

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1249

6  
7 S.P. 446

In Senate, April 4, 1985

8 Referred to the Committee on Judiciary. Sent down for concurrence and  
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Najarian of Cumberland.

11 Cosponsored by Senator Bustin of Kennebec, Senator Baldacci of  
Penobscot and Representative Connolly of Portland.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Include the Term "Sexual  
18 Orientation" in the Maine Human Rights  
19 Act.  
20

21 Be it enacted by the People of the State of Maine as  
22 follows:

23 Sec. 1. 5 MRSA §4552, as repealed and replaced  
24 by PL 1975, c. 770, §28, is amended to read:

25 §4552. Policy

26 To protect the public health, safety and welfare,  
27 it is declared to be the policy of this State to keep  
28 continually in review all practices infringing on the  
29 basic human right to a life with dignity, and the  
30 causes of ~~such~~ these practices, so that corrective  
31 measures may, where possible, be promptly recommended  
32 and implemented, and to prevent discrimination in em-  
33 ployment, housing or access to public accommodations  
34 on account of race, color, sex, sexual orientation,  
35 physical or mental handicap, religion, ancestry or

1 national origin and in employment, discrimination on  
2 account of age; and to prevent discrimination in the  
3 extension of credit on account of age, race, color,  
4 sex, sexual orientation, marital status, religion,  
5 ancestry or national origin.

6 Sec. 2. 5 MRSA §4553, sub-§9-A is enacted to  
7 read:

8 9-A. Sexual orientation. "Sexual orientation"  
9 means having a preference for heterosexuality,  
10 homosexuality or bisexuality, having a history of  
11 such a preference or being identified with such a  
12 preference.

13 Sec. 3. 5 MRSA §4566, sub-§6, as amended by PL  
14 1975, c. 770, §29, is further amended to read:

15 6. Advisory groups. To create such advisory  
16 agencies and conciliation councils, local or, as will  
17 aid in effectuating the purposes of this Act. The  
18 commission may itself or it may empower these agen-  
19 cies and councils to study the problems of discrimi-  
20 nation in all or specific fields of human relation-  
21 ships when based on race or color, sex, sexual orien-  
22 tation, physical or mental handicap, religion, age,  
23 ancestry or national origin, and foster, through com-  
24 munity effort or otherwise, good will among the  
25 groups and elements of the population of the State.  
26 ~~Such~~ These agencies and councils may make recommenda-  
27 tions to the commission for the development of poli-  
28 cies and procedures in general. Advisory agencies and  
29 conciliation councils created by the commission shall  
30 be composed of representative citizens serving with-  
31 out pay, but with reimbursement for actual and neces-  
32 sary traveling expenses;

33 Sec. 4. 5 MRSA §4566, sub-§10, as repealed and  
34 replaced by PL 1975, c. 770, §30, is amended to read:

35 10. Publications. To issue such publication and  
36 such results of investigations and research as in its  
37 judgment will tend to promote good will, and minimize  
38 or eliminate discrimination based on race or color,  
39 sex, sexual orientation, physical or mental handicap,  
40 religion, age, ancestry or national origin;

1           Sec. 5. 5 MRSA §4566, sub-§11, as repealed and  
2 replaced by PL 1975, c. 770, §31, is amended to read:

3           11. Reports. From time to time, but not less  
4 than once a year, to report to the Legislature and  
5 the Governor, describing the investigations, proceed-  
6 ings and hearings the commission has conducted and  
7 their outcome and the other work performed by it, and  
8 make recommendations for such further legislation or  
9 executive action concerning abuses and discrimination  
10 based on race or color, sex, sexual orientation,  
11 physical or mental handicap, religion, age, ancestry  
12 or national origin, or other infringements on human  
13 rights or personal dignity, as may be desirable;

14           Sec. 6. 5 MRSA §4571, as repealed and replaced  
15 by PL 1975, c. 770, §32, is amended to read:

16           §4571. Right to freedom from discrimination in em-  
17           ployment

18           The opportunity for an individual to secure em-  
19 ployment without discrimination because of race, col-  
20 or, sex, sexual orientation, physical or mental hand-  
21 icap, religion, age, ancestry or national origin is  
22 recognized as and declared to be a civil right.

23           Sec. 7. 5 MRSA §4572, sub-§1, as amended by PL  
24 1977, c. 565, is amended to read:

25           1. Unlawful employment. It shall be unlawful em-  
26 ployment discrimination, in violation of this Act,  
27 except where based on a bona fide occupational quali-  
28 fication:

29           A. For any employer to fail or refuse to hire or  
30 otherwise discriminate against any applicant for  
31 employment because of race or color, sex, sexual  
32 orientation, physical or mental handicap, reli-  
33 gion, ancestry or national origin or age, or be-  
34 cause of any such reason to discharge an employee  
35 or discriminate with respect to hire, tenure,  
36 promotion, transfer, compensation, terms, condi-  
37 tions or privileges of employment, or any other  
38 matter directly or indirectly related to employ-  
39 ment, or in recruiting of individuals for employ-  
40 ment or in hiring them, to utilize any employment

1 agency which such that employer knows, or has  
2 reasonable cause to know, discriminates against  
3 individuals because of their race or color, sex,  
4 sexual orientation, physical or mental handicap,  
5 religion, age, ancestry or national origin;

6 B. For any employment agency to fail or refuse  
7 to classify properly or refer for employment or  
8 otherwise discriminate against any individual be-  
9 cause of race or color, sex, sexual orientation,  
10 physical or mental handicap, religion, age, an-  
11 cestry or national origin or to comply with an  
12 employer's request for the referral of job appli-  
13 cants, if such the request indicates either di-  
14 rectly or indirectly that such the employer will  
15 not afford full and equal employment opportuni-  
16 ties to individuals regardless of their race or  
17 color, sex, sexual orientation, physical or men-  
18 tal handicap, religion, age, ancestry or national  
19 origin;

20 C. For any labor organization to exclude from  
21 apprenticeship or membership, or to deny full and  
22 equal membership rights, to any applicant for  
23 membership, because of race or color, sex, sexual  
24 orientation, physical or mental handicap, reli-  
25 gion, age, ancestry or national origin, or be-  
26 cause of any such reason to deny a member full  
27 and equal membership rights, expel from member-  
28 ship, penalize or otherwise discriminate in any  
29 manner with respect to hire, tenure, promotion,  
30 transfer, compensation, terms, conditions or  
31 privileges of employment, representation, griev-  
32 ances or any other matter directly or indirectly  
33 related to membership or employment, whether or  
34 not authorized or required by the constitution or  
35 bylaws of such that labor organization or by a  
36 collective labor agreement or other contract, or  
37 to fail or refuse to classify properly or refer  
38 for employment, or otherwise to discriminate  
39 against any member because of race or color, sex,  
40 sexual orientation, physical or mental handicap,  
41 religion, age, ancestry or national origin or to  
42 cause or attempt to cause an employer to discrim-  
43 inate against an individual in violation of this  
44 section, except that it shall be lawful for labor  
45 organizations and employers to adopt a maximum  
46 age limitation in apprenticeship programs;

1 D. For any employer or employment agency or la-  
2 bor organization, prior to employment or admis-  
3 sion to membership of any individual, to:

4 (1) Elicit or attempt to elicit any infor-  
5 mation directly or indirectly pertaining to  
6 race or color, sex, sexual orientation,  
7 physical or mental handicap, religion, age,  
8 ancestry or national origin, except where a  
9 physical or mental handicap is determined by  
10 the employer, employment agency or labor or-  
11 ganization to be job related; or where some  
12 privileged information is necessary for an  
13 employment agency or labor organization to  
14 make a suitable job referral;

15 (2) Make or keep a record of race or color,  
16 sex, sexual orientation, physical or mental  
17 handicap, religion, age, ancestry or nation-  
18 al origin, except under physical or mental  
19 handicap, when an employer requires a phys-  
20 ical or mental examination prior to employ-  
21 ment, a privileged record of such an exami-  
22 nation is permissible;

23 (3) Use any form of application for employ-  
24 ment, or personnel or membership blank con-  
25 taining questions or entries directly or in-  
26 directly pertaining to race or color, sex,  
27 sexual orientation, physical or mental hand-  
28 icap, religion, age, ancestry or national  
29 origin, except under physical or mental  
30 handicap, where it can be determined by the  
31 employer that the job or jobs to be filled  
32 require ~~such~~ that information for the well-  
33 being and safety of the individual; nor will  
34 this section prohibit any officially recog-  
35 nized agency from keeping necessary records  
36 in order to provide free services to indi-  
37 viduals requiring rehabilitation or employ-  
38 ment assistance;

39 (4) Print or publish or cause to be printed  
40 or published any notice or advertisement re-  
41 lating to employment or membership indicat-  
42 ing any preference, limitation, specifica-  
43 tion or discrimination based upon race or

1 color, sex, sexual orientation, physical or  
2 mental handicap, age, ancestry or national  
3 origin, except under physical or mental  
4 handicap when the text of ~~such~~ the printed  
5 or published material strictly adheres to  
6 this Act; or

7 (5) Establish, announce or follow a policy  
8 of denying or limiting, through a quota sys-  
9 tem or otherwise, employment or membership  
10 opportunities of any group because of the  
11 race or color, sex, sexual orientation,  
12 physical or mental handicap, religion, age,  
13 ancestry or national origin of ~~such~~ that  
14 group; or

15 E. For an employer or employment agency or labor  
16 organization to discriminate in any manner  
17 against any individual because they have opposed  
18 any practice which would be a violation of this  
19 Act, or because they have made a charge, testi-  
20 fied or assisted in any manner in any investiga-  
21 tion, proceeding or hearing under this Act.

22 **Sec. 8. 5 MRSA §4581**, as repealed and replaced  
23 by PL 1975, c. 770, §35, is amended to read:

24 §4581. Decent housing

25 The opportunity for an individual to secure de-  
26 cent housing in accordance with his ability to pay,  
27 and without discrimination because of race, color,  
28 sex, sexual orientation, physical or mental ~~handicap~~  
29 handicap, religion, ancestry or national origin is  
30 hereby recognized as and declared to be a civil  
31 right.

32 **Sec. 9. 5 MRSA §4582**, as amended by PL 1983, c.  
33 437, §§2 and 3, is further amended to read:

34 §4582. Unlawful housing discrimination

35 It shall be unlawful housing discrimination, in  
36 violation of this Act:

37 For any owner, lessee, sublessee, managing agent  
38 or other person having the right to sell, rent, lease

1 or manage a housing accommodation, or any agent of  
2 these to make or cause to be made any written or oral  
3 inquiry concerning the race or color, sex, sexual  
4 orientation, physical or mental handicap, religion,  
5 ancestry or national origin of any prospective pur-  
6 chaser, occupant or tenant of such housing accommo-  
7 dation; or to refuse to show or refuse to sell, rent,  
8 lease, let or otherwise deny to or withhold from any  
9 individual such housing accommodation because of the  
10 race or color, sex, sexual orientation, physical or  
11 mental handicap, religion, ancestry or national ori-  
12 gin of such individual; or to issue any advertisement  
13 relating to the sale, rental or lease of such housing  
14 accommodation which indicates any preference, limita-  
15 tion, specification or discrimination based upon race  
16 or color, sex, sexual orientation, physical or mental  
17 handicap, religion, ancestry or national origin; or  
18 to discriminate against any individual because of  
19 race or color, sex, sexual orientation, physical or  
20 mental handicap, religion, ancestry or national ori-  
21 gin in the price, terms, conditions or privileges of  
22 the sale, rental or lease of any such housing accom-  
23 modations or in the furnishing of facilities or ser-  
24 vices in connection therewith, or to evict or attempt  
25 to evict any tenant of any housing accommodation be-  
26 cause of the race or color, sex, sexual orientation,  
27 physical or mental handicap, religion, ancestry or  
28 national origin of such tenant;

29 For any real estate broker or real estate sales  
30 person, or agent of one of them, to fail or refuse to  
31 show any applicant for a housing accommodation any  
32 such accommodation listed for sale, lease or rental,  
33 because of the race or color, sex, sexual orienta-  
34 tion, physical or mental handicap, religion, ancestry  
35 or national origin of such applicant or of any in-  
36 tended occupant of such accommodation, or to misrep-  
37 resent, for the purpose of discriminating on account  
38 of the race or color, sex, sexual orientation, phys-  
39 ical or mental handicap, religion, ancestry or nation-  
40 al origin of such applicant or intended occupant, the  
41 availability or asking price of a housing accommo-  
42 dation listed for sale, lease or rental; or for such a  
43 reason to fail to communicate to the person having  
44 the right to sell or lease such housing accommodation  
45 any offer for the same made by any applicant thereof;  
46 or in any other manner to discriminate against any



1 applicant for housing because of race or color, sex,  
2 sexual orientation, physical or mental handicap, re-  
3 ligious, ancestry or national origin of such applicant  
4 or of any intended occupant of the housing accommoda-  
5 tion, or to make or cause to be made any written or  
6 oral inquiry or record concerning the race or color,  
7 sex, sexual orientation, physical or mental handicap,  
8 religion, ancestry or national origin of any such ap-  
9 plicant or intended occupant, or to accept for list-  
10 ing any housing accommodation when the person having  
11 the right to sell or lease the same has directly or  
12 indirectly indicated an intention of discriminating  
13 among prospective tenants or purchasers on the ground  
14 of their race or color, sex, sexual orientation,  
15 physical or mental handicap, religion, ancestry or  
16 national origin, or when he knows or has reason to  
17 know that the person having the right to sell or  
18 lease such housing accommodation has made a practice  
19 of such discrimination since July 1, 1972 that dis-  
20 crimination has been prohibited by law;

21 For any person to whom application is made for a  
22 loan or other form of financial assistance for the  
23 acquisition, construction, rehabilitation, repair or  
24 maintenance of any housing accommodation, whether se-  
25 cured or unsecured, or agent of such person, to make  
26 or cause to be made any oral or written inquiry con-  
27 cerning the race or color, sex, sexual orientation,  
28 physical or mental handicap, religion, ancestry or  
29 national origin of any individual seeking such finan-  
30 cial assistance, or of existing or prospective occu-  
31 pants or tenants of such housing accommodations; or  
32 to discriminate in the granting of such financial as-  
33 sistance, or in the terms, conditions or privileges  
34 relating to the obtaining or use of any such finan-  
35 cial assistance, against any applicant because of the  
36 race or color, sex, sexual orientation, physical or  
37 mental handicap, religion, ancestry or national ori-  
38 gin of such applicant or of the existing or prospec-  
39 tive occupants or tenants;

40 For any person furnishing rental premises to  
41 refuse to rent or impose different terms of tenancy  
42 to any individual who is a recipient of federal,  
43 state or local public assistance, including medical  
44 assistance and housing subsidies solely because of  
45 such individual's status as such recipient; or

1 For any form of public housing or any housing  
2 that is financed in whole or in part with public  
3 funds offering housing accommodations, containing 20  
4 or more units, constructed on or after January 1,  
5 1984, or begun to be remodeled or enlarged at an es-  
6 timated total cost of more than \$100,000 after Janu-  
7 ary 1, 1984, to not have at least one unit for each  
8 multiple of 20 of those units designed so as to be  
9 accessible to and useable by handicapped persons.  
10 Plans to reconstruct, remodel or enlarge an existing  
11 building when the estimated total cost exceeds  
12 \$100,000 shall be subject to this section, when the  
13 proposed reconstruction, remodeling or enlargement  
14 will substantially affect that portion of the build-  
15 ing normally accessible to the public. For purposes  
16 of this section, a newly constructed housing unit is  
17 deemed accessible to and useable by handicapped per-  
18 sons if it meets the requirements of the 1981 stan-  
19 dards of construction, Section 4.34, Dwelling Units,  
20 adopted pursuant to Title 25, chapter 331. A  
21 remodeled, renovated or enlarged housing unit is  
22 deemed accessible to and useable by handicapped per-  
23 sons if it meets the requirements of the following 4  
24 parts of the 1981 standards of construction adopted  
25 pursuant to Title 25, chapter 331:

- 26 1. Accessible route. 4.3 accessible route;  
27 2. Doors. 4.13 doors;  
28 3. Adaptable bathrooms. 4.34.5 adaptable bath-  
29 rooms; and  
30 4. Tactile warnings. 4.29.3 tactile warnings on  
31 doors to hazardous areas.

32 Sec. 10. 5 MRSA §4583, as repealed and replaced  
33 by PL 1975, c. 770, §37, is further amended to read:

34 §4583. Application

35 Nothing in this Act shall ~~may~~ be construed in any  
36 manner to prohibit or limit the exercise of the priv-  
37 ilege of every person and the agent of any person  
38 having the right to sell, rent, lease or manage a  
39 housing accommodation to set up and enforce specifi-  
40 cations in the selling, renting, leasing or letting

1 thereof or in the furnishings of facilities or ser-  
2 vices in connection therewith which are not based on  
3 the race, color, sex, sexual orientation, physical or  
4 mental handicap, religion or country of ancestral ori-  
5 gin, the receipt of public assistance payments of  
6 any prospective or actual purchaser, lessee, tenant  
7 or occupant thereof. Nothing in this Act contained  
8 ~~shall~~ may be construed in any manner to prohibit or  
9 limit the exercise of the privilege of every person  
10 and the agent of any person making loans for or of-  
11 fering financial assistance in the acquisition, con-  
12 struction, rehabilitation, repair or maintenance of  
13 housing accommodations, to set standards and prefer-  
14 ences, terms, conditions, limitations or specifica-  
15 tions for the granting of ~~such~~ those loans or finan-  
16 cial assistance which are not based on the race, col-  
17 or, sex, sexual orientation, physical or mental hand-  
18 icap, religion or country of ancestral origin, the  
19 receipt of public assistance payments of the appli-  
20 cant for ~~such~~ the loan or financial assistance or, of  
21 any existing or prospective owner, lessee, tenant or  
22 occupant of ~~such~~ the housing accommodation.

23 Sec. 11. 5 MRSA §4591, as repealed and replaced  
24 by PL 1975, c. 770, §38, is amended to read:

25 §4591. Equal access to public accommodations

26 The opportunity for every individual to have  
27 equal access to places of public accommodation with-  
28 out discrimination because of race, color, sex, sexu-  
29 al orientation, physical or mental handicap, reli-  
30 gion, ancestry or national origin is recognized as  
31 and declared to be a civil right.

32 Sec. 12. 5 MRSA §4592, as repealed and replaced  
33 by PL 1975, c. 770, §39, is amended to read:

34 §4592. Unlawful public accommodations

35 It shall be unlawful public accommodations dis-  
36 crimination, in violation of this Act:

37 For any person, being the owner, lessee, proprie-  
38 tor, manager, superintendent, agent or employee of  
39 any place of public accommodation, to directly or in-  
40 directly refuse, withhold from or deny to any person,

1 on account of race or color, sex, sexual orientation,  
2 physical or mental handicap, religion, ancestry or  
3 national origin, any of the accommodations, advan-  
4 tages, facilities or privileges of such that place of  
5 public accommodation, or for such that reason in any  
6 manner discriminate against any person in the price,  
7 terms or conditions upon which access to such that  
8 accommodation, advantages, facilities and privileges  
9 may depend; and

10 For any person to directly or indirectly publish,  
11 circulate, issue, display, post or mail any written,  
12 printed, painted or broadcast communication, notice  
13 or advertisement, to the effect that any of the ac-  
14 commodated, advantages, facilities and privileges  
15 of any place of public accommodation shall be re-  
16 fused, withheld from or denied to any person on ac-  
17 count of race or color, sex, sexual orientation,  
18 physical or mental handicap, religion, ancestry or  
19 national origin, or that the patronage or custom  
20 thereat of any person belonging to or purporting to  
21 be of any particular race or color, sex, sexual ori-  
22 entation, physical or mental handicap, religion, an-  
23 cestry or national origin is unwelcome, objectionable  
24 or not acceptable, desired or solicited, or that the  
25 clientele thereof is restricted to members of partic-  
26 ular races or colors, sexes, members having sexual  
27 orientation, physical or mental handicap, religions,  
28 ancestries or national origin. The production of any  
29 such written, printed, painted or broadcast communi-  
30 cation, notice or advertisement, purporting to relate  
31 to any such place, shall be presumptive evidence in  
32 any action that the same was authorized by its owner,  
33 manager or proprietor.

34 Sec. 13. 5 MRSA §4595, as repealed and replaced  
35 by PL 1975, c. 770, §40, is amended to read:

36 §4595. Right to freedom from discrimination solely  
37 on the basis of age, race, color, sex, sexual  
38 orientation, marital status, ancestry, reli-  
39 gion or national origin in any credit trans-  
40 action

41 The opportunity for every individual to be ex-  
42 tended credit without discrimination solely because  
43 of any one or more of the following factors: Age;

1 race; color; sex; sexual orientation; marital status;  
2 ancestry; religion or national origin is recognized  
3 as and declared to be a civil right.

4 Sec. 14. 5 MRSA §4596, as amended by PL 1975, c.  
5 770, §41, is further amended to read:

6 §4596. Unlawful credit extension discrimination

7 It shall be unlawful credit discrimination for  
8 any creditor to refuse the extension of credit to any  
9 person solely on the basis of any one or more of the  
10 following factors: Age; race; color; sex; sexual ori-  
11 entation; marital status; ancestry; religion or na-  
12 tional origin in any credit transaction. It shall  
13 not be unlawful credit discrimination to comply with  
14 the terms and conditions of any bona fide group cred-  
15 it life, accident and health insurance plan, for a  
16 financial institution extending credit to a married  
17 person to require both the husband and the wife to  
18 sign a note and a mortgage and to deny credit to per-  
19 sons under the age of 18 or to consider a person's  
20 age in determining the terms upon which credit will  
21 be extended.

22 STATEMENT OF FACT

23 The purpose of this bill is to extend to all cit-  
24 izens regardless of their sexual orientation the same  
25 protections now guaranteed to others on the basis of  
26 race, color, religion, sex, age, national origin,  
27 physical or mental handicap. Discrimination in the  
28 areas of employment, housing, public accommodations  
29 and credit are prohibited.

30 2075012685