**
 25 **regulatory power as will assure equal treatment of all**

persons, eliminate discrimination, and enforce compliance with the policy of this chapter.

{2} The state may not issue or renew a license under Title 16, chapter 4, to an applicant or licensee that excludes from its membership or from its goods, services, facilities, privileges, or advantages any individual on the grounds of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin. This subsection does not apply to any lodge of a recognized national fraternal organization."

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

1 *Senate* BILL NO. *314*
 2 INTRODUCED BY *BoS Brown* *NATH - Blaylock* *Eck*
 3 *James Anderson* *Hager* *W. G. Smith* *Laughlin* *Jacobsen*
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(2)(b) to publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement which states or implies that any of the services, goods, facilities, advantages, or privileges of the public accommodation will be refused, withheld from, or denied to a person of a certain race, creed, religion, sex, age, physical or mental handicap, color, or national origin.

(2) Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for a licensee under Title 16, chapter 4, to exclude from its membership or from its services, goods, facilities, advantages, privileges, or accommodations any individual on the grounds of race, color, religion, creed, sex, age, physical or mental handicap, or national origin. This subsection does not apply to any lodge of a recognized national fraternal organization."

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COMMITTEE OF THE WHOLE AMENDMENT
SENATE BILL 314
Representative Simon

March 4, 1989 11:40 am
Page 1 of 1

Mr. Chairman: I move to amend SENATE BILL 314 (third reading copy -- blue).

Signed: 
Representative Simon

And, that such amendments to SENATE BILL 314 read as follows:

1. Title, line 13.

Following: "MCA"

Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 7, line 21.

Strike: THE SECTION IN ITS ENTIRETY.

HOUSE

ADOPT

REJECT

5B314.4/
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SENATE BILL NO. 314

INTRODUCED BY REGAN, NATHE, BLAYLOCK, ECK,

B. BROWN, HALLIGAN, HAGER, PINSONEAULT, VAUGHN,

JACOBSON, FARRELL, ANDERSON, JERGESON, MANNING, MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING DISCRIMINATION BY PRIVATE CLUBS; EXCLUDING FRATERNAL ORGANIZATIONS FROM THE DEFINITION OF "PUBLIC ACCOMMODATION"; REVISING THE DEFINITION OF "PUBLIC ACCOMMODATION" TO PROHIBIT DISCRIMINATION BY ENTITIES THAT ARE NOT DISTINCTLY PRIVATE; ESTABLISHING CRITERIA FOR DISTINCTLY PRIVATE CATEGORIZATION; PROHIBITING DISCRIMINATION BY ALCOHOL LICENSEES; PROHIBITING THE ISSUANCE AND RENEWAL OF ALCOHOL LICENSES TO ENTITIES THAT DISCRIMINATE; AND AMENDING SECTIONS 49-2-101, 49-2-304, AND 49-3-204, MCA;---AND PROVIDING-AN-IMMEDIATE-EFFECTIVE-DATE."

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

Section 1. Section 49-2-101, MCA, is amended to read:

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

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent

legitimate considerations as reasonable grounds for discrimination without reference to age.

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

(3) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment therefor. It includes without limitation the right to incur and defer debt which is secured by residential real property.

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

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

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

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

1 employer.

2 (8) "Employer" means an employer of one or more
3 persons but does not include a fraternal, charitable, or
4 religious association or corporation if the association or
5 corporation is not organized either for private profit or to
6 provide accommodations or services that are available on a
7 nonmembership basis.

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

10 (10) "Financial institution" means a commercial bank,
11 trust company, savings bank, finance company, savings and
12 loan association, investment company, or insurance company.

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

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

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

1 (14) "National origin" means ancestry.

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

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

16 (17) (a) "Public accommodation" means a place which
17 caters or offers its services, goods, or facilities to the
18 general public subject only to the conditions and
19 limitations established by law and applicable to all persons
20 alike. It includes without limitation a public inn,
21 restaurant, eating house, hotel, roadhouse, place where food
22 or alcoholic beverages or malt liquors are sold for
23 consumption, motel, soda fountain, soft drink parlor,
24 tavern, nightclub, trailer park, resort, campground,
25 barbershop, beauty parlor, bathroom, resthouse, theater,

swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company, or hospital and all other public amusement and business establishments.

(b) Public accommodation does not include an institution, club, or place of accommodation that proves that it is by its nature distinctly private. An institution, club, or place of accommodation may not be considered by its nature distinctly private if it has more than 100 members, provides regular meal service, and regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages, directly or indirectly, from or on behalf of nonmembers, for the furtherance of trade or business. For the purposes of this subsection (17), any lodge of a recognized national fraternal organization is considered by its nature distinctly private.

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

Section 2. Section 49-2-304, MCA, is amended to read:

"49-2-304. Discrimination in public accommodations.

(1) Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for the owner, lessee, manager, agent, or employee of a public accommodation:

(a) to refuse, withhold from, or deny to a person any of its services, goods, facilities, advantages, or

privileges because of sex, race, age, physical or mental handicap, creed, religion, color, or national origin;

(b) to publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement which states or implies that any of the services, goods, facilities, advantages, or privileges of the public accommodation will be refused, withheld from, or denied to a person of a certain race, creed, religion, sex, age, physical or mental handicap, color, or national origin.

(2) Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for a licensee under Title 16, chapter 4, to exclude from its membership or from its services, goods, facilities, advantages, privileges, or accommodations any individual on the grounds of race, color, religion, creed, sex, age, physical or mental handicap, or national origin. This subsection does not apply to any lodge of a recognized national fraternal organization."

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

"49-3-204. Licensing. (1) No A state or local governmental agency may not grant, deny, or revoke the license or charter of a person on the grounds of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin. Each state or local governmental agency shall take such

1 appropriate action in the exercise of its licensing or
2 regulatory power as will assure equal treatment of all
3 persons, eliminate discrimination, and enforce compliance
4 with the policy of this chapter.

5 (2) The state may not issue or renew a license under
6 Title 16, chapter 4, to an applicant or licensee that
7 excludes from its membership or from its goods, services,
8 facilities, privileges, or advantages any individual on the
9 grounds of race, color, religion, creed, political ideas,
10 sex, age, marital status, physical or mental handicap, or
11 national origin. This subsection does not apply to any lodge
12 of a recognized national fraternal organization."

13 NEW SECTION. Section 4. Extension of authority. Any
14 existing authority to make rules on the subject of the
15 provisions of [this act] is extended to the provisions of
16 [this act].

17 NEW SECTION. Section 5. Severability. If a part of
18 [this act] is invalid, all valid parts that are severable
19 from the invalid part remain in effect. If a part of [this
20 act] is invalid in one or more of its applications, the part
21 remains in effect in all valid applications that are
22 severable from the invalid applications.

23 ~~NEW SECTION. Section 6. Effective date. [This act]~~
24 ~~is effective on passage and approval.~~

-End-

CONFERENCE COMMITTEE REPORT


Report No. 1
March 23, 1989

MR PRESIDENT AND MR. SPEAKER

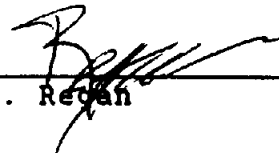
We, your Conference Committee on SB 314 met and recommend that this Conference Committee report be adopted and that SB 314 (reference copy -- salmon) be amended as indicated in the INSTRUCTIONS.

FOR THE SENATE

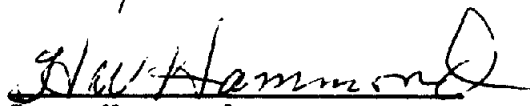
FOR THE HOUSE



Sen. Hagar, Chairman


Rep. Addy


Sen. Regan


Rep. Brooke


Sen. Hammond


Rep. Simon

We Considered: The House Committee of the Whole amendments, offered by Rep. Simon, to SB 314 (third reading copy -- blue) dated March 4, 1989.

INSTRUCTIONS: Strike: The House Committee of the Whole amendments in their entirety.

Amend SB 314 (reference copy -- salmon) as follows:

1. Title, line 16.

Following: "DATE"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 7.

Following: line 24

Insert: "NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval."

ADOPT

REJECT

SB 314

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23 or alcoholic beverages or malt liquors are sold for
24 consumption, motel, soda fountain, soft drink parlor,
25 tavern, nightclub, trailer park, resort, campground,

1 barbershop, beauty parlor, bathroom, resthouse, theater,
2 swimming pool, skating rink, golf course, cafe, ice cream
3 parlor, transportation company, or hospital and all other
4 public amusement and business establishments.

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1 any of its services, goods, facilities, advantages, or
2 privileges because of sex, race, age, physical or mental
3 handicap, creed, religion, color, or national origin;

4 (2)(b) to publish, circulate, issue, display, post, or
5 mail a written or printed communication, notice, or
6 advertisement which states or implies that any of the
7 services, goods, facilities, advantages, or privileges of
8 the public accommodation will be refused, withheld from, or
9 denied to a person of a certain race, creed, religion, sex,
10 age, physical or mental handicap, color, or national origin.

11 (2) Except when the distinction is based on reasonable
12 grounds, it is an unlawful discriminatory practice for a
13 licensee under Title 16, chapter 4, to exclude from its
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1 Each state or local governmental agency shall take such
 2 appropriate action in the exercise of its licensing or
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 20 from the invalid part remain in effect. If a part of [this
 21 act] is invalid in one or more of its applications, the part
 22 remains in effect in all valid applications that are
 23 severable from the invalid applications.

24 ~~NEW SECTION. Section 6. Effective date. [This act]~~
 25 ~~is effective on passage and approval.~~

1 NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT]
 2 IS EFFECTIVE ON PASSAGE AND APPROVAL.

-End-