
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 706 Session of
2003

INTRODUCED BY CONTI, KUKOVICH, MELLOW, A. WILLIAMS, FERLO,
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JUNE 17, 2003

REFERRED TO JUDICIARY, JUNE 17, 2003

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 Governor's Office; defining its functions, powers and duties;
8 providing for procedure and enforcement; providing for
9 formulation of an educational program to prevent prejudice;
10 providing for judicial review and enforcement and imposing
11 penalties," further providing for findings and declaration of
12 policy, for right to freedom from discrimination, housing and
13 public accommodation; defining "sexual orientation" and
14 "gender identity or expression"; and further providing for
15 unlawful discriminatory practices, for powers and duties of
16 commission, for education program, for procedure and for
17 construction and exclusiveness of remedy and for damages.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. The title and sections 2 and 3 of the act of
21 October 27, 1955 (P.L.744, No.222), known as the Pennsylvania
22 Human Relations Act, amended December 20, 1991 (P.L.414, No.51),
23 are amended to read:

24 AN ACT

1 Prohibiting certain practices of discrimination because of race,
2 color, religious creed, ancestry, sexual orientation or
3 gender identity or expression, age or national origin, by
4 employers, employment agencies, labor organizations and
5 others as herein defined; creating the Pennsylvania Human
6 Relations Commission in the Governor's Office; defining its
7 functions, powers and duties; providing for procedure and
8 enforcement; providing for formulation of an educational
9 program to prevent prejudice; providing for judicial review
10 and enforcement and imposing penalties.

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, familial
14 status, religious creed, ancestry, sexual orientation or gender
15 identity or expression, age, sex, national origin, handicap or
16 disability, use of guide or support animals because of the
17 blindness, deafness or physical handicap of the user or because
18 the user is a handler or trainer of support or guide animals is
19 a matter of concern of the Commonwealth. Such discrimination
20 foments domestic strife and unrest, threatens the rights and
21 privileges of the inhabitants of the Commonwealth, and
22 undermines the foundations of a free democratic state. The
23 denial of equal employment, housing and public accommodation
24 opportunities because of such discrimination, and the consequent
25 failure to utilize the productive capacities of individuals to
26 their fullest extent, deprives large segments of the population
27 of the Commonwealth of earnings necessary to maintain decent
28 standards of living, necessitates their resort to public relief
29 and intensifies group conflicts, thereby resulting in grave
30 injury to the public health and welfare, compels many

1 individuals to live in dwellings which are substandard,
2 unhealthful and overcrowded, resulting in racial segregation in
3 public schools and other community facilities, juvenile
4 delinquency and other evils, thereby threatening the peace,
5 health, safety and general welfare of the Commonwealth and its
6 inhabitants.

7 (b) It is hereby declared to be the public policy of this
8 Commonwealth to foster the employment of all individuals in
9 accordance with their fullest capacities regardless of their
10 race, color, religious creed, ancestry, sexual orientation or
11 gender identity or expression, age, sex, national origin,
12 handicap or disability, use of guide or support animals because
13 of the blindness, deafness or physical handicap of the user or
14 because the user is a handler or trainer of support or guide
15 animals, and to safeguard their right to obtain and hold
16 employment without such discrimination, to assure equal
17 opportunities to all individuals and to safeguard their rights
18 to public accommodation and to secure housing accommodation and
19 commercial property regardless of race, color, familial status,
20 religious creed, ancestry, sexual orientation or gender identity
21 or expression, age, sex, national origin, handicap or
22 disability, use of guide or support animals because of blindness
23 or deafness of the user or because the user is a handler or
24 trainer of guide or support animals.

25 (c) This act shall be deemed an exercise of the police power
26 of the Commonwealth for the protection of the public welfare,
27 prosperity, health and peace of the people of the Commonwealth
28 of Pennsylvania.

29 Section 3. Right to Freedom from Discrimination in
30 Employment, Housing and Public Accommodation.--The opportunity

1 for an individual to obtain employment for which he is
2 qualified, and to obtain all the accommodations, advantages,
3 facilities and privileges of any public accommodation and of any
4 housing accommodation and commercial property without
5 discrimination because of race, color, familial status,
6 religious creed, ancestry, sexual orientation or gender identity
7 or expression, handicap or disability, age, sex, national
8 origin, the use of a guide or support animal because of the
9 blindness, deafness or physical handicap of the user or because
10 the user is a handler or trainer of support or guide animals is
11 hereby recognized as and declared to be a civil right which
12 shall be enforceable as set forth in this act.

13 Section 2. Section 4(b) of the act, amended December 20,
14 1991 (P.L.414, No.51), is amended and the section is amended by
15 adding clauses to read:

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

18 * * *

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

1 associations employing four or more persons within the
2 Commonwealth.

3 * * *

4 (bb) The term "sexual orientation" means actual or perceived
5 heterosexuality, homosexuality or bisexuality.

6 (cc) The term "gender identity or expression" means actual
7 or perceived gender identity, appearance, behavior, expression
8 or physical characteristics whether or not associated with an
9 individual's assigned sex at birth.

10 Section 3. Sections 5(a), (b), (c), (f), (g), (h) and (i) of
11 the act, amended or added December 20, 1991 (P.L.414, No.51),
12 July 12, 1996 (P.L.684, No.117) and June 25, 1997 (P.L.326,
13 No.34), are amended to read:

14 Section 5. Unlawful Discriminatory Practices.--It shall be
15 an unlawful discriminatory practice, unless based upon a bona
16 fide occupational qualification, or in the case of a fraternal
17 corporation or association, unless based upon membership in such
18 association or corporation, or except where based upon
19 applicable security regulations established by the United States
20 or the Commonwealth of Pennsylvania:

21 (a) For any employer because of the race, color, religious
22 creed, ancestry, sexual orientation or gender identity or
23 expression, age, sex, national origin or non-job related
24 handicap or disability or the use of a guide or support animal
25 because of the blindness, deafness or physical handicap of any
26 individual or independent contractor, to refuse to hire or
27 employ or contract with, or to bar or to discharge from
28 employment such individual or independent contractor, or to
29 otherwise discriminate against such individual or independent
30 contractor with respect to compensation, hire, tenure, terms,

1 conditions or privileges of employment or contract, if the
2 individual or independent contractor is the best able and most
3 competent to perform the services required. The provision of
4 this paragraph shall not apply, to (1) operation of the terms or
5 conditions of any bona fide retirement or pension plan which
6 have the effect of a minimum service requirement, (2) operation
7 of the terms or conditions of any bona fide group or employe
8 insurance plan, (3) age limitations placed upon entry into bona
9 fide apprenticeship programs of two years or more approved by
10 the State Apprenticeship and Training Council of the Department
11 of Labor and Industry, established by the act of July 14, 1961
12 (P.L.604, No.304), known as "The Apprenticeship and Training
13 Act." Notwithstanding any provision of this clause, it shall not
14 be an unlawful employment practice for a religious corporation
15 or association to hire or employ on the basis of sex in those
16 certain instances where sex is a bona fide occupational
17 qualification because of the religious beliefs, practices, or
18 observances of the corporation, or association.

19 (b) For any employer, employment agency or labor
20 organization, prior to the employment, contracting with an
21 independent contractor or admission to 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, sexual orientation or gender identity or
26 expression, age, sex, national origin, past handicap or
27 disability or the use of a guide or support animal because of
28 the blindness, deafness or physical handicap of any applicant
29 for employment or membership. Prior to an offer of employment,
30 an employer may not inquire as to whether an individual has a

1 handicap or disability or as to the severity of such handicap or
2 disability. An employer may inquire as to the individual's
3 ability to perform the essential functions of the employment.

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, sexual orientation or gender identity or expression,
9 age, sex, national origin, non-job related handicap or
10 disability or the use of a guide or support animal because of
11 the blindness, deafness or physical handicap of the user.

12 (3) Deny or limit, through a quota system, employment or
13 membership because of race, color, religious creed, ancestry,
14 sexual orientation or gender identity or expression, age, sex,
15 national origin, non-job related handicap or disability, the use
16 of a guide or support animal because of the blindness, deafness
17 or physical handicap of the user or place of birth.

18 (4) Substantially confine or limit recruitment or hiring of
19 individuals, with intent to circumvent the spirit and purpose of
20 this act, to any employment agency, employment service, labor
21 organization, training school or training center or any other
22 employe-referring source which services individuals who are
23 predominantly of the same race, color, religious creed,
24 ancestry, sexual orientation or gender identity or expression,
25 age, sex, national origin or non-job related handicap or
26 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, sexual orientation or gender identity
5 or expression, age, sex, national origin, non-job related
6 handicap or disability or the use of a guide or support animal
7 because of the blindness, deafness or physical handicap of any
8 individual to deny full and equal membership rights to any
9 individual or otherwise to discriminate against such individuals
10 with respect to hire, tenure, terms, conditions or privileges of
11 employment or any other matter, directly or indirectly, related
12 to employment.

13 * * *

14 (f) For any employment agency to fail or refuse to classify
15 properly, refer for employment or otherwise to discriminate
16 against any individual because of his race, color, religious
17 creed, ancestry, sexual orientation or gender identity or
18 expression, age, sex, national origin, non-job related handicap
19 or disability or the use of a guide or support animal because of
20 the blindness, deafness or physical handicap of the user.

21 (g) For any individual seeking employment to publish or
22 cause to be published any advertisement which in any manner
23 expresses a limitation or preference as to the race, color,
24 religious creed, ancestry, sexual orientation or gender identity
25 or expression, age, sex, national origin, non-job related
26 handicap or disability or the use of a guide or support animal
27 because of the blindness, deafness or physical handicap of any
28 prospective employer.

29 (h) For any person to:

30 (1) Refuse to sell, lease, finance or otherwise to deny or

1 withhold any housing accommodation or commercial property from
2 any person because of the race, color, familial status, age,
3 religious creed, ancestry, sexual orientation or gender identity
4 or expressions, sex, national origin or handicap or disability
5 of any person, prospective owner, occupant or user of such
6 housing accommodation or commercial property, or to refuse to
7 lease any housing accommodation or commercial property to any
8 person due to use of a guide animal because of the blindness or
9 deafness of the user, use of a support animal because of a
10 physical handicap of the user or because the user is a handler
11 or trainer of support or guide animals or because of the
12 handicap or disability of an individual with whom the person is
13 known to have a relationship or association.

14 (1.1) Evict or attempt to evict an occupant of any housing
15 accommodation before the end of the term of a lease because of
16 pregnancy or the birth of a child.

17 (2) Refuse to lend money, whether or not secured by mortgage
18 or otherwise for the acquisition, construction, rehabilitation,
19 repair or maintenance of any housing accommodation or commercial
20 property or otherwise withhold financing of any housing
21 accommodation or commercial property from any person because of
22 the race, color, familial status, age, religious creed,
23 ancestry, sexual orientation or gender identity or expression,
24 sex, national origin, handicap or disability of any person, the
25 use of a guide or support animal because of the blindness,
26 deafness or physical handicap of the user or because the user is
27 a handler or trainer of support or guide animals or because of
28 the handicap or disability of an individual with whom the person
29 is known to have a relationship or association.

30 (3) Discriminate against any person in the terms or

1 conditions of selling or leasing any housing accommodation or
2 commercial property or in furnishing facilities, services or
3 privileges in connection with the ownership, occupancy or use of
4 any housing accommodation or commercial property because of the
5 race, color, familial status, age, religious creed, ancestry,
6 sexual orientation or gender identity or expression, sex,
7 national origin, handicap or disability of any person, the use
8 of a guide or support animal because of the blindness, deafness
9 or physical handicap of the user or because the user is a
10 handler or trainer of support or guide animals or because of the
11 handicap or disability of an individual with whom the person is
12 known to have a relationship or association.

13 (3.1) Refuse to permit, at the expense of a person with a
14 handicap, reasonable modifications of existing premises occupied
15 or to be occupied by such person if such modifications may be
16 necessary to afford such person full enjoyment of the premises,
17 except that, in the case of a rental, the landlord may, where it
18 is reasonable to do so, grant permission for a modification if
19 the renter agrees to restore the interior of the premises to the
20 condition that existed before the modification, with reasonable
21 wear and tear excepted.

22 (3.2) Refuse to make reasonable accommodations in rules,
23 policies, practices or services when such accommodations may be
24 necessary to afford such person equal opportunity to use and
25 enjoy a housing accommodation.

26 (4) Discriminate against any person in the terms or
27 conditions of any loan of money, whether or not secured by
28 mortgage or otherwise for the acquisition, construction,
29 rehabilitation, repair or maintenance of housing accommodation
30 or commercial property because of the race, color, familial

1 status, age, religious creed, ancestry, sexual orientation or
2 gender identity or expression, sex, national origin or handicap
3 or disability of any person, the use of a guide or support
4 animal because of the blindness, deafness or physical handicap
5 of the user or because the user is a handler or trainer of guide
6 or support animals or because of the handicap or disability of
7 an individual with whom the person is known to have a
8 relationship or association.

9 (5) Print, publish or circulate any statement or
10 advertisement: (i) relating to the sale, lease or acquisition of
11 any housing accommodation or commercial property or the loan of
12 money, whether or not secured by mortgage, or otherwise for the
13 acquisition, construction, rehabilitation, repair or maintenance
14 of any housing accommodation or commercial property which
15 indicates any preference, limitation, specification, or
16 discrimination based upon race, color, familial status, age,
17 religious creed, ancestry, sexual orientation or gender identity
18 or expression, sex, national origin, handicap or disability or
19 because of the handicap or disability of an individual with whom
20 the person is known to have a relationship or association, or
21 (ii) relating to the sale, lease or acquisition of any housing
22 accommodation or commercial property which indicates any
23 preference, limitation, specification or discrimination based
24 upon use of a guide or support animal because of the blindness,
25 deafness or physical handicap of the user or because the user is
26 a handler or trainer of support or guide animals.

27 (6) Make any inquiry, elicit any information, make or keep
28 any record or use any form of application, containing questions
29 or entries concerning race, color, familial status, age,
30 religious creed, ancestry, sexual orientation or gender identity

1 or expression, sex, national origin, handicap or disability or
2 because of the handicap or disability of an individual with whom
3 the person is known to have a relationship or association in
4 connection with the sale or lease of any housing accommodation
5 or commercial property or loan of any money, whether or not
6 secured by mortgage or otherwise for the acquisition,
7 construction, rehabilitation, repair or maintenance of any
8 housing accommodation or commercial property, or to make any
9 inquiry, elicit any information, make or keep any record or use
10 any form of application, containing questions or entries
11 concerning the use of a guide or support animal because of the
12 blindness, deafness or physical handicap of the user or because
13 the user is a handler or trainer of support or guide animals, in
14 connection with the lease of any housing accommodation or
15 commercial property.

16 (7) Construct, operate, offer for sale, lease or rent or
17 otherwise make available housing or commercial property which is
18 not accessible.

19 (8) Discriminate in real estate-related transactions, as
20 described by and subject to the following:

21 (i) It shall be unlawful for any person or other entity
22 whose business includes engaging in real estate-related
23 transactions to discriminate against any person in making
24 available such a transaction or in the terms or conditions of
25 such a transaction because of race, color, religious creed,
26 ancestry, sexual orientation or gender identity or expression,
27 national origin, sex, age, handicap or disability, use of a
28 guide or support animal because of a physical handicap or
29 because the user is a handler or trainer of guide or support
30 animals or familial status.

1 (ii) Nothing in this act prohibits a person engaged in the
2 business of furnishing appraisals of real property to take into
3 consideration factors other than race, color, religious creed,
4 ancestry, sexual orientation or gender identity or expression,
5 national origin, sex, age, handicap or disability, use of a
6 guide or support animal because of a physical handicap or
7 because the user is a handler or trainer of guide or support
8 animals or familial status.

9 (9) Nothing in this clause, regarding age or familial
10 status, shall apply with respect to housing for older persons. A
11 person shall not be held personally liable for monetary damages
12 for a violation of this act if the person reasonably relied, in
13 good faith, on the application of the exemption of this
14 subclause. A person may only prove good faith reliance on the
15 application of the exemption of this subclause by proving that
16 at the time of the act complained of all of the following
17 applied:

18 (i) The person had no actual knowledge that the housing was
19 not eligible for exemption under this subclause.

20 (ii) The owner or manager of the housing had stated
21 formally, in writing, that the housing complied with the
22 requirements for exemption under this subclause.

23 (10) Nothing in this clause shall bar any religious or
24 denominational institution or organization or any charitable or
25 educational organization which is operated, supervised or
26 controlled by or in connection with a religious organization or
27 any bona fide private or fraternal organization from giving
28 preference to persons of the same religion or denomination or to
29 members of such private or fraternal organization or from making
30 such selection as is calculated by such organization to promote

1 the religious principles or the aims, purposes or fraternal
2 principles for which it is established or maintained. Nor shall
3 it apply to the rental of rooms in a landlord-occupied rooming
4 house with a common entrance, nor with respect to discrimination
5 based on sex, the advertising, rental or leasing of housing
6 accommodations in a single-sex dormitory or rooms in one's
7 personal residence in which common living areas are shared.

8 (11) Nothing in this act limits the applicability of the
9 Fair Housing Act and reasonable State or local restrictions on
10 the maximum number of occupants permitted to occupy a dwelling
11 or a reasonable restriction relating to health or safety
12 standards or business necessity. Owners and managers of
13 dwellings may develop and implement reasonable occupancy and
14 safety standards based on factors such as the number and size of
15 sleeping areas or bedrooms and the overall size of a dwelling
16 unit so long as the standards do not violate the Fair Housing
17 Act or State or local restrictions.

18 (i) For any person being the owner, lessee, proprietor,
19 manager, superintendent, agent or employe of any public
20 accommodation, resort or amusement to:

21 (1) Refuse, withhold from, or deny to any person because of
22 his race, color, sex, religious creed, ancestry, sexual
23 orientation or gender identity or expression, national origin,
24 or handicap or disability, or to any person due to use of a
25 guide or support animal because of the blindness, deafness or
26 physical handicap of the user or because the user is a handler
27 or trainer of support or guide animals, either directly or
28 indirectly, any of the accommodations, advantages, facilities or
29 privileges of such public accommodation, resort or amusement.

30 (2) Publish, circulate, issue, display, post or mail, either

1 directly or indirectly, any written or printed communication,
2 notice or advertisement to the effect that any of the
3 accommodations, advantages, facilities and privileges of any
4 such place shall be refused, withheld from or denied to any
5 person on account of race, color, religious creed, sex,
6 ancestry, sexual orientation or gender identity or expression,
7 national origin or handicap or disability, or to any person due
8 to use of a guide or support animal because of the blindness,
9 deafness or physical handicap of the user, or because the user
10 is a handler or trainer of support or guide animals, or that the
11 patronage or custom thereof of any person, belonging to or
12 purporting to be of any particular race, color, religious creed,
13 sex, ancestry, sexual orientation or gender identity or
14 expression, national origin or handicap or disability, or to any
15 person due to use of a guide or support animal because of the
16 blindness, deafness or physical handicap of the user or because
17 the user is a handler or trainer of support or guide animals, is
18 unwelcome, objectionable or not acceptable, desired or
19 solicited.

20 (3) Exclude or otherwise deny equal goods, services,
21 facilities, privileges, advantages, accommodations or other
22 opportunities to a person because of the handicap or disability
23 of an individual with whom the person is known to have a
24 relationship or association.

25 (4) Construct, operate or otherwise make available such
26 place of public accommodation, resort or amusement which is not
27 accessible.

28 * * *

29 Section 4. Sections 5.3, 7(i), (j), (k), 8, 9(f), (f.1) and
30 (f.2) and 12 of the act, amended December 20, 1991 (P.L.414,

1 No.51), are amended to read:

2 Section 5.3. Prohibition of Certain Real Estate Practices.--

3 It shall be an unlawful discriminatory practice for any person
4 to:

5 (a) Induce, solicit or attempt to induce or solicit for
6 commercial profit any listing, sale or transaction involving any
7 housing accommodation or commercial property by representing
8 that such housing accommodation or commercial property is within
9 any neighborhood, community or area adjacent to any other area
10 in which there reside, or do not reside, persons of a particular
11 race, color, familial status, age, religious creed, ancestry,
12 sexual orientation or gender identity or expression, sex,
13 national origin, handicap or disability, or who are guide or
14 support animal dependent.

15 (b) Discourage, or attempt to discourage, for commercial
16 profit, the purchase or lease of any housing accommodation or
17 commercial property by representing that such housing
18 accommodation or commercial property is within any neighborhood,
19 community or area adjacent to any other area in which there
20 reside, or may in the future reside in increased or decreased
21 numbers, persons of a particular race, color, familial status,
22 age, religious creed, ancestry, sexual orientation or gender
23 identity or expression, sex, national origin, handicap or
24 disability, or who are guide or support animal dependent.

25 (c) Misrepresent, create or distort a circumstance,
26 condition or incident for the purpose of fostering the
27 impression or belief, on the part of any owner, occupant or
28 prospective owner or occupant of any housing accommodation or
29 commercial property, that such housing accommodation or
30 commercial property is within any neighborhood, community or

1 area adjacent to any other area which would be adversely
2 impacted by the residence, or future increased or decreased
3 residence, of persons of a particular race, color, familial
4 status, age, religious creed, ancestry, sexual orientation or
5 gender identity or expression, sex, national origin, handicap or
6 disability, or who are guide or support animal dependent within
7 such neighborhood, community or area.

8 (d) In any way misrepresent or otherwise misadvertise within
9 a neighborhood or community, whether or not in writing, that any
10 housing accommodation or commercial property within such
11 neighborhood or community is available for inspection, sale,
12 lease, sublease or other transfer, in any context where such
13 misrepresentation or misadvertising would have the effect of
14 fostering an impression or belief that there has been or will be
15 an increase in real estate activity within such neighborhood or
16 community due to the residence, or anticipated increased or
17 decreased residence, of persons of a particular race, color,
18 familial status, age, religious creed, ancestry, sexual
19 orientation or gender identity or expression, sex, national
20 origin, handicap or disability, or the use of a guide or support
21 animal because of the blindness, deafness or physical handicap
22 of the user.

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

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

19 (k) To submit an annual report for each fiscal year by the
20 following March 31 to the General Assembly, the Labor and
21 Industry Committee of the Senate and the State Government
22 Committee of the House of Representatives and the Governor
23 describing in detail the types of complaints received, the
24 investigations, status of cases, Commission action which has
25 been taken, how many were found to have probable cause, how many
26 were resolved by public hearing and the length of time from the
27 initial complaint to final Commission resolution. It shall also
28 contain recommendations for such further legislation concerning
29 abuses and discrimination because of race, color, familial
30 status, religious creed, ancestry, sexual orientation or gender

1 identity or expressions, national origin, age, sex, handicap or
2 disability or the use of a guide or support animal because of
3 the blindness, deafness or physical handicap of the user or
4 because the user is a handler or trainer of support or guide
5 animals, as may be desirable.

6 * * *

7 Section 8. Educational Program.--The Commission, in
8 cooperation with the Department of Education, is authorized to
9 recommend a multicultural educational program, designed for the
10 students of the schools in this Commonwealth and for all other
11 residents thereof, with emphasis on foreign cultural and
12 language studies, as well as on the basic shared precepts and
13 principles of United States culture, in order to promote
14 cultural understanding and appreciation and to further good will
15 among all persons, without regard to race, color, familial
16 status, religious creed, ancestry, sexual orientation or gender
17 identity or expression, age, sex, national origin, handicap or
18 disability.

19 Section 9. Procedure.--* * *

20 (f) (1) If, upon all the evidence at the hearing, the
21 Commission shall find that a respondent has engaged in or is
22 engaging in any unlawful discriminatory practice as defined in
23 this act, the Commission shall state its findings of fact, and
24 shall issue and cause to be served on such respondent an order
25 requiring such respondent to cease and desist from such unlawful
26 discriminatory practice and to take such affirmative action,
27 including, but not limited to, reimbursement of certifiable
28 travel expenses in matters involving the complaint, compensation
29 for loss of work in matters involving the complaint, hiring,
30 reinstatement or upgrading of employes, with or without back

1 pay, admission or restoration to membership in any respondent
2 labor organization, the making of reasonable accommodations, or
3 selling or leasing specified housing accommodations or
4 commercial property upon such equal terms and conditions and
5 with such equal facilities, services and privileges or lending
6 money, whether or not secured by mortgage or otherwise for the
7 acquisition, construction, rehabilitation, repair or maintenance
8 of housing accommodations or commercial property, upon such
9 equal terms and conditions to any person discriminated against
10 or all persons, and any other verifiable, reasonable out-of-
11 pocket expenses caused by such unlawful discriminatory practice,
12 [provided that, in those cases alleging a violation of section
13 5(d), (e) or (h) or 5.3 where the underlying complaint is a
14 violation of section 5(h) or 5.3, the Commission may] shall
15 award actual damages, including damages caused by humiliation
16 and embarrassment, and punitive damages as, in the judgment of
17 the Commission, will effectuate the purposes of this act, and
18 including a requirement for report of the manner of compliance.

19 (2) Such order may also assess a civil penalty against the
20 respondent in a complaint of discrimination filed under sections
21 5(h) or 5.3:

22 (i) in an amount not exceeding ten thousand dollars
23 (\$10,000) if the respondent has not been adjudged to have
24 committed any prior discriminatory practice;

25 (ii) in an amount not exceeding twenty-five thousand dollars
26 (\$25,000) if the respondent has been adjudged to have committed
27 one other discriminatory practice during the five-year period
28 ending on the date of this order; or

29 (iii) in an amount not exceeding fifty thousand dollars
30 (\$50,000) if the respondent has been adjudged to have committed

1 more than one other discriminatory practice during the seven-
2 year period ending on the date of this order.

3 If, however, the acts constituting the discriminatory practice
4 that is the object of the charge are committed by the same
5 natural person who has been previously adjudged to have
6 committed acts constituting a discriminatory practice, then the
7 civil penalties set forth in subparagraphs (ii) and (iii) may be
8 imposed without regard to the period of time within which any
9 subsequent discriminatory practice occurred.

10 (3) When the respondent is a licensee of the Commonwealth,
11 the Commission shall inform the appropriate State licensing
12 authority of the order with the request that the licensing
13 authority take such action as it deems appropriate against such
14 licensee. An appeal from the Commission's order shall act as a
15 supersedeas and stay such action by the State licensing
16 authority until a final decision on said appeal.

17 (4) If, upon all the evidence, the Commission shall find
18 that a respondent has not engaged in any such unlawful
19 discriminatory practice, the Commission shall state its findings
20 of fact, and shall issue and cause to be served on the
21 complainant an order dismissing the said complaint as to such
22 respondent.

23 (f.1) If, upon all the evidence at the hearing, [in those
24 cases alleging a violation of section 5(d), (e), (h) or 5.3
25 where the underlying complaint is a violation of section 5(h) or
26 5.3,] the Commission finds that a respondent has engaged in or
27 is engaging in any unlawful discriminatory practice as defined
28 in this act, the Commission may award attorney fees and costs to
29 prevailing complainants.

30 (f.2) If, upon all the evidence at the hearing, [in those

1 cases alleging a violation of section 5(d), (e), (h) or 5.3
2 where the underlying complaint is a violation of section 5(h) or
3 5.3,] the Commission finds that a respondent has not engaged in
4 or is not engaging in any unlawful discriminatory practice as
5 defined in this act, the Commission may award attorney fees and
6 costs to a prevailing respondent if the respondent proves that
7 the complaint was brought in bad faith.

8 * * *

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

10 (a) The provisions of this act shall be construed liberally
11 for the accomplishment of the purposes thereof, and any law
12 inconsistent with any provisions hereof shall not apply.

13 (b) Except as provided in subsection (c), nothing contained
14 in this act shall be deemed to repeal or supersede any of the
15 provisions of any existing or hereafter adopted municipal
16 ordinance, municipal charter or of any law of this Commonwealth
17 relating to discrimination because of race, color, familial
18 status, religious creed, ancestry, sexual orientation or gender
19 identity or expression, age, sex, national origin or handicap or
20 disability, but as to acts declared unlawful by section five of
21 this act the procedure herein provided shall, when invoked, be
22 exclusive and the final determination therein shall exclude any
23 other action, civil or criminal, based on the same grievance of
24 the complainant concerned. If the complainant institutes any
25 action based on such grievance without resorting to the
26 procedure provided in this act, such complainant may not
27 subsequently resort to the procedure herein. In the event of a
28 conflict between the interpretation of a provision of this act
29 and the interpretation of a similar provision contained in any
30 municipal ordinance, the interpretation of the provision in this

1 act shall apply to such municipal ordinance.

2 (c) (1) In cases involving a claim of discrimination, if a
3 complainant invokes the procedures set forth in this act, that
4 individual's right of action in the courts of the Commonwealth
5 shall not be foreclosed. If within one (1) year after the filing
6 of a complaint with the Commission, the Commission dismisses the
7 complaint or has not entered into a conciliation agreement to
8 which the complainant is a party, the Commission must so notify
9 the complainant. On receipt of such a notice the complainant
10 shall be able to bring an action in the courts of common pleas
11 of the Commonwealth based on the right to freedom from
12 discrimination granted by this act. The complainant has the
13 right to a jury trial in an action brought in the courts of
14 common pleas of the Commonwealth in an action under this
15 subsection.

16 (2) An action under this subsection shall be filed within
17 two years after the date of notice from the Commission closing
18 the complaint. Any complaint so filed shall be served on the
19 Commission at the time the complaint is filed in court. The
20 Commission shall notify the complainant of this requirement.

21 (3) If the court finds that the respondent has engaged in or
22 is engaging in an unlawful discriminatory practice charged in
23 the complaint, the court shall enjoin the respondent from
24 engaging in such unlawful discriminatory practice and order
25 affirmative action which may include, but is not limited to,
26 reinstatement or hiring of employes, granting of back pay, or
27 any other legal or equitable relief, including damages caused by
28 humiliation and embarrassment, and punitive damages, as the
29 court deems appropriate. Back pay liability shall not accrue
30 from a date more than three years prior to the filing of a

1 complaint charging violations of this act.

2 (4) The court shall serve upon the Commission any final
3 order issued in any action brought under this subsection.

4 (c.1) Notwithstanding subsections (a) and (c) or any other
5 provision of this act, nothing in this act shall be deemed to
6 authorize imposition by the Commission of remedial quota relief
7 in cases involving hiring or promoting of employes of the
8 Commonwealth, its agencies or instrumentalities or employes of
9 local governments and school districts in this Commonwealth.
10 This subsection shall not, however, prohibit the voluntary
11 adoption of an affirmative action plan designed to assure that
12 all persons are accorded equality of opportunity in employment.

13 (c.2) If, after a trial held pursuant to subsection (c), the
14 court of common pleas finds that a defendant engaged in or is
15 engaging in any unlawful discriminatory practice as defined in
16 this act, the court [may] shall award attorney fees and costs to
17 the prevailing plaintiff.

18 (c.3) If, after a trial held pursuant to subsection (c), the
19 court of common pleas finds that a defendant has not engaged in
20 or is not engaging in any unlawful discriminatory practice as
21 defined in this act, the court may award attorney fees and costs
22 to the prevailing defendant if the defendant proves that the
23 complaint was brought in bad faith.

24 (d) Nothing in this act shall be construed to require any
25 employer to hire any person with a job-related handicap or
26 disability.

27 (e) The time limits for filing under any complaint or other
28 pleading under this act shall be subject to waiver, estoppel and
29 equitable tolling.

30 (f) Nothing in this act shall be constructed as superseding

1 any provision of the act of October 15, 1980 (P.L.950, No.164),
2 known as the "Commonwealth Attorneys Act." All court actions
3 commenced by or against the Commission shall be subject to the
4 provisions of that act.

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