HOUSE BILL NO. 561

INTRODUCED BY D. BROWN, DOHERTY BY REQUEST OF THE HUMAN RIGHTS COMMISSION

IN THE HOUSE

FEBRUARY 10, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 17, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 18, 1993	PRINTING REPORT.
FEBRUARY 19, 1993	SECOND READING, DO PASS.
FEBRUARY 20, 1993	ENGROSSING REPORT.
FEBRUARY 22, 1993	THIRD READING, PASSED. AYES, 91; NOES, 7.
	TRANSMITTED TO SENATE.
IN	THE SENATE
MARCH 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 12, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1993	ON MOTION, CONSIDERATION PASSED
	TILL THE 59TH LEGISLATIVE DAY.
MARCH 16, 1993	TILL THE 59TH LEGISLATIVE DAY. SECOND READING, CONCURRED IN.
MARCH 16, 1993 MARCH 17, 1993	
·	SECOND READING, CONCURRED IN. THIRD READING, CONCURRED IN.

IN THE HOUSE

RECEIVED FROM SENATE.

MARCH 18, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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1	HOUSE BILL NO. 561
2	INTRODUCED BY Cher Choung
3	BY REQUEST OF THE HUMAN RIGHTS COMMISSION
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5	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA
6	HUMAN RIGHTS ACT TO PROHIBIT DISCRIMINATION BY AN AGENT OF
7	AN EMPLOYER; AND AMENDING SECTION 49-2-101, MCA."
8	
9	WHEREAS, the employment discrimination provision of
10	Montana law, commonly called the Montana Human Rights Act,
11	Title 49, chapter 2, MCA, prohibits discriminatory acts by
12	an employer; and
13	WHEREAS, the Montana Human Rights Act does not include
14	an agent of an employer in the definition of employer; and
15	WHEREAS, certain discriminatory employment acts.
16	including sexual harassment, may be committed by an agent of
17	the employer, such as a supervisor; and
18	WHEREAS, under the present Montana Human Rights Act,
19	complainant has no remedy against an agent of an employer
20	and
21	WHEREAS, the federal counterpart of the employmen
22	discrimination provision of the Montana Human Rights Act
23	Title VII of the Civil Rights Act of 1964, 42 U.S.C
24	2000e(b), does make the agent of an employer responsible fo
25	discriminatory acts committed by that agent.

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amend the	Monta	na Hu	nan Rig	hts Act	to make	an	agent	of	a
employer	respo	nsible	for	discri	minatory	acts	commi	tted	b
that agen	+ .								

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

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

*49-2-101. Definitions. As used in this chapter, unless 8 9 the context requires otherwise, the following definitions 10 apply:

- 11 (1) "Age" means number of years since birth. It does 12 not mean level of maturity or ability to handle 13 responsibility. These latter criteria 14 legitimate considerations as reasonable grounds for 15 discrimination without reference to age.
- 16 (2) "Commission" means the commission for human rights 17 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 that is secured by residential
- 23 real property. 24 (4) "Credit transaction" means any invitation to apply
- 25 for credit, application for credit, extension of credit, or

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credit sale.

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- (5) "Creditor" means a person who, regularly or as a part of his the person's 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.
- 13 (7) "Employee" means any individual employed by an l4 employer.
 - (8) "Employer" means an employer of one or more persons, or an agent of the employer, but does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide accommodations or services that are available on a nonmembership basis.
- 22 (9) "Employment agency" means a person undertaking to
 23 procure employees or opportunities to work.
- 24 (10) "Financial institution" means a commercial bank, 25 trust company, savings bank, finance company, savings and

- loan association, credit union, investment company, or insurance company.
- 3 (11) "Housing accommodation" means a building or portion
 4 of a building, whether constructed or to be constructed,
 5 which that is or will be used as the sleeping quarters of
 6 its occupants.
- 7 (12) "Labor organization" means an organization or an agent of an organization organized for the purpose, in whole 9 or in part, of collective bargaining, of dealing with 10 employers concerning grievances or terms or conditions of 11 employment, or of other mutual aid and protection of 12 employees.
- 13 (13) "National origin" means ancestry.
- (14) "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.
 - (15) (a) "Physical or mental handicap" means:
- (i) a physical or mental impairment that substantially
 limits one or more of a person's major life activities;
- 22 (ii) a record of such an impairment; or
- 23 (iii) a condition regarded as such an impairment.
- (b) Discrimination based on, because of, on the basisof, or on the grounds of physical or mental handicap

includes the failure to make reasonable accommodations that are required by an otherwise qualified person who has a physical or mental handicap. Any accommodation that would require an undue hardship or that would endanger the health or safety of any person is not a reasonable accommodation.

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- (16) (a) "Public accommodation" means a place which that caters or offers its services, goods, or facilities to the general public subject only to the conditions and limitations established by law and applicable to all persons alike. It includes without limitation a public inn, restaurant, eating house, hotel, roadhouse, place where food or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, nightclub, trailer park, resort, campground, 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
- 2 behalf of nonmembers, for the furtherance of trade or
- 3 business. For the purposes of this subsection (16), any
- 4 lodge of a recognized national fraternal organization is
 - considered by its nature distinctly private.
- 6 (17) "Staff" or "commission staff" means the staff of
- 7 the commission for human rights."

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APPROVED BY COMMITTEE ON JUDICIARY

1 2 BY REQUEST OF THE HUMAN RIGHTS COMMISSION 3 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA 5 HUMAN RIGHTS ACT TO PROHIBIT DISCRIMINATION BY AN AGENT OF AN EMPLOYER; AND AMENDING SECTION 49-2-101, MCA." 7 B 9 WHEREAS, the employment discrimination provision of Montana law, commonly called the Montana Human Rights Act, 10 Title 49, chapter 2, MCA, prohibits discriminatory acts by 11

an employer; and
WHEREAS, the Montana Human Rights Act does not include
an agent of an employer in the definition of employer; and

WHEREAS, certain discriminatory employment acts, including sexual harassment, may be committed by an agent of the employer, such as a supervisor; and

WHEREAS, under the present Montana Human Rights Act, a complainant has no remedy against an agent of an employer; and

WHEREAS, the federal counterpart of the employment discrimination provision of the Montana Human Rights Act, Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e(b), does make the agent of an employer responsible for discriminatory acts committed by that agent.

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4	Montana	Legistative	Counc

1 THEREFORE, it is appropriate for the Legislature to
2 amend the Montana Human Rights Act to make an agent of an
3 employer responsible for discriminatory acts committed by
4 that agent.

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

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

8 *49-2-101. Definitions. As used in this chapter, unless
9 the context requires otherwise, the following definitions
10 apply:

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

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

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

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

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1 credit sale.

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- (5) "Creditor" means a person who, regularly or as a part of his the person's 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.
- 13 (7) "Employee" means any individual employed by an employer.
 - (8) "Employer" means an employer of one or more persons, or an agent of the employer, but does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide accommodations or services that are available on a nonmembership basis.
- 22 (9) "Employment agency" means a person undertaking to
 23 procure employees or opportunities to work.
- (10) "Financial institution" means a commercial bank,trust company, savings bank, finance company, savings and

- l loan association, credit union, investment company, or
- 2 insurance company.
- 3 (11) "Housing accommodation" means a building or portion
- 4 of a building, whether constructed or to be constructed,
- 5 which that is or will be used as the sleeping quarters of
- 6 its occupants.
- 7 (12) "Labor organization" means an organization or an
- 8 agent of an organization organized for the purpose, in whole
- 9 or in part, of collective bargaining, of dealing with
- 10 employers concerning grievances or terms or conditions of
 - employment, or of other mutual aid and protection of
- 12 employees.

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- (13) "National origin" means ancestry.
- 14 (14) "Person" means one or more individuals, labor
- 15 unions, partnerships, associations, corporations, legal
- 16 representatives, mutual companies, joint-stock companies,
- 17 trusts, unincorporated employees' associations, employers,
- 18 employment agencies, or labor organizations.
- 19 (15) (a) "Physical or mental handicap" means:
- (i) a physical or mental impairment that substantially
- 21 limits one or more of a person's major life activities;
- (ii) a record of such an impairment; or
- 23 (iii) a condition regarded as such an impairment.
- 24 (b) Discrimination based on, because of, on the basis
- 25 of, or on the grounds of physical or mental handicap

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includes the failure to make reasonable accommodations that are required by an otherwise qualified person who has a physical or mental handicap. Any accommodation that would require an undue hardship or that would endanger the health or safety of any person is not a reasonable accommodation.

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

- 1 meals, or beverages, directly or indirectly, from or on
- 2 behalf of nonmembers, for the furtherance of trade or
- 3 business. For the purposes of this subsection (16), any
- 4 lodge of a recognized national fraternal organization is
- 5 considered by its nature distinctly private.
- 6 (17) "Staff" or "commission staff" means the staff of
- 7 the commission for human rights.*

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1	House BILL NO. 561
2	INTRODUCED BY Care Drown Boundary
3	BY REQUEST OF THE HUMAN RIGHTS COMMISSION
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA
6	HUMAN RIGHTS ACT TO PROHIBIT DISCRIMINATION BY AN AGENT OF
7	AN EMPLOYER; AND AMENDING SECTION 49-2-101, MCA."
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9	WHEREAS, the employment discrimination provision of
.0	Montana law, commonly called the Montana Human Rights Act,
1	Title 49, chapter 2, MCA, prohibits discriminatory acts by
12	an employer; and
13	WHEREAS, the Montana Human Rights Act does not include
L 4	an agent of an employer in the definition of employer; and
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17	the employer, such as a supervisor; and
18	WHEREAS, under the present Montana Human Rights Act, a
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21	WHEREAS, the federal counterpart of the employment
22	discrimination provision of the Montana Human Rights Act,
23	Title VII of the Civil Rights Act of 1964, 42 U.S.C.
24	2000e(b), does make the agent of an employer responsible for

discriminatory acts committed by that agent.

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context requires otherwise, the following definitions

- (2) "Commission" means the commission for human rights provided for in 2-15-1706.
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 - (8) "Employer" means an employer of one or more persons, or an agent of the employer, but does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organised either for private profit or to provide accommodations or services that are available on a nonmembership basis.
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- 7 (12) "Labor organization" means an organization or an 8 agent of an organization organized for the purpose, in whole 9 or in part, of collective bargaining, of dealing with 10 employers concerning grievances or terms or conditions of 11 employment, or of other mutual aid and protection of 12 employees.
 - (13) "Mational origin" means ancestry.

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- 19 (15) (a) "Physical or mental handicap" means:
- 20 (i) a physical or mental impairment that substantially
 21 limits one or more of a person's major life activities;
 - (ii) a record of such an impairment; or
- 23 (iii) a condition regarded as such an impairment.
- 24 (b) Discrimination based on, because of, on the basis 25 of, or on the grounds of physical or mental handicap

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are required by an otherwise qualified person who has a
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or safety of any person is not a reasonable accommodation.

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- (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,

- 1 meals, or beverages, directly or indirectly, from or on
- 2 behalf of nonmembers, for the furtherance of trade or
- 3 business. For the purposes of this subsection (16), any
- 4 lodge of a recognized national fraternal organization is
- 5 considered by its nature distinctly private.
- 6 (17) "Staff" or "commission staff" means the staff of
- 7 the commission for human rights."

HB 0561/02

53rd Legislature

1	HOUSE BILL NO. 301
2	INTRODUCED BY D. BROWN, DOHERTY
3	BY REQUEST OF THE HUMAN RIGHTS COMMISSION
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA
6	HUMAN RIGHTS ACT TO PROHIBIT DISCRIMINATION BY AN AGENT OF
7	AN EMPLOYER; AND AMENDING SECTION 49-2-101, MCA."
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18	WHEREAS, under the present Montana Human Rights Act, a
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20	and
21	WHEREAS, the federal counterpart of the employment
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