

MAINE STATE LEGISLATURE

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L.D. 2239

DATE: 4-4-00

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to S.P. 840, L.D. 2239, Bill, "An Act to Ensure Civil Rights and Prevent Discrimination"

Amend the amendment by inserting after the title the following:

'Amend the bill by striking out all of section 1 and inserting in its place the following:

'Sec. 1. 5 MRSA §4552, as amended by PL 1993, c. 327, §1, is further amended to read:

§4552. Policy

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of these practices, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing or access to public accommodations on account of race, color, sex, sexual orientation, political affiliation, physical or mental disability, religion, ancestry or national origin; and in employment, discrimination on account of age or because of the previous assertion of a claim or right under former Title 39 or Title 39-A and in housing because of familial status; and to prevent discrimination in the extension of credit on account of age, race, color, sex, sexual orientation, political affiliation, marital status, religion, ancestry or national origin; and to prevent discrimination in education on account of sex or physical or mental disability.

HOUSE AMENDMENT

2 Nothing in this chapter confers legislative approval of, or
special rights to, any person or group of persons.'

4 Further amend the amendment in the first indented paragraph
6 after the title in the first line (page 1, line 22 in amendment)
8 by striking out the following: "Amend" and inserting in its
place the following: 'Further amend'

10 Further amend the amendment on page 2 in paragraph G in the
12 3rd line (page 2, line 11 in amendment) by inserting after the
following: "orientation" the following: 'or political
affiliation'

14 Further amend the amendment on page 2 by inserting after
16 section 6 the following:

18 'Further amend the bill by striking out all of sections 6 to
8 and inserting in their place the following:

20 'Sec. 6. 5 MRSA §4571, as amended by PL 1991, c. 99, §6, is
22 further amended to read:

24 **§4571. Right to freedom from discrimination in employment**

26 The opportunity for an individual to secure employment
28 without discrimination because of race, color, sex, sexual
orientation, political affiliation, physical or mental
30 disability, religion, age, ancestry or national origin is
recognized as and declared to be a civil right.

32 **Sec. 7. 5 MRSA §4572, sub-§1, ¶¶A, B and C,** as amended by PL
34 1991, c. 885, Pt. E, §7 and affected by §47, are further amended
to read:

36 A. For any employer to fail or refuse to hire or otherwise
38 discriminate against any applicant for employment because of
40 race or color, sex, sexual orientation, political
affiliation, physical or mental disability, religion, age,
42 ancestry or national origin, because of the applicant's
44 previous assertion of a claim or right under former Title 39
46 or Title 39-A or because of previous actions taken by the
applicant that are protected under Title 26, chapter 7,
48 subchapter V-B; or, because of those reasons, to discharge
an employee or discriminate with respect to hire, tenure,
50 promotion, transfer, compensation, terms, conditions or
privileges of employment or any other matter directly or
indirectly related to employment; or, in recruiting of
individuals for employment or in hiring them, to utilize any
employment agency that the employer knows or has reasonable
cause to know discriminates against individuals because of
their race or color, sex, sexual orientation, political

2 affiliation, physical or mental disability, religion, age,
4 ancestry or national origin, because of their previous
6 assertion of a claim or right under former Title 39 or Title
8 39-A or because of previous actions that are protected under
10 Title 26, chapter 7, subchapter V-B;

(1) This paragraph does not apply to discrimination
governed by Title 39-A, section 353;

10 B. For any employment agency to fail or refuse to classify
12 properly, refer for employment or otherwise discriminate
14 against any individual because of race or color, sex, sexual
16 orientation, political affiliation, physical or mental
18 disability, religion, age, ancestry or national origin,
20 because of the individual's previous assertion of a claim or
22 right under former Title 39 or Title 39-A or because of
24 previous actions taken by the individual that are protected
26 under Title 26, chapter 7, subchapter V-B; or to comply with
28 an employer's request for the referral of job applicants if
30 a request indicates either directly or indirectly that the
32 employer will not afford full and equal employment
34 opportunities to individuals regardless of their race or
36 color, sex, sexual orientation, political affiliation,
38 physical or mental disability, religion, age, ancestry or
40 national origin, because of previous assertion of a claim or
42 right under former Title 39 or Title 39-A or because of
44 previous actions that are protected under Title 26, chapter
46 7, subchapter V-B;

30 C. For any labor organization to exclude from
32 apprenticeship or membership or to deny full and equal
34 membership rights to any applicant for membership because of
36 race or color, sex, sexual orientation, political
38 affiliation, physical or mental disability, religion, age,
40 ancestry or national origin, because of the applicant's
42 previous assertion of a claim or right under former Title 39
44 or Title 39-A or because of previous actions taken by the
46 applicant that are protected under Title 26, chapter 7,
48 subchapter V-B; or, because of those reasons, to deny a
50 member full and equal membership rights, expel from
membership, penalize or otherwise discriminate with respect
to hire, tenure, promotion, transfer, compensation, terms,
conditions or privileges of employment, representation,
grievances or any other matter directly or indirectly
related to membership or employment, whether or not
authorized or required by the constitution or bylaws of that
labor organization or by a collective labor agreement or
other contract; to fail or refuse to classify properly or
refer for employment or otherwise discriminate against any
member because of race or color, sex, sexual orientation,

2 political affiliation, physical or mental disability,
religion, age, ancestry or national origin, because of the
4 member's previous assertion of a claim or right under former
Title 39 or Title 39-A or because of previous actions taken
6 by the member that are protected under Title 26, chapter 7,
subchapter V-B; or to cause or attempt to cause an employer
8 to discriminate against an individual in violation of this
section, except that it is lawful for labor organizations
10 and employers to adopt a maximum age limitation in
apprenticeship programs, if the employer or labor
12 organization obtains prior approval from the Maine Human
Rights Commission of any maximum age limitation employed in
14 an apprenticeship program. The commission shall approve the
age limitation if a reasonable relationship exists between
16 the maximum age limitation employed and a legitimate
expectation of the employer in receiving a reasonable return
18 upon the employer's investment in an apprenticeship
program. The employer or labor organization bears the
burden of demonstrating that such a relationship exists;

20 **Sec. 8. 5 MRSA §4572, sub-§1, ¶D**, as amended by PL 1995, c.
22 393, §12, is further amended to read:

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

28 (1) Elicit or attempt to elicit information directly
or indirectly pertaining to race or color, sex, sexual
30 orientation, political affiliation, physical or mental
disability, religion, age, ancestry or national origin,
32 any previous assertion of a claim or right under former
Title 39 or Title 39-A or any previous actions that are
34 protected under Title 26, chapter 7, subchapter V-B;

36 (2) Make or keep a record of race or color, sex,
sexual orientation, political affiliation, physical or
38 mental disability, religion, age, ancestry or national
origin, any previous assertion of a claim or right
40 under former Title 39 or Title 39-A or any previous
actions that are protected under Title 26, chapter 7,
42 subchapter V-B, except under physical or mental
disability when an employer requires a physical or
44 mental examination prior to employment, a privileged
record of that examination is permissible if made and
46 kept in compliance with this Act;

48 (3) Use any form of application for employment, or
personnel or membership blank containing questions or
50 entries directly or indirectly pertaining to race or

2 color, sex, sexual orientation, political affiliation,
3 physical or mental disability, religion, age, ancestry
4 or national origin, any previous assertion of a claim
5 or right under former Title 39 or Title 39-A or any
6 previous actions that are protected under Title 26,
7 chapter 7, subchapter V-B. This section does not
8 prohibit any officially recognized government agency
9 from keeping records permitted to be kept under this
10 Act in order to provide free services to individuals
11 requesting rehabilitation or employment assistance;

12 (4) Print, publish or cause to be printed or published
13 any notice or advertisement relating to employment or
14 membership indicating any preference, limitation,
15 specification or discrimination based upon race or
16 color, sex, sexual orientation, political affiliation,
17 physical or mental disability, religion, age, ancestry
18 or national origin, any previous assertion of a claim
19 or right under former Title 39 or Title 39-A or any
20 previous actions that are protected under Title 26,
21 chapter 7, subchapter V-B; or

22 (5) Establish, announce or follow a policy of denying
23 or limiting, through a quota system or otherwise,
24 employment or membership opportunities of any group
25 because of the race or color, sex, sexual orientation,
26 political affiliation, physical or mental disability,
27 religion, age, ancestry or national origin, the
28 previous assertion of a claim or right under former
29 Title 39 or Title 39-A or because of previous actions
30 that are protected under Title 26, chapter 7,
31 subchapter V-B, of that group; or' '

34 Further amend the amendment on page 3 by inserting after the
35 3rd indented paragraph the following:

36 'Further amend the bill by striking out all of sections 10
37 to 17 and inserting in their place the following:

38 '**Sec. 10. 5 MRSA §4581, first ¶,** as amended by PL 1991, c. 99,
39 §12, is further amended to read:

40 The opportunity for an individual to secure decent housing
41 in accordance with the individual's ability to pay, and without
42 discrimination because of race, color, sex, sexual orientation,
43 political affiliation, physical or mental disability, religion,
44 ancestry, national origin or familial status is hereby recognized
45 as and declared to be a civil right.
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2 **Sec. 11. 5 MRSA §4582, 2nd, 3rd and 4th ¶¶**, as amended by PL
1991, c. 99, §14, are further amended to read:

4 For any owner, lessee, sublessee, managing agent or other
6 person having the right to sell, rent, lease or manage a housing
7 accommodation, or any agent of these to make or cause to be made
8 any written or oral inquiry concerning the race or color, sex,
9 sexual orientation, political affiliation, physical or mental
10 disability, religion, ancestry, national origin or familial
11 status of any prospective purchaser, occupant or tenant of the
12 housing accommodation; or to refuse to show or refuse to sell,
13 rent, lease, let or otherwise deny to or withhold from any
14 individual housing accommodation because of the race or color,
15 sex, sexual orientation, political affiliation, physical or
16 mental disability, religion, ancestry, national origin or
17 familial status of the individual; or to issue any advertisement
18 relating to the sale, rental or lease of the housing
19 accommodation which that indicates any preference, limitation,
20 specification or discrimination based upon race or color, sex,
21 sexual orientation, political affiliation, physical or mental
22 disability, religion, ancestry, national origin or familial
23 status; or to discriminate against any individual because of race
24 or color, sex, sexual orientation, political affiliation,
25 physical or mental disability, religion, ancestry, national
26 origin or familial status in the price, terms, conditions or
27 privileges of the sale, rental or lease of any housing
28 accommodations or in the furnishing of facilities or services in
29 connection with any housing accommodations; or to evict or
30 attempt to evict any tenant of any housing accommodation because
31 of the race or color, sex, sexual orientation, political
32 affiliation, physical or mental disability, religion, ancestry,
33 national origin or familial status of the tenant;

34 For any real estate broker or real estate sales person, or
35 agent of one of them, to fail or refuse to show any applicant for
36 a housing accommodation any accommodation listed for sale, lease
37 or rental, because of the race or color, sex, sexual orientation,
38 political affiliation, physical or mental disability, religion,
39 ancestry, national origin or familial status of the applicant or
40 of any intended occupant of the accommodation, or to
41 misrepresent, for the purpose of discriminating because of the
42 race or color, sex, sexual orientation, political affiliation,
43 physical or mental disability, religion, ancestry, national
44 origin or familial status of the applicant or intended occupant,
45 the availability or asking price of a housing accommodation
46 listed for sale, lease or rental; or for any reason to fail to
47 communicate to the person having the right to sell or lease the
48 housing accommodation any offer for the same made by any
49 applicant; or in any other manner to discriminate against any
50 applicant for housing because of race or color, sex, sexual

2 orientation, political affiliation, physical or mental
3 disability, religion, ancestry, national origin or familial
4 status of the applicant or of any intended occupant of the
5 housing accommodation, or to make or cause to be made any written
6 or oral inquiry or record concerning the race or color, sex,
7 sexual orientation, political affiliation, physical or mental
8 disability, religion, ancestry, national origin or familial
9 status of any applicant or intended occupant, or to accept for
10 listing any housing accommodation when the person having the
11 right to sell or lease the same has directly or indirectly
12 indicated an intention of discriminating among prospective
13 tenants or purchasers on the ground of their race or color, sex,
14 sexual orientation, political affiliation, physical or mental
15 disability, religion, ancestry, national origin or familial
16 status, or when the broker knows or has reason to know that the
17 person having the right to sell or lease the housing
18 accommodation has made a practice of discrimination since July 1,
19 1972;

20 For any person to whom application is made for a loan or
21 other form of financial assistance for the acquisition,
22 construction, rehabilitation, repair or maintenance of any
23 housing accommodation, whether secured or unsecured, or agent of
24 the person, to make or cause to be made any oral or written
25 inquiry concerning the race or color, sex, sexual orientation,
26 political affiliation, physical or mental disability, religion,
27 ancestry, national origin or familial status of any individual
28 seeking financial assistance, or of existing or prospective
29 occupants or tenants of housing accommodations; or to
30 discriminate in the granting of financial assistance, or in the
31 terms, conditions or privileges relating to the obtaining or use
32 of any financial assistance, against any applicant because of the
33 race or color, sex, sexual orientation, political affiliation,
34 physical or mental disability, religion, ancestry, national
35 origin or familial status of the applicant or of the existing or
36 prospective occupants or tenants;

37 **Sec. 12. 5 MRSA §4583**, as amended by PL 1991, c. 99, §19, is
38 further amended to read:

39 **§4583. Application**

40
41 Nothing in this Act may be construed to prohibit or limit
42 the exercise of the privilege of every person and the agent of
43 any person having the right to sell, rent, lease or manage a
44 housing accommodation to set up and enforce specifications in the
45 selling, renting, leasing or letting or in the furnishings of
46 facilities or services in connection with the facilities ~~which~~
47 that are not based on the race, color, sex, sexual orientation,
48 political affiliation, physical or mental disability, religion,
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2 country of ancestral origin, familial status or the receipt of
public assistance payments of any prospective or actual
4 purchaser, lessee, tenant or occupant. Nothing in this Act may
be construed to prohibit or limit the exercise of the privilege
6 of every person and the agent of any person making loans for or
offering financial assistance in the acquisition, construction,
8 rehabilitation, repair or maintenance of housing accommodations,
to set standards and preferences, terms, conditions, limitations
10 or specifications for the granting of loans or financial
assistance which that are not based on the race, color, sex,
12 sexual orientation, political affiliation, physical or mental
disability, religion, country of ancestral origin, familial
14 status or the receipt of public assistance payments of the
applicant for a loan or financial assistance or, of any existing
16 or prospective owner, lessee, tenant or occupant of housing
accommodation.

18 **Sec. 13. 5 MRSA §4591**, as amended by PL 1991, c. 99, §20, is
further amended to read:

20 **§4591. Equal access to public accommodations**

22 The opportunity for every individual to have equal access to
24 places of public accommodation without discrimination because of
race, color, sex, sexual orientation, political affiliation,
26 physical or mental disability, religion, ancestry or national
origin is recognized as and declared to be a civil right.

28 **Sec. 14. 5 MRSA §4592, sub-§§1 and 2**, as amended by PL 1995, c.
30 393, §22, are further amend to read:

32 **1. Denial of public accommodations.** For any public
accommodation or any person who is the owner, lessor, lessee,
34 proprietor, operator, manager, superintendent, agent or employee
of any place of public accommodation to directly or indirectly
36 refuse, discriminate against or in any manner withhold from or
deny the full and equal enjoyment to any person, on account of
38 race or color, sex, sexual orientation, political affiliation,
physical or mental disability, religion, ancestry or national
40 origin, any of the accommodations, advantages, facilities, goods,
services or privileges of public accommodation, or in any manner
42 discriminate against any person in the price, terms or conditions
upon which access to accommodation, advantages, facilities,
44 goods, services and privileges may depend.

46 For purposes of this subsection, unlawful discrimination also
includes, but is not limited to:

48 A. The imposition or application of eligibility criteria
50 that screen out or tend to screen out an individual with a

2 disability or any class of individuals with disabilities
3 from fully and equally enjoying any goods, services,
4 facilities, privileges, advantages or accommodations, unless
5 the criteria can be shown to be necessary for the provision
6 of the goods, services, facilities, privileges, advantages
7 or accommodations being offered;

8 B. A failure to make reasonable modifications in policies,
9 practices or procedures, when modifications are necessary to
10 afford the goods, services, facilities, privileges,
11 advantages or accommodations to individuals with
12 disabilities, unless, in the case of a private entity, the
13 private entity can demonstrate that making the modifications
14 would fundamentally alter the nature of the goods, services,
15 facilities, privileges, advantages or accommodations;

16 C. A failure to take steps that may be necessary to ensure
17 that no individual with a disability is excluded, denied
18 services, segregated or otherwise treated differently than
19 other individuals because of the absence of auxiliary aids
20 and services, unless, in the case of a private entity, the
21 private entity can demonstrate that taking those steps would
22 fundamentally alter the nature of the good, service,
23 facility, privilege, advantage or accommodation being
24 offered or would result in an undue burden;

25 D. A private entity's failure to remove architectural
26 barriers and communication barriers that are structural in
27 nature in existing facilities and transportation barriers in
28 existing vehicles and rail passenger cars used by an
29 establishment for transporting individuals, not including
30 barriers that can be removed only through the retrofitting
31 of vehicles or rail passenger cars by the installation of a
32 hydraulic or other lift, where the removal is readily
33 achievable;

34 When the entity can demonstrate that the removal of a
35 barrier under this paragraph is not readily achievable, a
36 failure to make the goods, services, facilities, privileges,
37 advantages or accommodations available through alternative
38 methods if alternative methods are readily achievable; and

39 E. A qualified individual with a disability, by reason of
40 that disability, being excluded from participation in or
41 being denied the benefits of the services, programs or
42 activities of a public entity, or being subjected to
43 discrimination by any such entity;

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

20 **Sec. 15. 5 MRSA §4595**, as repealed and replaced by PL 1975,
c. 770, §40, is amended to read:

22

24 **§4595. Right to freedom from discrimination solely on the basis**
of age, race, color, sex, sexual orientation, political
26 affiliation, marital status, ancestry, religion or
national origin in any credit transaction

28 The opportunity for every individual to be extended credit
without discrimination solely because of any one or more of the
30 following factors: Age age; race; color; sex; sexual orientation;
political affiliation; marital status; ancestry; religion or
32 national origin is recognized as and declared to be a civil
right.

34

36 **Sec. 16. 5 MRSA §4596**, as repealed and replaced by PL 1975,
c. 770, §41, is amended to read:

38

§4596. Unlawful credit extension discrimination

40 It shall be unlawful credit discrimination for any creditor
to refuse the extension of credit to any person solely on the
42 basis of any one or more of the following factors: Age age; race;
color; sex; sexual orientation; political affiliation; marital
44 status; ancestry; religion or national origin in any credit
transaction. It shall ~~is~~ not be unlawful credit discrimination to
46 comply with the terms and conditions of any bona fide group
credit life, accident and health insurance plan, for a financial
48 institution extending credit to a married person to require both
the husband and the wife to sign a note and a mortgage and to
50 deny credit to persons under the age of 18 or to consider a

2 person's age in determining the terms upon which credit will be extended.


4 **Sec. 17. 5 MRSA §4612, sub-§4, ¶A**, as amended by PL 1993, c. 303, §2, is further amended to read:

6
8 A. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a racial, color, sex, sexual orientation, political affiliation, physical or mental disability, religious, nationality group or age group if relief is not immediately granted, or if conciliation efforts under subsection 3 have not succeeded, the commission may file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders.' '

18
20 Further amend the amendment on page 3 in the question in the 3rd line (page 3, line 25 in amendment) by inserting after the following: "orientation" the following: 'or political affiliation'

24
26 **SUMMARY**

28 This amendment expands the Human Rights Act to prohibit discrimination based on a person's political affiliation.

30
32 SPONSORED BY: 
(Representative MENDROS)

34
36 TOWN: Lewiston