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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 208

Session of  
1979

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INTRODUCED BY FREIND, FEBRUARY 6, 1979

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REFERRED TO COMMITTEE ON LABOR RELATIONS, FEBRUARY 7, 1979

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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 by reason of certain medical conditions.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. Sections 2 and 3, act of October 27, 1955  
16 (P.L.744, No.222), known as the "Pennsylvania Human Relations  
17 Act," amended December 19, 1974 (P.L.966, No.318), are amended  
18 to read:

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

20 (a) The practice or policy of discrimination against  
21 individuals or groups by reason of their race, color, religious  
22 creed, ancestry, handicap or disability, use of guide dogs  
23 because of blindness of the user, age, sex, medical condition,

1 or national origin is a matter of concern of the Commonwealth.  
2 Such discrimination foments domestic strife and unrest,  
3 threatens the rights and privileges of the inhabitants of the  
4 Commonwealth, and undermines the foundations of a free  
5 democratic state. The denial of equal employment, housing and  
6 public accommodation opportunities because of such  
7 discrimination, and the consequent failure to utilize the  
8 productive capacities of individuals to their fullest extent,  
9 deprives large segments of the population of the Commonwealth of  
10 earnings necessary to maintain decent standards of living,  
11 necessitates their resort to public relief and intensifies group  
12 conflicts, thereby resulting in grave injury to the public  
13 health and welfare, compels many individuals to live in  
14 dwellings which are substandard, unhealthful and overcrowded,  
15 resulting in racial segregation in public schools and other  
16 community facilities, juvenile delinquency and other evils,  
17 thereby threatening the peace, health, safety and general  
18 welfare of the Commonwealth and its inhabitants.

19 (b) It is hereby declared to be the public policy of this  
20 Commonwealth to foster the employment of all individuals in  
21 accordance with their fullest capacities regardless of their  
22 race, color, religious creed, ancestry, handicap or disability,  
23 use of guide dogs because of blindness of the user, age, sex,  
24 medical condition, or national origin, and to safeguard their  
25 right to obtain and hold employment without such discrimination,  
26 to assure equal opportunities to all individuals and to  
27 safeguard their rights at places of public accommodation and to  
28 secure commercial housing regardless of race, color, religious  
29 creed, ancestry, sex, medical condition, handicap or disability,  
30 use of guide dogs because of blindness of the user or national

1 origin.

2 (c) This act shall be deemed an exercise of the police power  
3 of the Commonwealth for the protection of the public welfare,  
4 prosperity, health and peace of the people of the Commonwealth  
5 of Pennsylvania.

6 Section 3. Right to Freedom from Discrimination in  
7 Employment, Housing and Places of Public Accommodation.--The  
8 opportunity for an individual to obtain employment for which he  
9 is qualified, and to obtain all the accommodations, advantages,  
10 facilities and privileges of any place of public accommodation  
11 and of commercial housing without discrimination because of  
12 race, color, religious creed, ancestry, handicap or disability,  
13 age, sex, medical condition, or national origin are hereby  
14 recognized as and declared to be civil rights which shall be  
15 enforceable as set forth in this act.

16 The opportunity of an individual to obtain all the  
17 accommodations, advantages, facilities and privileges of  
18 commercial housing without discrimination due to the sex of an  
19 individual or to the use of a guide dog because of blindness of  
20 the user is hereby recognized as and declared to be a civil  
21 right which shall be enforceable as set forth in this act.

22 Section 2. Clause (b) of section 4 of the act, amended  
23 November 26, 1978 (P.L. , No.309), is amended to read:

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

26 \* \* \*

27 (b) The term "employer" includes the Commonwealth or any  
28 political subdivision or board, department, commission or school  
29 district thereof and any person employing four or more persons  
30 within the Commonwealth, but except as hereinafter provided,

1 does not include religious, fraternal, charitable or sectarian  
2 corporations or associations, except such corporations or  
3 associations supported, in whole or in part, by governmental  
4 appropriations. The term "employer" with respect to  
5 discriminatory practices based on race, color, age, sex,  
6 national origin, medical condition, or non-job related handicap  
7 or disability, includes religious, fraternal, charitable and  
8 sectarian corporations and associations employing four or more  
9 persons within the Commonwealth.

10 \* \* \*

11 Section 3. Section 4 of the act is amended by adding a  
12 clause to read:

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

15 \* \* \*

16 (q) The term "medical condition" means any health impairment  
17 related to or associated with a diagnosis of cancer, for which a  
18 person has had a substantial remission or cure, based on  
19 competent medical evidence.

20 Section 4. Section 5 of the act, clause (a) and subclause  
21 (1) of clause (i) amended November 26, 1978 (No.309), clauses  
22 (b), (f), (h) and (i) amended December 19, 1974 (P.L.966,  
23 No.318), subsections (c) and (g) amended July 9, 1969 (P.L.133,  
24 No.56), clause (j) added December 27, 1965 (P.L.1224, No.497),  
25 undesignated paragraph added December 19, 1974 (P.L.966,  
26 No.318), is amended to read:

27 Section 5. Unlawful Discriminatory Practices.--It shall be  
28 an unlawful discriminatory practice, unless based upon a bona  
29 fide occupational qualification, or in the case of a fraternal  
30 corporation or association, unless based upon membership in such

1 association or corporation, or except where based upon  
2 applicable security regulations established by the United States  
3 or the Commonwealth of Pennsylvania:

4 (a) For any employer because of the race, color, religious  
5 creed, ancestry, age, sex, national origin, medical condition,  
6 or non-job related handicap or disability of any individual to  
7 refuse to hire or employ, or to bar or to discharge from  
8 employment such individual, or to otherwise discriminate against  
9 such individual with respect to compensation, hire, tenure,  
10 terms, conditions or privileges of employment, if the individual  
11 is the best able and most competent to perform the services  
12 required. The provision of this paragraph shall not apply, to  
13 (1) termination of employment because of the terms or conditions  
14 of any bona fide retirement or pension plan, (2) operation of  
15 the terms or conditions of any bona fide retirement or pension  
16 plan which have the effect of a minimum service requirement, (3)  
17 operation of the terms or conditions of any bona fide group or  
18 employee insurance plan. Notwithstanding any provision of this  
19 clause, it shall not be an unlawful employment practice for a  
20 religious corporation or association to hire or employ on the  
21 basis of sex in those certain instances where sex is a bona fide  
22 occupational qualification because of the religious beliefs,  
23 practices, or observances of that corporation, or association.

24 (b) For any employer, employment agency or labor  
25 organization, prior to the employment or admission to  
26 membership, to

27 (1) Elicit any information or make or keep a record of or  
28 use any form or application or application blank containing  
29 questions or entries concerning the race, color, religious  
30 creed, ancestry, sex, national origin, medical condition, or

1 past handicap or disability of any applicant for employment or  
2 membership. An employer may inquire as to the existence and  
3 nature of a present handicap or disability. To determine whether  
4 such handicap or disability substantially interferes with the  
5 ability to perform the essential function of the employment  
6 which is applied for, is being engaged in, or has been engaged  
7 in, the employer must inquire beyond the mere existence of a  
8 handicap or disability.

9 (2) Print or publish or cause to be printed or published any  
10 notice or advertisement relating to employment or membership  
11 indicating any preference, limitation, specification or  
12 discrimination based upon race, color, religious creed,  
13 ancestry, age, sex, national origin, medical condition, or non-  
14 job related handicap or disability.

15 (3) Deny or limit, through a quota system, employment or  
16 membership because of race, color, religious creed, ancestry,  
17 age, sex, national origin, medical condition, non-job related  
18 handicap or disability or place of birth.

19 (4) Substantially confine or limit recruitment or hiring of  
20 individuals, with intent to circumvent the spirit and purpose of  
21 this act, to any employment agency, employment service, labor  
22 organization, training school or training center or any other  
23 employe-referring source which services individuals who are  
24 predominantly of the same race, color, religious creed,  
25 ancestry, age, sex, national origin, medical condition, or non-  
26 job related handicap or disability.

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

29 Nothing in clause (b) of this section shall bar any  
30 institution or organization for handicapped or disabled persons

1 from limiting or giving preference in employment or membership  
2 to handicapped or disabled persons.

3 (c) For any labor organization because of the race, color,  
4 religious creed, ancestry, age, sex, medical condition, or  
5 national origin of any individual to deny full and equal  
6 membership rights to any individual or otherwise to discriminate  
7 against such individuals with respect to hire, tenure, terms,  
8 conditions or privileges of employment or any other matter,  
9 directly or indirectly, related to employment.

10 (d) For any employer, employment agency or labor  
11 organization to discriminate in any manner against any  
12 individual because such individual has opposed any practice  
13 forbidden by this act, or because such individual has made a  
14 charge, testified or assisted, in any manner, in any  
15 investigation, proceeding or hearing under this act.

16 (e) For any person, whether or not an employer, employment  
17 agency, labor organization or employe, to aid, abet, incite,  
18 compel or coerce the doing of any act declared by this section  
19 to be an unlawful discriminatory practice, or to obstruct or  
20 prevent any person from complying with the provisions of this  
21 act or any order issued thereunder, or to attempt, directly or  
22 indirectly, to commit any act declared by this section to be  
23 unlawful discriminatory practice.

24 (f) For any employment agency to fail or refuse to classify  
25 properly, refer for employment or otherwise to discriminate  
26 against any individual because of his race, color, religious  
27 creed, ancestry, age, sex, national origin, medical condition,  
28 or non-job related handicap or disability.

29 (g) For any individual seeking employment to publish or  
30 cause to be published any advertisement which specifies or in

1 any manner expresses his race, color, religious creed, ancestry,  
2 age, sex, medical condition, or national origin, or in any  
3 manner expresses a limitation or preference as to the race,  
4 color, religious creed, ancestry, age, sex, medical condition,  
5 or national origin of any prospective employer.

6 (h) For any person to:

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

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

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



1 facilities, services or privileges in connection with the  
2 occupancy or use of any commercial housing due to use of a guide  
3 dog because of the 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 national origin, medical condition, or handicap or disability of  
10 any present or prospective owner, occupant or user of such  
11 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, national origin, medical condition, or handicap  
20 or disability, or to print, publish or circulate any statement  
21 or advertisement relating to the lease of any commercial  
22 dwelling which indicates any preference, limitation,  
23 specification or discrimination based upon use of a guide dog  
24 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, national origin, medical condition, or handicap or  
29 disability in connection with the sale or lease of any  
30 commercial housing or loan of any money, whether or not secured

1 by mortgage or otherwise for the acquisition, construction,  
2 rehabilitation, repair or maintenance of commercial housing, or  
3 to make any inquiry, elicit any information, make or keep any  
4 record or use any form of application, containing questions or  
5 entries concerning the use of a guide dog because of the  
6 blindness of the user, in connection with the lease of any  
7 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, sex, religious creed, ancestry, national  
13 origin, medical condition, or handicap or disability, or to any  
14 person due to use of a guide dog because of the blindness of the  
15 user, either directly or indirectly, any of the accommodations,  
16 advantages, facilities or privileges of such place of public  
17 accommodation, resort or amusement.

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

1 user, is unwelcome, objectionable or not acceptable, desired or  
2 solicited.

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

15       (j) For any person subject to the act to fail to post and  
16 exhibit prominently in his place of business any fair practices  
17 notice prepared and distributed by the Pennsylvania Human  
18 Relations Commission.

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

23       Section 5. This act shall take effect in 60 days.