

W/S 4/30/87

FILED MAR 02 1987

SENATE FILE 297
BY COMMITTEE ON JUDICIARY
(formerly SSB 31 + SSB 113)
Approved 3/2 (J. 518)
H. J. 500 substituted 4/10/87

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the state civil rights law, amending the
2 definition of public accommodation, and revising provisions on
3 unfair or discriminatory practices by deleting certain
4 enumerations and duplications.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 297

1 Section 1. Section 601A.2, subsection 10, unnumbered
2 paragraph 1, Code 1987, is amended to read as follows:

3 "Public accommodation" means each ~~and-every~~ place,
4 establishment, or facility of whatever kind, nature, or class
5 that caters or offers services, facilities, or goods for a fee
6 or charge to the public or nonmembers of any organization or
7 association utilizing the place, establishment, or facility,
8 provided that any place, establishment, or facility that
9 caters or offers services, facilities, or goods to the public
10 or nonmembers gratuitously shall be deemed a public
11 accommodation if the accommodation receives governmental
12 support or subsidy. ~~Public-accommodation-shall~~ "Public
13 accommodation" does not mean any bona fide private club or
14 other place, establishment, or facility which is by its nature
15 distinctly private, except when ~~such~~ the distinctly private
16 place, establishment, or facility caters or offers services,
17 facilities, or goods to the nonmembers for fee or charge or
18 gratuitously, it shall be deemed a public accommodation during
19 such period.

20 Sec. 2. Section 601A.11, Code 1987, is amended to read as
21 follows:

22 601A.11 AIDING OR ABETTING -- RETALIATION.

23 It ~~shall-be~~ is an unfair or discriminatory practice for:

24 1. AIDING AND ABETTING. Any A person to intentionally
25 aid, abet, compel, or coerce another person to engage in any
26 of the practices declared unfair or discriminatory by this
27 chapter.

28 2. RETALIATION. Any A person to discriminate against
29 another person in any of the rights protected against
30 ~~discrimination on-the-basis-of-age, race, creed, color, sex,~~
31 ~~national-origin, religion-or-disability~~ by this chapter
32 because such person has lawfully opposed any practice
33 forbidden under this chapter, obeys the provisions of this
34 chapter, or has filed a complaint, testified, or assisted in
35 any proceeding under this chapter. ~~An-employer, employment~~

1 agency, or their employees, servants or agents, may offer
2 employment or advertise for employment to only the disabled,
3 when other applicants have available to them other employment
4 compatible with their ability which would not be available to
5 the disabled because of their handicap. Any such employment
6 or offer of employment shall not discriminate among the
7 disabled on the basis of race, color, creed, sex or national
8 origin.

9 EXPLANATION

10 This bill amends the definition of "public accommodation"
11 to add express references to "the public". References to the
12 general public were deleted in connection with a 1984
13 amendment which focused on private clubs serving nonmembers,
14 but membership or nonmembership is not the issue for
15 accommodations which are not private clubs.

16 This bill also amends provisions of the state civil rights
17 law relating to unfair or discriminatory practices by deleting
18 certain enumerations from the law and eliminating duplicative
19 language relating to employment of only the disabled. The
20 language on employment of the disabled appears in section
21 601A.6, subsection 1, paragraph "c", unnumbered paragraph 2.

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S-3146

1 Amend Senate File 297 as follows:

2 1. Page 1, by inserting after line 19 the
3 following:

4 "Sec. ____ . NEW SECTION. 601A.6A REASONABLE
5 ACCOMMODATION BY EMPLOYER.

6 1. An employer shall make reasonable accommodation
7 to the known physical or mental limitations of an
8 otherwise qualified handicapped employee or applicant
9 for employment unless the employer can demonstrate
10 that the accommodation would impose an undue hardship
11 on the operation of its program.

12 2. Reasonable accommodation may include the
13 following:

14 a. Making facilities used by employees readily
15 accessible to and usable by handicapped persons.

16 b. Job restructuring, part-time or modified work
17 schedules, acquisition or modification of equipment or
18 devices, the provision of readers or interpreters, and
19 other similar actions.

20 3. Reasonable accommodation may require more than
21 a de minimis expenditure as long as it does not impose
22 an undue hardship on the operation of the employer's
23 program.

24 4. In determining whether an accommodation would
25 impose an undue hardship on the operation of an
26 employer's program, factors to be considered include
27 all of the following:

28 a. The overall size of the employer's program with
29 respect to number of employees, number and type of
30 facilities, and size of budget.

31 b. The type of the employer's operation, including
32 the composition and structure of the employer's
33 workforce.

34 c. The nature and cost of the accommodation
35 needed.

36 5. An employer shall not deny any employment
37 opportunity to a qualified handicapped employee or
38 applicant if the basis for the denial is the need to
39 make reasonable accommodation to the physical or
40 mental limitations of the employee or applicant."

41 2. Page 2, by inserting after line 8 the
42 following:

43 "Sec. ____ . Section 601A.16, Code 1987, is amended
44 by adding the following new subsection:

45 NEW SUBSECTION. 7. An action brought pursuant to
46 this chapter may be joined with any other action,
47 except an administrative proceeding."

48 3. Title page, line 2, by inserting after the
49 word "accommodation," the following: "requiring
50 employers to make reasonable accommodations to

pg. 2
1 handicapped employees and applicants, providing for
2 joinder of actions,".

3 4. By renumbering as necessary.

SENATE FILE 297

442

1 Amend Senate File 297 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 601A.2, subsection 10,
5 unnumbered paragraph 1, Code 1987, is amended to read
6 as follows:

7 "Public accommodation" means each and every place,
8 establishment, or facility of whatever kind, nature,
9 or class that caters or offers services, facilities,
10 or goods for a fee or charge to the public or
11 nonmembers of any organization or association
12 utilizing the place, establishment, or facility,
13 provided that any place, establishment, or facility
14 that caters or offers services, facilities, or goods
15 to the public or nonmembers gratuitously shall be
16 deemed a public accommodation if the accommodation
17 receives governmental support or subsidy. ~~Public~~
18 ~~accommodation-shall~~ "Public accommodation" does not
19 mean any bona fide private club or other place,
20 establishment, or facility which is by its nature
21 distinctly private, except when such the distinctly
22 private place, establishment, or facility caters or
23 offers services, facilities, or goods to the
24 nonmembers for fee or charge or gratuitously, it shall
25 be deemed a public accommodation during such period.

26 Sec. 2. Section 601A.2, subsection 11, Code 1987,
27 is amended by striking the subsection and inserting in
28 lieu thereof the following:

29 11. "Disability" means the physical or mental
30 condition of a person which constitutes a substantial
31 handicap.

32 Sec. 3. Section 601A.5, subsections 6 and 8, Code
33 1987, are amended by striking the subsections and
34 inserting in lieu thereof the following:

35 6. To issue such publications and reports of
36 investigations and research as in the judgment of the
37 commission will tend to promote good will and minimize
38 or eliminate discrimination in credit, education,
39 employment, housing, and public accommodations because
40 of age, color, creed, disability, marital status,
41 national origin, race, religion, or sex.

42 8. To make recommendations to the general assembly
43 for such further legislation concerning discrimination
44 because of age, color, creed, disability, marital
45 status, national origin, race, religion, or sex as it
46 may deem necessary and desirable.

47 Sec. 4. Section 601A.11, Code 1987, is amended by
48 striking the section and inserting in lieu thereof the
49 following:

50 601A.11 AIDING AND ABETTING OR RETALIATION.

S-3442 pg. 2

1 1. AIDING AND ABETTING. It is an unfair or
2 discriminatory practice for a person to intentionally
3 aid, abet, compel, or coerce another person to engage
4 in any of the practices declared unfair or
5 discriminatory by this chapter.
6 2. RETALIATION. It is an unfair or discriminatory
7 practice for a person to discriminate against another
8 person in any of the rights protected against
9 discrimination by this chapter because such person has
10 lawfully opposed any practice forbidden under this
11 chapter, obeys the provisions of this chapter, or has
12 filed a complaint, testified, or assisted in any
13 proceeding under this chapter."
14 2. Title page, by striking lines 1 through 4 and
15 inserting the following:
16 "An Act relating to the state civil rights law and
17 the civil rights commission."

S-3442

Filed April 7, 1987

BY TOM MANN, JR.

Placed in file 4/90 (p 1204)

SENATE FILE 297

S-3445

1 Amend Senate File 297 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 601A.2, subsection 10,
5 unnumbered paragraph 1, Code 1987, is amended to read
6 as follows:

7 "Public accommodation" means each and every place,
8 establishment, or facility of whatever kind, nature,
9 or class that caters or offers services, facilities,
10 or goods for a fee or charge to the public or
11 nonmembers of any organization or association
12 utilizing the place, establishment, or facility,
13 provided that any place, establishment, or facility
14 that caters or offers services, facilities, or goods
15 to the public or nonmembers gratuitously shall be
16 deemed a public accommodation if the accommodation
17 receives governmental support or subsidy. Public
18 accommodation shall "Public accommodation" does not
19 mean any bona fide private club or other place,
20 establishment, or facility which is by its nature
21 distinctly private, except when such the distinctly
22 private place, establishment, or facility caters or
23 offers services, facilities, or goods to the
24 nonmembers for fee or charge or gratuitously, it shall
25 be deemed a public accommodation during such period.

26 Sec. 2. Section 601A.2, subsection 11, Code 1987,
27 is amended by striking the subsection and inserting in
28 lieu thereof the following:

29 11. "Disability" means the physical or mental
30 condition of a person which constitutes a substantial
31 handicap.

32 In reference to employment, "disability" means a
33 substantial handicap as follows:

34 a. Handicap is not related to the ability to do
35 the job.

36 b. Handicap is related to the job but through
37 experience and training the person has overcome the
38 handicap and is able to perform the job.

39 Sec. 3. Section 601A.5, subsections 6 and 8, Code
40 1987, are amended by striking the subsections and
41 inserting in lieu thereof the following:

42 6. To issue such publications and reports of
43 investigations and research as in the judgment of the
44 commission will tend to promote good will and minimize
45 or eliminate discrimination in credit, education,
46 employment, housing, and public accommodations because
47 of age, color, creed, disability, marital status,
48 national origin, race, religion, or sex.

49 8. To make recommendations to the general assembly
50 for such further legislation concerning discrimination

1 because of age, color, creed, disability, marital
2 status, national origin, race, religion, or sex as it
3 may deem necessary and desirable.

4 Sec. 4. Section 601A.11, Code 1987, is amended by
5 striking the section and inserting in lieu thereof the
6 following:

7 601A.11 AIDING AND ABETTING OR RETALIATION.

8 1. AIDING AND ABETTING. It is an unfair or
9 discriminatory practice for a person to intentionally
10 aid, abet, compel, or coerce another person to engage
11 in any of the practices declared unfair or
12 discriminatory by this chapter.

13 2. RETALIATION. It is an unfair or discriminatory
14 practice for a person to discriminate against another
15 person in any of the rights protected against
16 discrimination by this chapter because such person has
17 lawfully opposed any practice forbidden under this
18 chapter, obeys the provisions of this chapter, or has
19 filed a complaint, testified, or assisted in any
20 proceeding under this chapter."

21 2. Title page, by striking lines 1 through 4 and
22 inserting the following:

23 "An Act relating to the state civil rights law and
24 the civil rights commission."

S-3445

Filed April 7, 1987

BY TOM MANN, JR.

Adopted 1/10/87 (p. 1204)

SSB # 31
Judiciary
Approved
5/2/87

SENATE/HOUSE FILE _____
BY (PREFILED CIVIL RIGHTS
COMMISSION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the definition of public accommodation for
2 purposes of the state civil rights law.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SUB COMMITTEE ASSIGNMENTS
CHAIR: Mann
COMMITTEE: Judiciary
1-21-87

S.F. _____ H.F. _____

1 Section 1. Section 601A.2, subsection 10, unnumbered
2 paragraph 1, Code 1987, is amended to read as follows:

3 "Public accommodation" means each and every place,
4 establishment, or facility of whatever kind, nature, or class
5 that caters or offers services, facilities, or goods for a fee
6 or charge to the public or nonmembers of any organization or
7 association utilizing the place, establishment, or facility,
8 provided that any place, establishment, or facility that
9 caters or offers services, facilities, or goods to the public
10 or nonmembers gratuitously shall be deemed a public
11 accommodation if the accommodation receives governmental
12 support or subsidy. ~~Public-accommodation-shall~~ "Public
13 accommodation" does not mean any bona fide private club or
14 other place, establishment, or facility which is by its nature
15 distinctly private, except when such the distinctly private
16 place, establishment, or facility caters or offers services,
17 facilities, or goods to the nonmembers for fee or charge or
18 gratuitously, it shall be deemed a public accommodation during
19 such period.

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EXPLANATION

21 This bill amends the definition of "public accommodation"
22 to add express references to "the public". References to the
23 general public were deleted in connection with a 1984
24 amendment which focused on private clubs serving nonmembers,
25 but membership or nonmembership is not the issue for
26 accommodations which are not private clubs.

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SSB # 113
Judiciary
And
SF 397

SENATE/HOUSE FILE _____
BY (PREFILED CIVIL RIGHTS
COMMISSION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to unfair or discriminatory practices under the
2 state civil rights law by deleting certain enumerations and
3 duplications.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SUB COMMITTEE ASSIGNMENTS
CHAIR: Mann
COMMITTEE: Judiciary
2/16/87

1 Section 1. Section 601A.11, Code 1987, is amended to read
2 as follows:

3 601A.11 AIDING OR ABETTING -- RETALIATION.

4 It shall be is an unfair or discriminatory practice for:

5 1. AIDING AND ABETTING. Any A person to intentionally
6 aid, abet, compel, or coerce another person to engage in any
7 of the practices declared unfair or discriminatory by this
8 chapter.

9 2. RETALIATION. Any A person to discriminate against
10 another person in any of the rights protected against
11 discrimination ~~on-the-basis-of-age,-race,-creed,-color,-sex,-~~
12 ~~national-origin,-religion-or-disability~~ by this chapter
13 because such person has lawfully opposed any practice
14 forbidden under this chapter, obeys the provisions of this
15 chapter, or has filed a complaint, testified, or assisted in
16 any proceeding under this chapter. ~~An-employer,-employment~~
17 ~~agency,-or-their-employees,-servants-or-agents-may-offer~~
18 ~~employment-or-advertise-for-employment-to-only-the-disabled,-~~
19 ~~when-other-applicants-have-available-to-them-other-employment~~
20 ~~compatible-with-their-ability-which-would-not-be-available-to~~
21 ~~the-disabled-because-of-their-handicap.--Any-such-employment~~
22 ~~or-offer-of-employment-shall-not-discriminate-among-the~~
23 ~~disabled-on-the-basis-of-race,-color,-creed,-sex-or-national~~
24 ~~origin-~~

25 EXPLANATION

26 This bill amends provisions of the state civil rights law
27 relating to unfair or discriminatory practices by deleting
28 certain enumerations from the law and eliminating duplicative
29 language relating to employment of only the disabled. The
30 language on employment of the disabled appears in section
31 601A.6, subsection 1, paragraph "c", unnumbered paragraph 2.

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