

ACT 292

H.B. NO. 1857-86

A Bill for an Act Relating to Discrimination in Public Accommodations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
DISCRIMINATION IN PUBLIC ACCOMMODATIONS**

§ -1 **Purpose; construction.** (a) The purpose of this chapter is to protect the interests, rights, and privileges of all persons within the State with regard to access and use of public accommodations by prohibiting unfair discrimination.

(b) This chapter shall be liberally construed to further the purposes stated in subsection (a).

§ -2 **Definitions.** As used in this chapter:

“Handicap” means a physical or mental impairment which substantially limits one or more of a person’s major life activities, or is regarded as such an impairment. The term does not include alcohol or drug use that impairs a person’s activities or threatens the property or safety of others.

“Person” has the meaning prescribed in section 1-19 and includes a legal representative, partnership, receiver, trust, trustee, trustee in bankruptcy, the State, or any governmental entity or agency.

“Place of public accommodation” means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind whose goods, services, facilities, privileges, advantages, or accommodations

are extended, offered, sold, or otherwise made available to the public. By way of example, but not of limitation, place of public accommodation includes facilities of the following types:

- (1) A facility providing service relating to travel or transportation;
- (2) An inn, hotel, motel, or other establishment which provides lodging to transient guests;
- (3) A restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises of a retail establishment;
- (4) An establishment which sells goods or services at retail;
- (5) An establishment licensed under chapter 281 doing business under a class 4, 5, 7, 8, 9, 10, 11, or 12 license, as defined in section 281-31;
- (6) A motion picture theater, other theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;
- (7) A barber shop, beauty shop, bathhouse, swimming pool, gymnasium, reducing or massage salon, or other establishment conducted to serve the health, appearance, or physical condition of persons;
- (8) A campsite or trailer facility;
- (9) A comfort station; or a dispensary, clinic, hospital, convalescent home, or other institution for the infirm;
- (10) A mortuary or undertaking establishment; and
- (11) An establishment which is physically located within the premises of an establishment otherwise covered by this definition, or within the premises of which is physically located a covered establishment, and which holds itself out as serving patrons of the covered establishment.

No place of public accommodation defined in this section shall be requested to construct or reconstruct any facility or part thereof to comply with this chapter.

§ -3 **Discriminatory practices prohibition.** Unfair discriminatory practices which deny, or attempt to deny, a person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation on the basis of race, sex, color, religion, ancestry or handicap are prohibited.

§ -4 **Exception, privacy requirements.** The provision of separate facilities or schedules for female and for male patrons, does not constitute a discriminatory practice when such separate facilities or schedules for female and for male patrons are bona fide requirements to protect personal rights of privacy.

§ -5 **Other discriminatory practices.** It is a discriminatory practice for two or more persons to conspire:

- (1) To retaliate or discriminate against a person because the person has opposed an unfair discriminatory practice;
- (2) To aid, abet, incite, or coerce a person to engage in a discriminatory practice; or
- (3) Wilfully, to obstruct, or prevent, a person from complying with this chapter.

§ -6 **Complaint against unfair discrimination; reporting requirements.** The department of labor and industrial relations, hereinafter referred to as "department", shall receive all complaints of unfair discriminatory treatment

in public accommodations. Any person claiming to be aggrieved by an unfair discriminatory practice contrary to the purposes of this act may file a verified complaint with the department on a form provided by the department, which shall state the name and address of the public accommodation alleged to have committed the unfair discriminatory practice complained of and set forth the particulars thereof and such other information as may be required by the department. The department shall provide to the legislature a complete record of all complaints that it has received on an annual basis, not less than thirty days prior to the commencement of the legislative session. For each public accommodation alleged to have committed an unfair discriminatory practice, the report shall specify the number and types of complaints that were received.

§ -7 **No limitation on causes of action.** Nothing in this chapter shall be construed to limit any cause of action based upon any unfair discriminatory practices for which a remedy is available under state or federal law.”

SECTION 2. Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1986.)