

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2220 Session of
1976

INTRODUCED BY BERSON AND RHODES, MARCH 23, 1976

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 23, 1976

AN ACT

1 Amending the act of October 27, 1955 (P.L.744, No.222),
 2 entitled, as amended, "An act prohibiting certain practices
 3 of discrimination because of race, color, religious creed,
 4 ancestry, age, or national origin by employers, employment
 5 agencies, labor organizations and others as herein defined;
 6 creating the Pennsylvania Human Relations Commission in the
 7 Department of Labor and Industry; defining its functions,
 8 powers and duties; providing for procedure and enforcement;
 9 providing for formulation of an educational program to
 10 prevent prejudice; providing for judicial review and
 11 enforcement and imposing penalties," prohibiting
 12 discrimination for reason of the affectional or sexual
 13 orientation, or marital status of any individual, providing a
 14 penalty, and making an editorial change.

15 The General Assembly of the Commonwealth of Pennsylvania
 16 hereby enacts as follows:

17 Section 1. The title, act of October 27, 1955 (P.L.744,
 18 No.222), known as the "Pennsylvania Human Relations Act,"
 19 amended February 28, 1961 (P.L.47, No.19), is amended to read:

20 AN ACT

21 Prohibiting certain practices of discrimination because of race,
 22 color, religious creed, ancestry, handicap or disability,
 23 age, sex, affectional or sexual orientation, marital status
 24 or national origin by employers, employment agencies, labor

1 organizations and others as herein defined; creating the
2 Pennsylvania Human Relations Commission in the Department of
3 Labor and Industry; defining its functions, powers and
4 duties; providing for procedure and enforcement; providing
5 for formulation of an educational program to prevent
6 prejudice; providing for judicial review and enforcement and
7 imposing penalties.

8 Section 2. Sections 2 and 3 of the act, amended December 19,
9 1974 (No.318), are amended to read:

10 Section 2. Findings and Declaration of Policy.--

11 (a) The practice or policy of discrimination against
12 individuals or groups by reason of their race, color, religious
13 creed, ancestry, handicap or disability, use of guide dogs
14 because of blindness of the user, age, sex, affectional or
15 sexual orientation, marital status or national origin is a
16 matter of concern of the Commonwealth. Such discrimination
17 foments domestic strife and unrest, threatens the rights and
18 privileges of the inhabitants of the Commonwealth, and
19 undermines the foundations of a free democratic state. The
20 denial of equal employment, housing and public accommodation
21 opportunities because of such discrimination, and the consequent
22 failure to utilize the productive capacities of individuals to
23 their fullest extent, deprives large segments of the population
24 of the Commonwealth of earnings necessary to maintain decent
25 standards of living, necessitates their resort to public relief
26 and intensifies group conflicts, thereby resulting in grave
27 injury to the public health and welfare, compels many
28 individuals to live in dwellings which are substandard,
29 unhealthful and overcrowded, resulting in racial segregation in
30 public schools and other community facilities, juvenile

1 delinquency and other evils, thereby threatening the peace,
2 health, safety and general welfare of the Commonwealth and its
3 inhabitants.

4 (b) It is hereby declared to be the public policy of this
5 Commonwealth to foster the employment of all individuals in
6 accordance with their fullest capacities regardless of their
7 race, color, religious creed, ancestry, handicap or disability,
8 use of guide dogs because of blindness of the user, age, sex,
9 affectional or sexual orientation, marital status or national
10 origin, and to safeguard their right to obtain and hold
11 employment without such discrimination, to assure equal
12 opportunities to all individuals and to safeguard their rights
13 at places of public accommodation and to secure commercial
14 housing regardless of race, color, religious creed, ancestry,
15 sex, affectional or sexual orientation, marital status handicap
16 or disability, use of guide dogs because of blindness of the
17 user or national origin.

18 (c) This act shall be deemed an exercise of the police power
19 of the Commonwealth for the protection of the public welfare,
20 prosperity, health and peace of the people of the Commonwealth
21 of Pennsylvania.

22 Section 3. Right to Freedom from Discrimination in
23 Employment, Housing and Places of Public Accommodation.--The
24 opportunity for an individual to obtain employment for which he
25 is qualified, and to obtain all the accommodations, advantages,
26 facilities and privileges of any place of public accommodation
27 and of commercial housing without discrimination because of
28 race, color, religious creed, ancestry, handicap or disability,
29 age, sex, affectional or sexual orientation, marital status or
30 national origin are hereby recognized as and declared to be

1 civil rights which shall be enforceable as set forth in this
2 act.

3 The opportunity of an individual to obtain all the
4 accommodations, advantages, facilities and privileges of
5 commercial housing without discrimination due to the sex of an
6 individual or to the use of a guide dog because of blindness of
7 the user is hereby recognized as and declared to be a civil
8 right which shall be enforceable as set forth in this act.

9 Section 3. Clause (b) of section 4 of the act, amended
10 December 19, 1974 (No.318), is amended and a clause is added to
11 read:

12 Section 4. Definitions.--As used in this act unless a
13 different meaning clearly appears from the context:

14 * * *

15 (b) The term "employer" includes the Commonwealth or any
16 political subdivision or board, department, commission or school
17 district thereof and any person employing four or more persons
18 within the Commonwealth, but except as hereinafter provided,
19 does not include religious, fraternal, charitable or sectarian
20 corporations or associations, except such corporations or
21 associations supported, in whole or in part, by governmental
22 appropriations. The term "employer" with respect to
23 discriminatory practices based on race, color, age, sex,
24 affectional or sexual orientation, marital status, national
25 origin or non-job related handicap or disability, includes
26 religious, fraternal, charitable and sectarian corporations and
27 associations employing four or more persons within the
28 Commonwealth.

29 * * *

30 (q) The term "affectional or sexual orientation" means the

1 character or manifestation of being homosexual, bisexual or
2 heterosexual.

3 Section 4. Clauses (a), (b), (c), (f), (g), (h) and (i) of
4 section 5, clauses (a), (b), (f), (h) and (i) amended December
5 19, 1974 (No.318) and clauses (c) and (g) amended July 9, 1969
6 (P.L.133, No.56), are amended to read:

7 Section 5. Unlawful Discriminatory Practices.--It shall be
8 an unlawful discriminatory practice, unless based upon a bona
9 fide occupational qualification, or in the case of a fraternal
10 corporation or association, unless based upon membership in such
11 association or corporation, or except where based upon
12 applicable security regulations established by the United States
13 or the Commonwealth of Pennsylvania:

14 (a) For any employer because of the race, color, religious
15 creed, ancestry, age, sex, affectional or sexual orientation,
16 marital status, national origin or non-job related handicap or
17 disability of any individual to refuse to hire or employ, or to
18 bar or to discharge from employment such individual, or to
19 otherwise discriminate against such individual with respect to
20 compensation, hire, tenure, terms, conditions or privileges of
21 employment, if the individual is the best able and most
22 competent to perform the services required. The provision of
23 this paragraph shall not apply, to (1) termination of employment
24 because of the terms or conditions of any bona fide retirement
25 or pension plan, (2) operation of the terms or conditions of any
26 bona fide retirement or pension plan which have the effect of a
27 minimum service requirement, (3) operation of the terms or
28 conditions of any bona fide group or employe insurance plan.

29 (b) For any employer, employment agency or labor
30 organization, prior to the employment or admission to

1 membership, to

2 (1) Elicit any information or make or keep a record of or
3 use any form or application or application blank containing
4 questions or entries concerning the race, color, religious
5 creed, ancestry, sex, affectional or sexual orientation, marital
6 status, national origin or past handicap or disability of any
7 applicant for employment or membership. An employer may inquire
8 as to the existence and nature of a present handicap or
9 disability. To determine whether such handicap or disability
10 substantially interferes with the ability to perform the
11 essential function of the employment which is applied for, is
12 being engaged in, or has been engaged in, the employer must
13 inquire beyond the mere existence of a handicap or disability.

14 (2) Print or publish or cause to be printed or published any
15 notice or advertisement relating to employment or membership
16 indicating any preference, limitation, specification or
17 discrimination based upon race, color, religious creed,
18 ancestry, age, sex, affectional or sexual orientation, marital
19 status, national origin or non-job related handicap or
20 disability.

21 (3) Deny or limit, through a quota system, employment or
22 membership because of race, color, religious creed, ancestry,
23 age, sex, affectional or sexual orientation, marital status,
24 national origin, non-job related handicap or disability or place
25 of birth.

26 (4) Substantially confine or limit recruitment or hiring of
27 individuals, with intent to circumvent the spirit and purpose of
28 this act, to any employment agency, employment service, labor
29 organization, training school or training center or any other
30 employe-referring source which services individuals who are

1 predominantly of the same race, color, religious creed,
2 ancestry, age, sex, affectional or sexual orientation, marital
3 status, national origin or non-job related handicap or
4 disability.

5 (5) Deny employment because of a prior handicap or
6 disability.

7 Nothing in clause (b) of this section shall bar any
8 institution or organization for handicapped or disabled persons
9 from limiting or giving preference in employment or membership
10 to handicapped or disabled persons.

11 (c) For any labor organization because of the race, color,
12 religious creed, ancestry, age, sex, affectional or sexual
13 orientation, marital status or national origin of any individual
14 to deny full and equal membership rights to any individual or
15 otherwise to discriminate against such individuals with respect
16 to hire, tenure, terms, conditions or privileges of employment
17 or any other matter, directly or indirectly, related to
18 employment.

19 * * *

20 (f) For any employment agency to fail or refuse to classify
21 properly, refer for employment or otherwise to discriminate
22 against any individual because of his race, color, religious
23 creed, ancestry, age, sex, affectional or sexual orientation,
24 marital status, national origin or non-job related handicap or
25 disability.

26 (g) For any individual seeking employment to publish or
27 cause to be published any advertisement which specifies or in
28 any manner expresses his race, color, religious creed, ancestry,
29 age, sex, affectional or sexual orientation, marital status or
30 national origin, or in any manner expresses a limitation or

1 preference as to the race, color, religious creed, ancestry,
2 age, sex, affectional or sexual orientation, marital status or
3 national origin of any prospective employer.

4 (h) For any person to:

5 (1) Refuse to sell, lease, finance or otherwise to deny or
6 withhold commercial housing from any person because of the race,
7 color, religious creed, ancestry, sex, affectional or sexual
8 orientation, marital status, national origin or handicap or
9 disability of any prospective owner, occupant or user of such
10 commercial housing, or to refuse to lease commercial housing to
11 any person due to use of a guide dog because of the blindness of
12 the user.

13 (2) Refuse to lend money, whether or not secured by mortgage
14 or otherwise for the acquisition, construction, rehabilitation,
15 repair or maintenance of commercial housing or otherwise
16 withhold financing of commercial housing from any person because
17 of the race, color, religious creed, ancestry, sex, affectional
18 or sexual orientation, marital status, national origin or
19 handicap or disability of any present or prospective owner,
20 occupant or user of such commercial housing.

21 (3) Discriminate against any person in the terms or
22 conditions of selling or leasing any commercial housing or in
23 furnishing facilities, services or privileges in connection with
24 the ownership, occupancy or use of any commercial housing
25 because of the race, color, religious creed, ancestry, sex,
26 affectional or sexual orientation, marital status, national
27 origin or handicap or disability of any present or prospective
28 owner, occupant or user of such commercial housing or to
29 discriminate against any person in the terms of leasing any
30 commercial housing or in furnishing facilities, services or

1 privileges in connection with the occupancy or use of any
2 commercial housing due to use of a guide dog because of the
3 blindness of the user.

4 (4) Discriminate against any person in the terms or
5 conditions of any loan of money, whether or not secured by
6 mortgage or otherwise for the acquisition, construction,
7 rehabilitation, repair or maintenance of commercial housing
8 because of the race, color, religious creed, ancestry, sex,
9 affectional or sexual orientation, marital status, national
10 origin or handicap or disability of any present or prospective
11 owner, occupant or user of such commercial housing.

12 (5) Print, publish or circulate any statement or
13 advertisement relating to the sale, lease or acquisition of any
14 commercial housing or the loan of money, whether or not secured
15 by mortgage, or otherwise for the acquisition, construction,
16 rehabilitation, repair or maintenance of commercial housing
17 which indicates any preference, limitation, specification, or
18 discrimination based upon race, color, religious creed,
19 ancestry, sex, affectional or sexual orientation, marital
20 status, national origin or handicap or disability, or to print,
21 publish or circulate any statement or advertisement relating to
22 the lease of any commercial dwelling which indicates any
23 preference, limitation, specification or discrimination based
24 upon use of a guide dog because of the blindness of the user.

25 (6) Make any inquiry, elicit any information, make or keep
26 any record or use any form of application, containing questions
27 or entries concerning race, color, religious creed, ancestry,
28 sex, affectional or sexual orientation, marital status, national
29 origin or handicap or disability in connection with the sale or
30 lease of any commercial housing or loan of any money, whether or

1 not secured by mortgage or otherwise for the acquisition,
2 construction, rehabilitation, repair or maintenance of
3 commercial housing, or to make any inquiry, elicit any
4 information, make or keep any record or use any form of
5 application, containing questions or entries concerning the use
6 of a guide dog because of the blindness of the user, in
7 connection with the lease of any commercial housing.

8 (i) For any person being the owner, lessee, proprietor,
9 manager, superintendent, agent or employe of any place of public
10 accommodation, resort or amusement to

11 (1) Refuse, withhold from, or deny to any person because of
12 his race, color, religious creed, ancestry, sex, affectional or
13 sexual orientation, marital status, national origin or handicap
14 or disability, or to any person due to use of a guide dog
15 because of the blindness of the user, either directly or
16 indirectly, any of the accommodations, advantages, facilities or
17 privileges of such place of public accommodation, resort or
18 amusement.

19 (2) Publish, circulate, issue, display, post or mail, either
20 directly or indirectly, any written or printed communication,
21 notice or advertisement to the effect that any of the
22 accommodations, advantages, facilities and privileges of any
23 such place shall be refused, withheld from or denied to any
24 person on account of race, color, religious creed, ancestry,
25 sex, affectional or sexual orientation, marital status, national
26 origin or handicap or disability, or to any person due to use of
27 a guide dog because of the blindness of the user, or that the
28 patronage or custom thereat of any person, belonging to or
29 purporting to be of any particular race, color, religious creed,
30 ancestry, sex, affectional or sexual orientation, marital

1 status, national origin or handicap or disability or to any
2 person due to use of a guide dog because of the blindness of the
3 user, is unwelcome, objectionable or not acceptable, desired or
4 solicited.

5 Nothing in clause (h) of this section shall bar any religious
6 or denominational institution or organization or any charitable
7 or educational organization, which is operated, supervised or
8 controlled by or in connection with a religious organization or
9 any bona fide private or fraternal organization from giving
10 preference to persons of the same religion or denomination or to
11 members of such private or fraternal organization or from making
12 such selection as is calculated by such organization to promote
13 the religious principles or the aims, purposes or fraternal
14 principles for which it is established or maintained. Nor shall
15 it apply to the rental of rooms or apartments in a landlord
16 occupied rooming house with a common entrance.

17 This section of the act as amended shall not be construed to
18 prohibit the refusal to hire or the dismissal of a person who is
19 not able to function properly in the job applied for or engaged
20 in.

21 Section 5. Clauses (i), (j) and (k) of section 7, clause (i)
22 amended July 9, 1969 (P.L.133, No.56), is amended to read:

23 Section 7. Powers and Duties of the Commission.--The
24 Commission shall have the following powers and duties:

25 * * *

26 (i) To create such advisory agencies and conciliation
27 councils, local or state-wide, as will aid in effectuating the
28 purposes of this act. The Commission may itself or it may
29 empower these agencies and councils to (1) study the problems of
30 discrimination in all or specific fields of human relationships

1 when based on race, color, religious creed, ancestry, age, sex,
2 affectional or sexual orientation, marital status, or national
3 origin, and (2) foster, through community effort or otherwise,
4 good will among the groups and elements of the population of the
5 State. Such agencies and councils may make recommendations to
6 the Commission for the development of policies and procedure in
7 general. Advisory agencies and conciliation councils created by
8 the Commission shall be composed of representative citizens,
9 serving without pay, but the Commission may make provision for
10 technical and clerical assistance to such agencies and councils,
11 and for the payment of the expenses of such assistance.

12 (j) To issue such publications and such results of
13 investigations and research as, in its judgment, will tend to
14 promote good will and minimize or eliminate discrimination
15 because of race, color, religious creed, ancestry, age, sex,
16 affectional or sexual orientation, marital status or national
17 origin.

18 (k) From time to time but not less than once a year, to
19 report to the Legislature and the Governor describing in detail
20 the investigations, proceedings and hearings it has conducted
21 and their outcome, the decisions it has rendered and the other
22 work performed by it, and make recommendations for such further
23 legislation concerning abuses and discrimination because of
24 race, color, religious creed, ancestry, age, sex, affectional or
25 sexual orientation, marital status or national origin as may be
26 desirable.

27 * * *

28 Section 6. Section 8 of the act is amended to read:

29 Section 8. Educational Program.--

30 In order to eliminate prejudice among the various racial,

1 religious, sexual and sexual orientational and nationality
2 groups in this Commonwealth and to further good will among such
3 groups, the Commission, in cooperation with the Department of
4 [Public Instruction] Education, is authorized to prepare a
5 comprehensive educational program, designed for the students of
6 the schools in this Commonwealth and for all other residents
7 thereof, in order to eliminate prejudice against such groups.

8 Section 7. Section 11 of the act, reenacted December 19,
9 1974 (No.318), is reenacted to read:

10 Section 11. Penalties.--Any person who shall wilfully
11 resist, prevent, impede or interfere with the Commission, its
12 members, agents or agencies in the performance of duties
13 pursuant to this act, or shall wilfully violate an order of the
14 Commission, shall be guilty of a misdemeanor and, upon
15 conviction thereof, shall be sentenced to pay a fine of not less
16 than one hundred dollars (\$100.00) nor more than five hundred
17 dollars (\$500.00), or to undergo imprisonment not exceeding
18 thirty (30) days, or both, in the discretion of the court, but
19 procedure for the review of an order shall not be deemed to be
20 such wilful conduct.

21 Section 8. Subsection (b) of section 12 of the act, amended
22 December 19, 1974 (No.318), is amended to read:

23 Section 12. Construction and Exclusiveness of Remedy.--

24 * * *

25 (b) Except as provided in subsection (c), nothing contained
26 in this act shall be deemed to repeal or supersede any of the
27 provisions of any existing or hereafter adopted municipal
28 ordinance, municipal charter or of any law of this Commonwealth
29 relating to discrimination because of race, color, religious
30 creed, ancestry, age, sex, affectional or sexual orientation,

1 marital status, national origin or handicap or disability, but
2 as to acts declared unlawful by section five of this act the
3 procedure herein provided shall, when invoked, be exclusive and
4 the final determination therein shall exclude any other action,
5 civil or criminal, based on the same grievance of the
6 complainant concerned. If such complainant institutes any action
7 based on such grievance without resorting to the procedure
8 provided in this act, he may not subsequently resort to the
9 procedure herein. In the event of a conflict between the
10 interpretation of a provision of this act and the interpretation
11 of a similar provision contained in any municipal ordinance, the
12 interpretation of the provision in this act shall apply to such
13 municipal ordinance.

14 * * *

15 Section 9. This act shall take effect immediately.