

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 480

Session of  
1977

INTRODUCED BY MESSRS. ZEARFOSS, W. D. HUTCHINSON, McCLATCHY,  
SCIRICA, O'DONNELL, COHEN AND BURNS, MARCH 2, 1977

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, SEPTEMBER 11, 1978

## 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 because of the marital status of any  
13 individual, providing a penalty and making an editorial  
14 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:

## AN ACT

21 Prohibiting certain practices of discrimination because of race,  
22 color, religious creed, ancestry, handicap or disability,  
23 age, sex, marital status or national origin by employers,

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

8 Section 2. Sections 2 and 3 and clause (b) of section 4,  
9 amended December 19, 1974 (P.L.966, No.318), are amended to  
10 read:

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

12 (a) The practice or policy of discrimination against  
13 individuals or groups by reason of their race, color, religious  
14 creed, ancestry, handicap or disability, use of guide dogs  
15 because of blindness of the user, age, sex, marital status or  
16 national origin is a matter of concern of the Commonwealth. Such  
17 discrimination foments domestic strife and unrest, threatens the  
18 rights and privileges of the inhabitants of the Commonwealth,  
19 and 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 marital status or national origin, and to safeguard their right  
10 to obtain and hold employment without such discrimination, to  
11 assure equal opportunities to all individuals and to safeguard  
12 their rights at places of public accommodation and to secure  
13 commercial housing regardless of race, color, religious creed,  
14 ancestry, sex, handicap or disability, marital status, use of  
15 guide dogs because of blindness of the user or national origin.

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

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

30 The opportunity of an individual to obtain all the

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

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

8 \* \* \*

9 (b) The term "employer" includes the Commonwealth or any  
10 political subdivision or board, department, commission or school  
11 district thereof and any person employing four or more persons  
12 within the Commonwealth, but except as hereinafter provided,  
13 does not include religious, fraternal, charitable or sectarian  
14 corporations or associations, except such corporations or  
15 associations supported, in whole or in part, by governmental  
16 appropriations. The term "employer" with respect to  
17 discriminatory practices based on race, color, age, SEX, marital <—  
18 status, national origin or non-job related handicap or  
19 disability, includes religious, fraternal, charitable and  
20 sectarian corporations and associations employing four or more  
21 persons within the Commonwealth.

22 \* \* \*

23 Section 3. Clauses (a), (b), (c), (f), (g) and (h) of  
24 section 5, clauses (a), (b), (f) and (h) amended December 19,  
25 1974 (P.L.966, No.318) and clauses (c) and (g) amended July 9,  
26 1969 (P.L.133, No.56), are 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, marital status, national origin or  
6 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 employe insurance plan.

19 (b) For any employer, employment agency or labor  
20 organization, prior to the employment or admission to  
21 membership, to

22 (1) Elicit any information or make or keep a record of or  
23 use any form of application or application blank containing  
24 questions or entries concerning the race, color, religious  
25 creed, ancestry, sex, marital status, national origin or past  
26 handicap or disability of any applicant for employment or  
27 membership. An employer may inquire as to the existence and  
28 nature of a present handicap or disability. To determine whether  
29 such handicap or disability substantially interferes with the  
30 ability to perform the essential function of the employment

1 which is applied for, is being engaged in, or has been engaged  
2 in, the employer must inquire beyond the mere existence of a  
3 handicap or disability.

4 (2) Print or publish or cause to be printed or published any  
5 notice or advertisement relating to employment or membership  
6 indicating any preference, limitation, specification or  
7 discrimination based upon race, color, religious creed,  
8 ancestry, age, sex, marital status, national origin or non-job  
9 related handicap or disability.

10 (3) Deny or limit, through a quota system, employment or  
11 membership because of race, color, religious creed, ancestry,  
12 age, sex, marital status, national origin, non-job related  
13 handicap or disability or place of birth.

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

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

24 Nothing in clause (b) of this section shall bar any  
25 institution or organization for handicapped or disabled persons  
26 from limiting or giving preference in employment or membership  
27 to handicapped or disabled persons.

28 (c) For any labor organization because of the race, color,  
29 religious creed, ancestry, age, sex, marital status or national  
30 origin of any individual to deny full and equal membership

1 rights to any individual or otherwise to discriminate against  
2 such individuals with respect to hire, tenure, terms, conditions  
3 or privileges of employment or any other matter, directly or  
4 indirectly, related to employment.

5 \* \* \*

6 (f) For any employment agency to fail or refuse to classify  
7 properly, refer for employment or otherwise to discriminate  
8 against any individual because of his race, color, religious  
9 creed, ancestry, age, sex, marital status, national origin or  
10 non-job related handicap or disability.

11 (g) For any individual seeking employment to publish or  
12 cause to be published any advertisement which specifies or in  
13 any manner expresses his race, color, religious creed, ancestry,  
14 age, sex, marital status or national origin, or in any manner  
15 expresses a limitation or preference as to the race, color,  
16 religious creed, ancestry, age, sex, marital status or national  
17 origin of any prospective employer.

18 (h) For any person to:

19 (1) Refuse to sell, lease, finance or otherwise to deny or  
20 withhold commercial housing from any person because of the race,  
21 color, religious creed, ancestry, sex, marital status, national  
22 origin or handicap or disability of any prospective owner,  
23 occupant or user of such commercial housing, or to refuse to  
24 lease commercial housing to any person due to use of a guide dog  
25 because of the blindness of the user.

26 (2) Refuse to lend money, whether or not secured by mortgage  
27 or otherwise for the acquisition, construction, rehabilitation,  
28 repair or maintenance of commercial housing or otherwise  
29 withhold financing of commercial housing from any person because  
30 of the race, color, religious creed, ancestry, sex, marital

1 status, national origin or handicap or disability of any present  
2 or prospective owner, occupant or user of such commercial  
3 housing.

4 (3) Discriminate against any person in the terms or  
5 conditions of selling or leasing any commercial housing or in  
6 furnishing facilities, services or privileges in connection with  
7 the ownership, occupancy or use of any commercial housing  
8 because of the race, color, religious creed, ancestry, sex,  
9 marital status, national origin or handicap or disability of any  
10 present or prospective owner, occupant or user of such  
11 commercial housing or to discriminate against any person in the  
12 terms of leasing any commercial housing or in furnishing  
13 facilities, services or privileges in connection with the  
14 occupancy or use of any commercial housing due to use of a guide  
15 dog because of the blindness of the user.

16 (4) Discriminate against any person in the terms or  
17 conditions of any loan of money, whether or not secured by  
18 mortgage or otherwise for the acquisition, construction,  
19 rehabilitation, repair or maintenance of commercial housing  
20 because of the race, color, religious creed, ancestry, sex,  
21 marital status, national origin or handicap or disability of any  
22 present or prospective owner, occupant or user of such  
23 commercial housing.

24 (5) Print, publish or circulate any statement or  
25 advertisement relating to the sale, lease or acquisition of any  
26 commercial housing or the loan of money, whether or not secured  
27 by mortgage, or otherwise for the acquisition, construction,  
28 rehabilitation, repair or maintenance of commercial housing  
29 which indicates any preference, limitation, specification, or  
30 discrimination based upon race, color, religious creed,



1 ancestry, sex, marital status, national origin or handicap or  
2 disability, or to print, publish or circulate any statement or  
3 advertisement relating to the lease of any commercial dwelling  
4 which indicates any preference, limitation, specification or  
5 discrimination based upon use of a guide dog because of the  
6 blindness of the user.

7 (6) Make any inquiry, elicit any information, make or keep  
8 any record or use any form of application, containing questions  
9 or entries concerning race, color, religious creed, ancestry,  
10 sex, marital status, national origin or handicap or disability  
11 in connection with the sale or lease of any commercial housing  
12 or loan of any money, whether or not secured by mortgage or  
13 otherwise for the acquisition, construction, rehabilitation,  
14 repair or maintenance of commercial housing, or to make any  
15 inquiry, elicit any information, make or keep any record or use  
16 any form of application, containing questions or entries  
17 concerning the use of a guide dog because of the blindness of  
18 the user, in connection with the lease of any commercial  
19 housing.

20 \* \* \*

21 Section 4. Clause (i) of section 7 of the act, amended July  
22 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 marital status, HANDICAP OR DISABILITY, or national origin, and <—  
3 (2) foster, through community effort or otherwise, good will  
4 among the groups and elements of the population of the State.  
5 Such agencies and councils may make recommendations to the  
6 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 \* \* \*

13 Section 5. Section 11 of the act, reenacted December 19,  
14 1974 (P.L.966, No.318), is reenacted to read:

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

26 Section 6. Subsection (b) of section 12 of the act, amended  
27 December 19, 1974 (P.L.966, No.318), is amended to read:

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

29 \* \* \*

30 (b) Except as provided in subsection (c), nothing contained

1 in this act shall be deemed to repeal or supersede any of the  
2 provisions of any existing or hereafter adopted municipal  
3 ordinance, municipal charter or of any law of this Commonwealth  
4 relating to discrimination because of race, color, religious  
5 creed, ancestry, age, sex, marital status, national origin or  
6 handicap or disability, but as to acts declared unlawful by  
7 section five of this act the procedure herein provided shall,  
8 when invoked, be exclusive and the final determination therein  
9 shall exclude any other action, civil or criminal, based on the  
10 same grievance of the complainant concerned. If such complainant  
11 institutes any action based on such grievance without resorting  
12 to the procedure provided in this act, he may not subsequently  
13 resort to the procedure herein. In the event of a conflict  
14 between the interpretation of a provision of this act and the  
15 interpretation of a similar provision contained in any municipal  
16 ordinance, the interpretation of the provision in this act shall  
17 apply to such municipal ordinance.

18 \* \* \*

19 Section 7. This act shall take effect immediately.