

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

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Legislative Document

No. 191

S.P. 104

Received by the Secretary, January 25, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator McCORMICK of Kennebec.

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STATE OF MAINE

---

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

---

**An Act to Change the Term "Handicap" in the Maine Human Rights Act.**

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

2  
3 Sec. 1. 5 MRSA §4552, as amended by PL 1989, c. 245, §1, is  
4 further amended to read:

6 §4552. Policy

8 To protect the public health, safety and welfare, it is  
9 declared to be the policy of this State to keep continually in  
10 review all practices infringing on the basic human right to a  
11 life with dignity, and the causes of these practices, so that  
12 corrective measures may, where possible, be promptly recommended  
13 and implemented, and to prevent discrimination in employment,  
14 housing or access to public accommodations on account of race,  
15 color, sex, physical or mental handicap disability, religion,  
16 ancestry or national origin; and in employment, discrimination on  
17 account of age and in housing because of familial status; and to  
18 prevent discrimination in the extension of credit on account of  
19 age, race, color, sex, marital status, religion, ancestry or  
20 national origin; and to prevent discrimination in education on  
21 account of sex or physical or mental handicap disability.

22  
23 Sec. 2. 5 MRSA §4553, sub-§7-A, as enacted by PL 1975, c. 358,  
24 §2, is amended to read:

26 7-A. Physical or mental disability. "Physical or mental  
27 handicap disability" means any disability, infirmity,  
28 malformation, disfigurement, congenital defect or mental  
29 condition caused by bodily injury, accident, disease, birth  
30 defect, environmental conditions or illness, and also includes  
31 the physical or mental condition of a person which that  
32 constitutes a substantial handicap disability as determined by a  
33 physician or, in the case of mental handicap disability, by a  
34 psychiatrist or psychologist, as well as any other health or  
35 sensory impairment which that requires special education,  
36 vocational rehabilitation or related services.

38 Sec. 3. 5 MRSA §4566, sub-§6, as amended by PL 1975, c. 770,  
39 §29, is further amended to read:

40  
41 6. Advisory groups. To create such local or statewide  
42 advisory agencies and conciliation councils, ~~local or statewide,~~  
43 ~~as will~~ to aid in effectuating the purposes of this Act. The  
44 commission may ~~itself~~ study or ~~it~~ may empower these agencies and  
45 councils to study the problems of discrimination in all or  
46 specific fields of human relationships when based on race or  
47 color, sex, physical or mental handicap disability, religion,  
48 age, ancestry or national origin, and foster, ~~through community~~  
49 ~~effort or otherwise,~~ good will among the groups and elements of  
50 the population of the State. Such ~~agencies~~ Agencies and councils  
may make recommendations to the commission for the development of

2 policies and procedures in--general. Advisory agencies and  
3 conciliation councils created by the commission shall be composed  
4 of representative citizens serving without pay, but with  
5 reimbursement for actual and necessary traveling expenses;

6 **Sec. 4. 5 MRSA §4566, sub-§10**, as repealed and replaced by PL  
7 1975, c. 770, §30, is amended to read:

8  
9 **10. Publications.** To ~~issue--such--publication--and--such~~  
10 publish results of investigations and research ~~as--in--its--judgment~~  
11 ~~will--tend~~ to promote good will, and minimize or eliminate  
12 discrimination based on race or color, sex, physical or mental  
13 ~~handicap~~ disability, religion, age, ancestry or national origin;

14  
15 **Sec. 5. 5 MRSA §4566, sub-§11**, as repealed and replaced by PL  
16 1975, c. 770, §31, is amended to read:

17  
18 **11. Reports.** ~~From-time-to-time,--but-not-less-than-once-a~~  
19 ~~year,--to~~ To report to the Legislature and the Governor, at least  
20 once a year describing the investigations, proceedings and  
21 hearings the commission has conducted and ~~their~~ the outcome and  
22 ~~the~~ other work performed by ~~it~~ the commission, and to make  
23 recommendations for such further legislation or executive action  
24 concerning abuses and discrimination based on race or color, sex,  
25 physical or mental ~~handicap~~ disability, religion, age, ancestry  
26 or national origin, or other infringements on human rights or  
27 personal dignity, ~~as-may-be-desirable; and~~

28  
29 **Sec. 6. 5 MRSA §4571**, as repealed and replaced by PL 1975, c.  
30 770, §32, is amended to read:

31 **§4571. Right to freedom from discrimination in**  
32 **employment**

33  
34 The opportunity for an individual to secure  
35 employment without discrimination because of race,  
36 color, sex, physical or mental ~~handicap~~ disability,  
37 religion, age, ancestry or national origin is  
38 recognized as and declared to be a civil right.

39  
40 **Sec. 7. 5 MRSA §4572, sub-§1**, as amended by PL 1989, c. 251,  
41 §1, is further amended to read:

42  
43 **1. Unlawful employment.** It ~~shall-be~~ is unlawful employment  
44 discrimination, in violation of this Act, except where when based  
45 on a bona fide occupational qualification:

46  
47 A. For any employer to fail or refuse to hire or otherwise  
48 discriminate against any applicant for employment because of  
49 race or color, sex, physical or mental ~~handicap~~ disability,  
50 religion, age, ancestry or national origin ~~or--age,--or~~

2 because of the applicant's previous assertion of a claim or  
3 right under Title 39, or because of previous actions taken  
4 by the applicant which that are protected under Title 26,  
5 chapter 7, subchapter V-B; or, because of ~~any such reason~~  
6 those reasons, to discharge an employee or discriminate with  
7 respect to hire, tenure, promotion, transfer, compensation,  
8 terms, conditions or privileges of employment, or any other  
9 matter directly or indirectly related to employment; or, in  
10 recruiting of individuals for employment or in hiring them,  
11 to utilize any employment agency which ~~such that the~~  
12 employer knows, or has reasonable cause to know,  
13 discriminates against individuals because of their race or  
14 color, sex, physical or mental handicap disability,  
15 religion, age, ancestry or national origin, or because of  
16 their previous assertion of a claim or right under Title 39,  
17 or because of previous actions which that are protected  
18 under Title 26, chapter 7, subchapter V-B;

19 (1) This paragraph does not apply to discrimination  
20 governed by Title 39, section 111;

21 B. For any employment agency to fail or refuse to classify  
22 properly or refer for employment or otherwise discriminate  
23 against any individual because of race or color, sex,  
24 physical or mental handicap disability, religion, age,  
25 ancestry or national origin or because of the individual's  
26 previous assertion of a claim or right under Title 39, or  
27 because of previous actions taken by the individual which  
28 that are protected under Title 26, chapter 7, subchapter  
29 V-B; or to comply with an employer's request for the  
30 referral of job applicants, if such a request indicates  
31 either directly or indirectly that such the employer will  
32 not afford full and equal employment opportunities to  
33 individuals regardless of their race or color, sex, physical  
34 or mental handicap disability, religion, age, ancestry or  
35 national origin or because of previous assertion of a  
36 claim or right under Title 39, or because of previous  
37 actions which that are protected under Title 26, chapter 7,  
38 subchapter V-B;

39 C. For any labor organization to exclude from  
40 apprenticeship or membership, or to deny full and equal  
41 membership rights, to any applicant for membership, because  
42 of race or color, sex, physical or mental handicap  
43 disability, religion, age, ancestry or national origin, or  
44 because of the applicant's previous assertion of a claim or  
45 right under Title 39, or because of previous actions taken  
46 by the applicant which that are protected under Title 26,  
47 chapter 7, subchapter V-B; or, because of ~~any such reason~~  
48 those reasons, to deny a member full and equal membership  
49 rights, expel from membership, penalize or otherwise  
50

2 discriminate ~~in any manner~~ with respect to hire, tenure,  
4 promotion, transfer, compensation, terms, conditions or  
6 privileges of employment, representation, grievances or any  
8 other matter directly or indirectly related to membership or  
10 employment, whether or not authorized or required by the  
12 constitution or bylaws of such that labor organization or by  
14 a collective labor agreement or other contract, ~~or~~ to fail  
16 or refuse to classify properly or refer for employment, or  
18 otherwise ~~to~~ discriminate against any member because of race  
20 or color, sex, physical or mental handicap disability,  
22 religion, age, ancestry or national origin, ~~or~~ because of  
24 the member's previous assertion of a claim or right under  
26 Title 39, or because of previous actions taken by the member  
28 which that are protected under Title 26, chapter 7,  
30 subchapter V-B, ~~or~~ to cause or attempt to cause an employer  
32 to discriminate against an individual in violation of this  
34 section, except that it shall ~~be~~ is lawful for labor  
36 organizations and employers to adopt a maximum age  
38 limitation in apprenticeship programs, ~~provided that~~ if the  
40 employer or labor organization obtains prior approval from  
42 the Maine Human Rights Commission of any maximum age  
44 limitation employed in an apprenticeship program. The  
46 commission shall approve the age limitation if a reasonable  
48 relationship exists between the maximum age limitation  
50 employed and a legitimate expectation of the employer in  
receiving a reasonable return upon his the employer's  
investment in an apprenticeship program. The employer or  
labor organization bears the burden of demonstrating that  
such a relationship exists;

D. For any employer ~~or~~ employment agency or labor  
organization, prior to employment or admission to membership  
of any individual, to:

(1) Elicit or attempt to elicit any information  
directly or indirectly pertaining to race or color,  
sex, physical or mental handicap disability, religion,  
age, ancestry or national origin, ~~or~~ any previous  
assertion of a claim or right under Title 39, or any  
previous actions which that are protected under Title  
26, chapter 7, subchapter V-B, except where when a  
physical or mental handicap disability is determined by  
the employer, employment agency or labor organization  
to be job related; or where when some privileged  
information is necessary for an employment agency or  
labor organization to make a suitable job referral;

(2) Make or keep a record of race or color, sex,  
physical or mental handicap disability, religion, age,  
ancestry or national origin ~~or~~ any previous assertion  
of a claim or right under Title 39, or any previous

2 actions which that are protected under Title 26,  
chapter 7, subchapter V-B, except under physical or  
4 mental handicap disability, when an employer requires a  
physical or mental examination prior to employment, a  
6 privileged record of such--~~an~~ that examination is  
permissible;

8 (3) Use any form of application for employment, or  
personnel or membership blank containing questions or  
10 entries directly or indirectly pertaining to race or  
color, sex, physical or mental handicap disability,  
12 religion, age, ancestry or national origin ~~or~~, any  
previous assertion of a claim or right under Title 39,  
14 or any previous actions which that are protected under  
Title 26, chapter 7, subchapter V-B, except under  
16 physical or mental handicap disability,--~~where when~~ it  
can be determined by the employer that the job or jobs  
18 to be filled require such that information for the  
well-being and safety of the individual;--~~nor will this~~  
20 . This section does not prohibit any officially  
recognized agency from keeping necessary records in  
22 order to provide free services to individuals requiring  
rehabilitation or employment assistance;

24 (4) Print ~~or~~, publish or cause to be printed or  
26 published any notice or advertisement relating to  
employment or membership indicating any preference,  
28 limitation, specification or discrimination based upon  
race or color, sex, physical or mental handicap  
30 disability, religion, age, ancestry or national origin  
~~or~~, any previous assertion of a claim or right under  
32 Title 39, or any previous actions which that are  
protected under Title 26, chapter 7, subchapter V-B,  
34 except under physical or mental handicap disability  
when the text of such printed or published material  
36 strictly adheres to this Act; or

38 (5) Establish, announce or follow a policy of denying  
or limiting, through a quota system or otherwise,  
40 employment or membership opportunities of any group  
because of the race or color, sex, physical or mental  
42 handicap disability, religion, age, ancestry, or  
national origin ~~or~~, the previous assertion of a claim  
44 or right under Title 39, or because of previous actions  
which that are protected under Title 26, chapter 7,  
46 subchapter V-B, of such that group; or

48 E. For an employer ~~or~~, employment agency or labor  
organization to discriminate in any manner against any  
50 individual individuals because they have opposed any a  
practice which that would be a violation of this Act, or

2 because they have made a charge, testified or assisted in  
any-manner in any investigation, proceeding or hearing under  
4 this Act.

6 **Sec. 8. 5 MRSA §4573, sub-§1-A**, as enacted by PL 1979, c. 350,  
§3, is amended to read:

8 **1-A. Age.** To discriminate on account of age to:

10 A. Comply with the state or federal laws relating to the  
employment of minors;

12 B. Observe the terms of any bona fide employee benefit plan  
14 such as a retirement, pension or insurance plan which does  
not evade or circumvent the purposes of this chapter and  
16 which complies with the Federal Age Discrimination in  
Employment Act, 29 United States Code, ~~Title--29,~~ Section  
18 621, as amended, and federal administrative interpretations  
thereof, provided that:

20 (1) No such employee benefit plan shall--~~require~~  
22 requires or ~~permit~~ permits any employer to refuse or  
fail to hire an applicant for employment, including  
24 those exempted from the Age Discrimination in  
Employment Act, 29 United States Code, ~~Title--29,~~  
26 Section 621, as amended, because of the age of the  
individual; and

28 (2) No such employee benefit plan shall--~~require~~  
30 requires or ~~permit~~ permits the denial or termination of  
employment of any individual including those exempted  
32 from the Age Discrimination in Employment Act, 29  
United States Code, ~~Title--29,~~ Section 621, as amended,  
34 because of the age of the individual or after  
completion of a specified number of years of service.

36 **Sec. 9. 5 MRSA §4573, sub-§2**, as amended by PL 1973, c. 347,  
38 §7, is further amended to read:

40 **2. Records.** After employment or admission to membership, to  
make a record of such features of an individual as are needed in  
42 good faith for the purpose of identifying them, provided such the  
record is intended and used in good faith solely for such  
44 identification, and not for the purpose of discrimination in  
violation of this Act;

46 **Sec. 10. 5 MRSA §4573, sub-§3**, as enacted by PL 1971, c. 501,  
48 §1, is amended to read:

50 **3. Required records.** To record any data required by law, or  
by the rules and regulations of any state or federal agency,



2 provided such the records are kept in good faith for the purpose  
of complying with law, and are not used for the purpose of  
4 discrimination in violation of this Act; and

6 **Sec. 11. 5 MRSA §4573, sub-§4**, as amended by PL 1975, c. 770,  
§34, is further amended to read:

8 **4. Refuse to hire or discharge physically or mentally**  
9 **disabled.** Nothing in this Act shall--~~prohibit~~ prohibits an  
10 employer from refusing to hire or ~~discharging~~ discharge a  
11 physically or mentally handicapped disabled employee, or subject  
12 an employer to any legal liability resulting from the refusing to  
13 employ or the discharge of a physically or mentally handicapped  
14 disabled employee, where the employee, because of the physical or  
15 mental handicap disability, is unable to perform ~~his~~ the duties  
16 or perform those duties in a manner which would not endanger the  
17 health or safety of the employee or the health or safety of  
18 others or to be at, remain or go to or from the place where the  
duties of employment are to be performed.

20 **Sec. 12. 5 MRSA §4581, first ¶**, as amended by PL 1989, c. 245,  
22 §3, is further amended to read:

24 The opportunity for an individual to secure decent housing  
25 in accordance with the individual's ability to pay, and without  
26 discrimination because of race, color, sex, physical or mental  
27 handicap disability, religion, ancestry, national origin or  
28 familial status is hereby recognized as and declared to be a  
civil right.

30 **Sec. 13. 5 MRSA §4582, first ¶**, as repealed and replaced by PL  
32 1975, c. 770, §36, is amended to read:

34 It shall-be is unlawful housing discrimination, in violation  
of this Act:

36 **Sec. 14. 5 MRSA §4582, 2nd, 3rd and 4th ¶¶**, as amended by PL  
38 1989, c. 245, §4, are further amended to read:

40 For any owner, lessee, sublessee, managing agent or other  
41 person having the right to sell, rent, lease or manage a housing  
42 accommodation, or any agent of these to make or cause to be made  
43 any written or oral inquiry concerning the race or color, sex,  
44 physical or mental handicap disability, religion, ancestry,  
45 national origin or familial status of any prospective purchaser,  
46 occupant or tenant of the housing accommodation; or to refuse to  
47 show or refuse to sell, rent, lease, let or otherwise deny to or  
48 withhold from any individual housing accommodation because of the  
49 race or color, sex, physical or mental handicap disability,  
50 religion, ancestry, national origin or familial status of the  
individual; or to issue any advertisement relating to the sale,

2 rental or lease of the housing accommodation which indicates any  
3 preference, limitation, specification or discrimination based  
4 upon race or color, sex, physical or mental handicap disability,  
5 religion, ancestry, national origin or familial status; or to  
6 discriminate against any individual because of race or color,  
7 sex, physical or mental handicap disability, religion, ancestry,  
8 national origin or familial status in the price, terms,  
9 conditions or privileges of the sale, rental or lease of any  
10 housing accommodations or in the furnishing of facilities or  
11 services in connection therewith with any housing accommodations,  
12 or to evict or attempt to evict any tenant of any housing  
13 accommodation because of the race or color, sex, physical or  
14 mental handicap disability, religion, ancestry, national origin  
or familial status of the tenant;

16 For any real estate broker or real estate sales person, or  
17 agent of one of them, to fail or refuse to show any applicant for  
18 a housing accommodation any accommodation listed for sale, lease  
19 or rental, because of the race or color, sex, physical or mental  
20 handicap disability, religion, ancestry, national origin or  
21 familial status of the applicant or of any intended occupant of  
22 the accommodation, or to misrepresent, for the purpose of  
23 discriminating ~~on-account~~ because of the race or color, sex,  
24 physical or mental handicap disability, religion, ancestry,  
25 national origin or familial status of the applicant or intended  
26 occupant, the availability or asking price of a housing  
27 accommodation listed for sale, lease or rental; or for such a any  
28 reason to fail to communicate to the person having the right to  
29 sell or lease the housing accommodation any offer for the same  
30 made by any applicant thereof; or in any other manner to  
31 discriminate against any applicant for housing because of race or  
32 color, sex, physical or mental handicap disability, religion,  
33 ancestry, national origin or familial status of the applicant or  
34 of any intended occupant of the housing accommodation, or to make  
35 or cause to be made any written or oral inquiry or record  
36 concerning the race or color, sex, physical or mental handicap  
37 disability, religion, ancestry, national origin or familial  
38 status of any applicant or intended occupant, or to accept for  
39 listing any housing accommodation when the person having the  
40 right to sell or lease the same has directly or indirectly  
41 indicated an intention of discriminating among prospective  
42 tenants or purchasers on the ground of their race or color, sex,  
43 physical or mental handicap disability, religion, ancestry,  
44 national origin or familial status, or when the broker knows or  
45 has reason to know that the person having the right to sell or  
46 lease the housing accommodation has made a practice of  
47 discrimination since July 1, 1972;

48  
49 For any person to whom application is made for a loan or  
50 other form of financial assistance for the acquisition,  
construction, rehabilitation, repair or maintenance of any

2 housing accommodation, whether secured or unsecured, or agent of  
3 the person, to make or cause to be made any oral or written  
4 inquiry concerning the race or color, sex, physical or mental  
5 ~~handicap~~ disability, religion, ancestry, national origin or  
6 familial status of any individual seeking financial assistance,  
7 or of existing or prospective occupants or tenants of housing  
8 accommodations; or to discriminate in the granting of financial  
9 assistance, or in the terms, conditions or privileges relating to  
10 the obtaining or use of any financial assistance, against any  
11 applicant because of the race or color, sex, physical or mental  
12 ~~handicap~~ disability, religion, ancestry, national origin or  
13 familial status of the applicant or of the existing or  
14 prospective occupants or tenants;

15 **Sec. 16. 5 MRSA §4582, 6th ¶**, as enacted by PL 1983, c. 437,  
16 §3, is amended to read:

17 For any form of public housing or any housing that is  
18 financed in whole or in part with public funds offering housing  
19 accommodations, containing 20 or more units, constructed on or  
20 after January 1, 1984, or begun to be remodeled or enlarged at an  
21 estimated total cost of more than \$100,000 after January 1, 1984,  
22 to not have at least one unit for each multiple of 20 of those  
23 units designed so as to be accessible to and useable by  
24 ~~handicapped~~ disabled persons. Plans to reconstruct, remodel or  
25 enlarge an existing building when the estimated total cost  
26 exceeds \$100,000 shall ~~be~~ are subject to this section, when the  
27 proposed reconstruction, remodeling or enlargement will  
28 substantially ~~affect~~ affects that portion of the building  
29 normally accessible to the public. For purposes of this section,  
30 a newly constructed housing unit is deemed determined accessible  
31 to and useable by ~~handicapped~~ disabled persons if it meets the  
32 requirements of the 1981 standards of construction, Section 4.34,  
33 Dwelling Units, adopted pursuant to Title 25, chapter 331. A  
34 remodeled, renovated or enlarged housing unit is deemed  
35 determined accessible to and useable by ~~handicapped~~ disabled  
36 persons if it meets the requirements of the following 4 parts of  
37 the 1981 standards of construction adopted pursuant to Title 25,  
38 chapter 331:

39 **Sec. 17. 5 MRSA §4582, last ¶**, as amended by PL 1987, c. 730,  
40 §1, is further amended to read:

41 With respect to any form of public housing or any housing  
42 that is financed in whole or in part with public funds offering  
43 housing accommodations containing 20 or more units for which  
44 construction is begun after October 1, 1988, no less than 10% of  
45 the ground level units and a minimum of 10% of the upper story  
46 units connected by an elevator shall must be accessible to and  
47 useable by physically ~~handicapped~~ disabled persons. For purposes  
48 of this section, a newly constructed housing unit is deemed  
49  
50

2 determined accessible to and useable by handicapped disabled  
3 persons if it meets the requirements of the 1986 standards set  
4 forth by the American National Standards Institute in the  
5 publication, "Specifications for Making Buildings Accessible to  
6 and Useable by Physically Handicapped People," ANSI A  
7 117.1-1986. A remodeled, renovated or enlarged housing unit  
8 where the remodeling, renovating or enlarging is begun after  
9 October 1, 1988, is deemed determined accessible to and useable  
10 by handicapped disabled persons if it meets the requirements of  
11 the following 4 parts of the 1986 American National Standards  
12 Institute standards: 4.3 accessible routes; 4.23 doors; 4.34.5  
13 adaptable bathrooms; and 4.29.3 tactile warnings on doors to  
14 hazardous areas.

15 **Sec. 18. 5 MRSA §4582-A**, as enacted by PL 1989, c. 779, is  
16 amended to read:

17 **§4582 A. Unlawful housing discrimination on the basis**  
18 **of disability**

19 It is unlawful housing discrimination, in violation of this  
20 Act:

21 **1. Modifications.** For any owner, lessee, sublessee,  
22 managing agent or other person having the right to sell, rent,  
23 lease or manage a housing accommodation, or any of their agents  
24 to refuse to permit, at the expense of the handicapped disabled  
25 person, reasonable modifications of existing premises occupied or  
26 to be occupied by that person if the modifications may be  
27 necessary to give that person full enjoyment of the premises,  
28 except that, with a rental, the landlord, when it is reasonable  
29 to do so, may condition permission for a modification on the  
30 renter's agreeing to restore the interior of the premises to the  
31 condition that existed before the modification, reasonable wear  
32 and tear excepted; or

33 **2. Accommodations.** For any owner, lessee, sublessee,  
34 managing agent or other person having the right to sell, rent,  
35 lease or manage a housing accommodation, or any of their agents  
36 to refuse to make reasonable accommodations in rules, policies,  
37 practices or services when those accommodations are necessary to  
38 give that person equal opportunity to use and enjoy the housing.

39 **Sec. 19. 5 MRSA §4583**, as amended by PL 1989, c. 245, §5, is  
40 further amended to read:

41 **§4583. Application**

42 Nothing in this Act shall may be construed ~~in any manner~~ to  
43 prohibit or limit the exercise of the privilege of every person  
44 and the agent of any person having the right to sell, rent, lease

2 or manage a housing accommodation to set up and enforce  
3 specifications in the selling, renting, leasing or letting or in  
4 the furnishings of facilities or services in connection ~~therewith~~  
5 with the facilities which are not based on the race, color, sex,  
6 physical or mental handicap disability, religion, country of  
7 ancestral origin, familial status or the receipt of public  
8 assistance payments of any prospective or actual purchaser,  
9 lessee, tenant or occupant. Nothing in this Act shall may be  
10 construed ~~in-any-manner~~ to prohibit or limit the exercise of the  
11 privilege of every person and the agent of any person making  
12 loans for or offering financial assistance in the acquisition,  
13 construction, rehabilitation, repair or maintenance of housing  
14 accommodations, to set standards and preferences, terms,  
15 conditions, limitations or specifications for the granting of  
16 loans or financial assistance which are not based on the race,  
17 color, sex, physical or mental handicap disability, religion,  
18 country of ancestral origin, familial status or the receipt of  
19 public assistance payments of the applicant for a loan or  
20 financial assistance or, of any existing or prospective owner,  
lessee, tenant or occupant of housing accommodation.

22 **Sec. 20. 5 MRSA §4591**, as repealed and replaced by PL 1975,  
23 c. 770, §38, is amended to read:

24 **§4591. Equal access to public accommodations**

25 The opportunity for every individual to have equal access to  
26 places of public accommodation without discrimination because of  
27 race, color, sex, physical or mental handicap disability,  
28 religion, ancestry or national origin is recognized as and  
29 declared to be a civil right.

30 **Sec. 21. 5 MRSA §4592, first ¶**, as repealed and replaced by PL  
31 1989, c. 301, is amended to read:

32 It ~~shall---be~~ is unlawful public accommodations  
33 discrimination, in violation of this Act:

34 **Sec. 22. 5 MRSA §4592, sub-§§1 and 2**, as enacted by PL 1989, c.  
35 301, are amended to read:

36 **1. Denial of public accommodations.** For any person who is  
37 the owner, lessee, proprietor, manager, superintendent, agent or  
38 employee of any place of public accommodation to directly or  
39 indirectly refuse, withhold from or deny to any person, on  
40 account of race or color, sex, physical or mental handicap  
41 disability, religion, ancestry or national origin, any of the  
42 accommodations, advantages, facilities or privileges of public  
43 accommodation, or in any manner discriminate against any person  
44 in the price, terms or conditions upon which access to  
45 accommodation, advantages, facilities and privileges may depend;

2           **2. Communication, notice or advertisement.** For any person  
to directly or indirectly publish, display or communicate any  
4 notice or advertisement to the effect that any of the  
accommodations, advantages, facilities and privileges of any  
6 place of public accommodation shall-be are refused, withheld from  
or denied to any person on account of race or color, sex,  
8 physical or mental handicap disability, religion, ancestry or  
national origin, or that the patronage or custom of any person  
10 belonging to or purporting to be of any particular race or color,  
sex, physical or mental handicap disability, religion, ancestry  
12 or national origin is unwelcome, objectionable or not acceptable,  
desired or solicited, or that the clientele is restricted to any  
14 particular race or color, physical or mental handicap disability,  
religion, ancestry or national origin. The production of any  
16 communication, notice or advertisement purporting to relate to  
any place of accommodation shall-be is presumptive evidence in  
18 any action that the action was authorized by its owner, manager  
or proprietor; and

20  
22           **Sec. 23. 5 MRSA §4593**, as amended by PL 1987, c. 390, §1, is  
further amended to read:

24           **§4593. Existing facilities**

26           **1. Public accommodations.** Nothing in section 4591 or 4592  
related to equal access to public accommodations or indirectly  
28 denying access to the physically handicapped-shall-apply disabled  
applies to existing structures, structures under construction or  
30 proposed construction submitted for bid before September 1, 1974.  
For any building or facility constructed specifically as a place  
32 of public accommodation on or after September 1, 1974, but before  
January 1, 1982, or when the estimated total costs for remodeling  
34 or enlarging an existing building exceeds \$250,000 and the  
remodeling or enlarging is begun before January 1, 1982, the  
36 following standards of construction shall must be met.

38           A. There shall must be at least one public walk not less  
than 40 inches wide with a slope not greater than one foot  
40 rise in 12 feet leading directly to a primary entrance.  
However, after April 1, 1977, the public walk shall must be  
42 not less than 48 inches wide.

44           B. There shall must be a door at such the primary entrance  
with a clear opening of no not less than 32 inches and  
46 operable by a single effort. If doors at a primary entrance  
are in a series, they shall must have a space between them  
48 of not less than 84 inches measured from their closed  
positions; and each shall must open in the same direction so  
50 that swings do not conflict.

2 C. Rest room facilities ~~should~~ must have at least one stall  
4 that is not less than 4 feet wide, 5 feet in depth, a  
6 32-inch wide door that swings out or slides, handrails on  
each side mounted 33 inches from the floor, and a water  
closet with a seat 20 inches high.

8 D. Doors that are not intended for normal use, and that are  
dangerous if a blind person were to enter or exit by them,  
10 ~~shall~~ must be made identifiable to touch by knurling the  
handle or knob.

12 E. There ~~shall~~ must be parking spaces designated for  
14 ~~handicapped~~ disabled persons set aside in adequate number  
and clearly marked for use only by the ~~handicapped~~  
16 disabled. Set aside in adequate number means that, for  
every 25 parking spaces made available to the public on a  
18 public or private parking lot, at least one of those spaces  
~~shall~~ must be made available in an appropriate location for  
20 ~~handicapped~~ parking exclusively used by disabled persons.

22 In any building designed and constructed specifically for public  
accommodations, the bathroom facilities and all accompanying  
24 fixtures ~~shall~~ must be arranged to permit access and use by a  
person in a wheelchair in at least 1% of the living units. ~~Such~~  
26 The units ~~shall~~ must be constructed on ground level and ~~shall~~  
must comply with paragraph C.

28 **2. Places of employment.** Existing places of employment or  
30 structures to be used for this purpose currently under  
construction or where proposed construction has been submitted  
32 for bid before September 1, 1974, are exempt from the  
requirements of this chapter as they relate to accessibility for  
34 the physically ~~handicapped~~ disabled. For any building or  
facility constructed specifically as a place of employment on or  
36 after September 1, 1974, but before January 1, 1982, or when the  
estimated total costs for remodeling or enlarging an existing  
38 building exceeds \$100,000, and the remodeling or enlarging is  
begun before January 1, 1982, the public accommodation provisions  
40 relating to walks, entries, restroom facilities and doors ~~shall~~  
apply.

42 **Sec. 24. 5 MRSA §4594, sub-§2,** as amended by PL 1987, c. 390,  
44 §§2 and 3, is further amended to read:

46 **2. Application.** Facilities subject to this section ~~shall~~  
must meet the requirements of the 1981 standards of construction  
48 adopted pursuant to Title 25, chapter 331, to implement the  
following 4 parts of the American National Standards Institute's  
50 "Specification for Making Buildings and Facilities Accessible to  
and Usable by Physically Handicapped People," (ANSI A 117.1-1980):

- 2 A. 4.3 Accessible Route;
- 4 B. 4.13 Doors;
- 6 C. 4.17 Toilet Stalls;
- 8 D. 4.29.3 Tactile Warnings on doors to Hazardous Areas; and
- 10 E. ~~Handicapped-parking~~ Parking spaces for use by disabled  
12 persons in adequate number, pursuant to section 4593,  
subsection 1, paragraph E.

14 **Sec. 25. 5 MRSA §4594-A, sub-§2**, as amended by PL 1987, c.  
16 390, §4, is further amended to read:

18 **2. Application.** Facilities subject to this section shall  
must meet the following standards.

20 A. Facilities subject to this section constructed on or  
22 after January 1, 1984, shall must meet the requirements of  
the 1981 standards of construction adopted pursuant to Title  
24 25, chapter 331.

26 B. Plans to reconstruct, remodel or enlarge an existing  
place of public accommodation, when the estimated total cost  
28 exceeds \$150,000, shall-be are subject to this section when  
the proposed reconstruction, remodeling or enlargement will  
30 substantially affect that portion of the building normally  
accessible to the public.

32 Facilities subject to this section which are remodeled,  
enlarged or renovated on or after January 1, 1984, shall  
34 must meet the requirements of the following 4 parts of the  
1981 standards of construction adopted pursuant to Title 25,  
36 chapter 331:

- 38 (1) 4.3 accessible route;
- 40 (2) 4.13 doors;
- 42 (3) 4.17 toilet stalls;
- 44 (4) 4.29.3 tactile warnings on doors to hazardous  
46 areas; and
- 48 (5) ~~Handicapped--parking~~ Parking spaces for use by  
disabled persons in adequate number, pursuant to  
50 section 4593, subsection 1, paragraph E.

52 **Sec. 26. 5 MRSA §4594-D, sub-§§3, 4, 7 and 9**, as enacted by PL  
1989, c. 795, are amended to read:



2           **3. Application.** Facilities subject to this section must  
4 meet the following standards.

6           A. Places of employment or public accommodation and  
8 additions to these places constructed on or after January 1,  
10 1991, must meet the standards of construction.

12           B. Except for repairs undertaken in accordance with the  
14 rules adopted pursuant to subsection 4, when the proposed  
16 remodeling or renovation substantially affects that portion  
18 of the building normally accessible to the public, places of  
20 employment or public accommodation remodeled or renovated on  
22 or after January 1, 1991, must meet the following 5 parts of  
24 the standards of construction:

16                   (1) 4.3 accessible routes;

18                   (2) 4.13 doors;

20                   (3) 4.29.3 tactile warnings on doors to hazardous  
22 areas;

24                   (4) Handicapped--parking Parking spaces for use by  
26 disabled persons in adequate number, pursuant to  
section 4593, subsection 1, paragraph E; and

28                   (5) 4.17 toilet stalls, at least one of which must be  
30 a standard toilet stall configuration pursuant to ANSI  
32 Figure 30(a). Any additional toilet stalls within the  
34 same toilet room may be either standard stall  
configuration, ANSI Figure 30(a), or alternate stall  
configuration, ANSI Figure 30(b).

36           **4. Rules.** The commission may adopt, alter, amend and  
38 repeal rules designed to make buildings under this section  
40 accessible to, functional for and safe for use by physically  
handicapped disabled persons in accordance with subsection 3, and  
may adopt, alter, amend and repeal rules designed otherwise to  
enforce this section.

42           **7. Mandatory plan review; certification; inspection.**  
44 Builders of the following newly constructed facilities must  
46 submit plans to the Office of the State Fire Marshal, which shall  
48 serve as the contractor for the commission for these purposes, to  
50 assure that the plans meet the standards of construction required  
by subsection 3:

50           A. Restaurants;

B. Motels, hotels and inns;

2 C. State, municipal and county buildings; and

4 D. Schools, elementary and secondary.

6 Fees for reviews shall-be are established by the Office of the  
State Fire Marshal.

8  
10 No building permit may be issued by the municipal authority  
12 having jurisdiction to issue these permits unless the Office of  
14 the State Fire Marshal approves the plans and certifies that the  
16 facility covered by the mandatory plan review meets the standards  
of construction required by this section; if, however, no  
18 decision is rendered within 2 weeks of submission to the Office  
of the State Fire Marshal, the builder may submit the building  
permit request directly to the municipality with an attestation  
that the plans meet the standards of construction.

20 If officials of the municipality in which the facility is  
22 constructed, renovated, remodeled or enlarged inspect buildings  
for compliance with construction standards, that inspection must  
include an inspection for compliance with the certified plans.  
The municipal officials shall require that the facility be  
24 inspected for compliance with construction standards before the  
municipal officials permit the facility to be occupied.

26  
28 **9. Waivers; variance.** If the commission determines in  
cases covered by mandatory plan review that compliance with this  
section and its rules is not technologically feasible or would  
30 result in excessive and unreasonable costs without any  
substantial benefit to physically handicapped disabled persons,  
32 it may provide for modification of, or substitution for, these  
standards. In all petitions for variance or waiver, the burden  
34 of proof is on the party requesting a variance or waiver to  
justify its allowance.

36  
38 Requests for waivers or variances for buildings covered by  
mandatory plan review are heard by a representative of the  
commission and a designee of the Office of the State Fire  
40 Marshal. A decision must be provided in writing to the party  
requesting the waiver or variance.

42  
44 **Sec. 27. 5 MRSA §4601**, as amended by PL 1989, c. 725, §1, is  
further amended to read:

46 **§4601. Right to freedom from discrimination in**  
48 **education**

50 The opportunity for an individual at an educational  
institution to participate in all educational, counseling,

2 vocational guidance programs and all apprenticeship and  
3 on-the-job training programs without discrimination because of  
4 sex, a physical or mental handicap disability, or national  
5 origin, is recognized and declared to be a civil right.

6 **Sec. 28. 5 MRSA §4602, sub-§2**, as enacted by PL 1987, c. 478,  
7 §4, is amended to read:

8  
9 **2. Unlawful educational discrimination on the basis of**  
10 **physical or mental disability.** It is unlawful educational  
11 discrimination in violation of this Act solely on the basis of  
12 physical or mental handicap disability to:

13  
14 A. Exclude from participation in, deny the benefits of or  
15 subject to discrimination under any educational program or  
16 activity any otherwise qualified handicapped disabled  
17 individual;

18  
19 B. Deny any person equal opportunity in athletic programs,  
20 provided that no educational institution may be required  
21 under this subsection to provide separate athletic programs  
22 to serve the handicapped disabled;

23  
24 C. Deny admission to any institution or program or fail to  
25 provide equal access to and information about an institution  
26 or program through recruitment; or

27  
28 D. Deny financial assistance availability and opportunity.

29  
30 Nothing in this subsection may be construed to cover the rights  
31 of exceptional students to special education programs under state  
32 or federal law.

33  
34 **Sec. 29. 5 MRSA §4612, sub-§4, ¶A**, as amended by PL 1975, c.  
35 358, §15, is further amended to read:

36  
37 A. If the commission finds reasonable grounds to believe  
38 that unlawful discrimination has occurred, and further  
39 believes that irreparable injury or great inconvenience will  
40 be caused the victim of such discrimination or to members of  
41 a racial, color, sex, physical or mental handicap  
42 disability, religious, nationality group or age group if  
43 relief is not immediately granted, or if conciliation  
44 efforts under subsection 3 have not succeeded, the  
45 commission shall file in the Superior Court a civil action  
46 seeking such relief as is appropriate, including temporary  
47 restraining orders.

48  
49 **Sec. 30. 5 MRSA §4612, sub-§4, ¶B**, as amended by PL 1973, c.  
50 347, §13, is further amended to read:

2 B. Grounds for the filing of such an action before  
attempting conciliation include, but are not limited to:

4 (1) In unlawful housing discrimination, that the  
6 housing accommodation sought is likely to be sold or  
rented to another during the pendency of proceedings,  
8 or that an unlawful eviction is about to occur;

10 (2) In unlawful employment discrimination, that the  
victim of the discrimination has lost or is threatened  
12 with the loss of job and income as a result of such  
discrimination;

14 (3) In unlawful public accommodations discrimination,  
16 that such discrimination is causing inconvenience to  
many persons;

18 (4) In any unlawful discrimination, that the victim of  
20 the discrimination is suffering or is in danger of  
suffering severe financial loss in relation to his  
22 circumstances, severe hardship or personal danger as a  
result of such discrimination.  
24

26 **STATEMENT OF FACT**

28 This bill does not change the substance of the Maine Human  
Rights Act, but changes the terminology from handicap to  
30 disability.