

HOUSE BILL No. 5234

September 27, 2005, Introduced by Rep. Gosselin and referred to the Committee on Government Operations.

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending the title and sections 102, 103, 202, 203, 204, 205, 206, 207, and 302 (MCL 37.2102, 37.2103, 37.2202, 37.2203, 37.2204, 37.2205, 37.2206, 37.2207, and 37.2302), the title as amended by 1992 PA 258, section 102 as amended by 1992 PA 124, section 103 as amended by 1999 PA 202, and section 202 as amended by 1991 PA 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to define civil rights; to prohibit discriminatory practices, policies, and customs in the exercise of those rights based upon religion, race, color, national origin, age, sex, height, weight, familial status, ~~or~~ marital status, **THE OWNERSHIP**

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1 **OR OPERATION OF A MOTORCYCLE, OR THE WEARING OF CLOTHING ASSOCIATED**
2 **WITH MOTORCYCLE OWNERSHIP OR OPERATION;** to preserve the
3 confidentiality of records regarding arrest, detention, or other
4 disposition in which a conviction does not result; to prescribe the
5 powers and duties of the civil rights commission and the department
6 of civil rights; to provide remedies and penalties; to provide for
7 fees; and to repeal certain acts and parts of acts.

8 Sec. 102. (1) The opportunity to obtain employment, housing
9 and other real estate, and the full and equal utilization of public
10 accommodations, public service, and educational facilities without
11 discrimination because of religion, race, color, national origin,
12 age, sex, height, weight, familial status, ~~or~~ marital status, **THE**
13 **OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR THE WEARING OF CLOTHING**
14 **ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR OPERATION** as prohibited by
15 this act, is recognized and declared to be a civil right.

16 (2) This section ~~shall not be construed to~~ **DOES NOT** prevent
17 an individual from bringing or continuing an action arising out of
18 sex discrimination before July 18, 1980 ~~which~~ **FOR AN** action **THAT**
19 is based on conduct similar to or identical to harassment.

20 (3) This section ~~shall not be construed to~~ **DOES NOT** prevent
21 an individual from bringing or continuing an action arising out of
22 discrimination based on familial status before ~~the effective date~~
23 ~~of the amendatory act that added this subsection which~~ **JUNE 29,**
24 **1992 FOR AN** action **THAT** is based on conduct similar to or identical
25 to discrimination because of the age of persons residing with the
26 individual bringing or continuing the action.

27 Sec. 103. As used in this act:

1 (a) "Age" means chronological age except as otherwise provided
2 by law.

3 (B) "CLOTHING ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR
4 OPERATION" MEANS CLOTHING THAT DISPLAYS THE NAME OR LIKENESS OF A
5 MOTORCYCLE, A MOTORCYCLE-RELATED PRODUCT, OR THE NAME OF A
6 MOTORCYCLE-RELATED ORGANIZATION, MANUFACTURER, OR ASSOCIATION.

7 (C) ~~(b)~~ "Commission" means the civil rights commission
8 established by section 29 of article V of the state constitution of
9 1963.

10 ~~———— (c) "Commissioner" means a member of the commission.~~

11 (d) "Department" means the department of civil rights or its
12 employees.

13 (e) "Familial status" means 1 or more individuals under the
14 age of 18 residing with a parent or other person having custody or
15 in the process of securing legal custody of the individual or
16 individuals or residing with the designee of the parent or other
17 person having or securing custody, with the written permission of
18 the parent or other person. For purposes of this definition,
19 "parent" includes a person who is pregnant.

20 (f) "National origin" includes the national origin of an
21 ancestor.

22 (g) "Person" means an individual, agent, association,
23 corporation, joint apprenticeship committee, joint stock company,
24 labor organization, legal representative, mutual company,
25 partnership, receiver, trust, trustee in bankruptcy, unincorporated
26 organization, the state or a political subdivision of the state or
27 an agency of the state, or any other legal or commercial entity.

1 (h) "Political subdivision" means a county, city, village,
2 township, school district, or special district or authority of the
3 state.

4 (i) "Discrimination because of sex" includes sexual
5 harassment. "Sexual harassment" means unwelcome sexual advances,
6 requests for sexual favors, and other verbal or physical conduct or
7 communication of a sexual nature under the following conditions:

8 (i) Submission to the conduct or communication is made a term
9 or condition either explicitly or implicitly to obtain employment,
10 public accommodations or public services, education, or housing.

11 (ii) Submission to or rejection of the conduct or communication
12 by an individual is used as a factor in decisions affecting the
13 individual's employment, public accommodations or public services,
14 education, or housing.

15 (iii) The conduct or communication has the purpose or effect of
16 substantially interfering with an individual's employment, public
17 accommodations or public services, education, or housing, or
18 creating an intimidating, hostile, or offensive employment, public
19 accommodations, public services, educational, or housing
20 environment.

21 Sec. 202. (1) An employer shall not do any of the following:

22 (a) Fail or refuse to hire or recruit, discharge, or otherwise
23 discriminate against an individual with respect to employment,
24 compensation, or a term, condition, or privilege of employment,
25 because of religion, race, color, national origin, age, sex,
26 height, weight, ~~or~~ marital status, **THE OWNERSHIP OR OPERATION OF**
27 **A MOTORCYCLE, OR THE WEARING OF CLOTHING ASSOCIATED WITH MOTORCYCLE**

1 **OWNERSHIP OR OPERATION.**

2 (b) Limit, segregate, or classify an employee or applicant for
3 employment in a way that deprives or tends to deprive the employee
4 or applicant of an employment opportunity, or otherwise adversely
5 affects the status of an employee or applicant because of religion,
6 race, color, national origin, age, sex, height, weight, ~~or~~
7 marital status, **THE OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR THE**
8 **WEARING OF CLOTHING ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR**
9 **OPERATION.**

10 (c) Segregate, classify, or otherwise discriminate against a
11 person on the basis of sex with respect to a term, condition, or
12 privilege of employment, including, but not limited to, a benefit
13 plan or system.

14 (d) Until January 1, 1994, require an employee of an
15 institution of higher education who is serving under a contract of
16 unlimited tenure, or similar arrangement providing for unlimited
17 tenure, to retire from employment on the basis of the employee's
18 age. As used in this subdivision, "institution of higher education"
19 means a public or private university, college, community college,
20 or junior college located in this state.

21 (2) This section shall not be construed to prohibit the
22 establishment or implementation of a bona fide retirement policy or
23 system that is not a subterfuge to evade the purposes of this
24 section.

25 (3) This section does not apply to the employment of an
26 individual by his or her parent, spouse, or child.

27 Sec. 203. An employment agency shall not fail or refuse to

1 procure, refer, recruit, or place for employment, or otherwise
2 discriminate against, an individual because of religion, race,
3 color, national origin, age, sex, height, weight, ~~or~~ marital
4 status, **THE OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR THE WEARING**
5 **OF CLOTHING ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR OPERATION;** or
6 classify or refer for employment an individual on the basis of
7 religion, race, color, national origin, age, sex, height, weight,
8 ~~or~~ marital status, **THE OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR**
9 **THE WEARING OF CLOTHING ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR**
10 **OPERATION.**

11 Sec. 204. A labor organization shall not:

12 (a) Exclude or expel from membership, or otherwise
13 discriminate against, a member or applicant for membership because
14 of religion, race, color, national origin, age, sex, height,
15 weight, ~~or~~ marital status, **THE OWNERSHIP OR OPERATION OF A**
16 **MOTORCYCLE, OR THE WEARING OF CLOTHING ASSOCIATED WITH MOTORCYCLE**
17 **OWNERSHIP OR OPERATION.**

18 (b) Limit, segregate, or classify membership or applicants for
19 membership, or classify or fail or refuse to refer for employment
20 an individual in a way ~~which~~ **THAT** would deprive or tend to
21 deprive that individual of an employment opportunity, or ~~which~~
22 **THAT** would limit an employment opportunity, or ~~which~~ **THAT** would
23 adversely affect wages, hours, or employment conditions, or
24 otherwise adversely affect the status of an employee or an
25 applicant for employment, because of religion, race, color,
26 national origin, age, sex, height, weight, ~~or~~ marital status, **THE**
27 **OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR THE WEARING OF CLOTHING**

1 **ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR OPERATION.**

2 (c) Cause or attempt to cause an employer to violate this
3 article.

4 (d) Fail to fairly and adequately represent a member in a
5 grievance process because of religion, race, color, national
6 origin, age, sex, height, weight, ~~or~~ marital status, **THE**
7 **OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR THE WEARING OF CLOTHING**
8 **ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR OPERATION.**

9 Sec. 205. An employer, labor organization, or joint labor-
10 management committee controlling an apprenticeship, on the job, or
11 other training or retraining program, shall not discriminate
12 against an individual because of religion, race, color, national
13 origin, age, sex, height, weight, ~~or~~ marital status, **THE**
14 **OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR THE WEARING OF CLOTHING**
15 **ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR OPERATION,** in admission to,
16 or employment or continuation in, a program established to provide
17 apprenticeship on the job, or other training or retraining.

18 Sec. 206. (1) An employer, labor organization, or employment
19 agency shall not print, circulate, post, mail, or otherwise cause
20 to be published a statement, advertisement, notice, or sign
21 relating to employment by the employer, or relating to membership
22 in or a classification or referral for employment by the labor
23 organization, or relating to a classification or referral for
24 employment by the employment agency, ~~which~~ **THAT** indicates a
25 preference, limitation, specification, or discrimination, based on
26 religion, race, color, national origin, age, sex, height, weight,
27 ~~or~~ marital status, **THE OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR**

1 **THE WEARING OF CLOTHING ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR**
2 **OPERATION.**

3 (2) Except as permitted by rules promulgated by the commission
4 or by applicable federal law, an employer or employment agency
5 shall not:

6 (a) Make or use a written or oral inquiry or form of
7 application that elicits or attempts to elicit information
8 concerning the religion, race, color, national origin, age, sex,
9 height, weight, ~~or~~ marital status, **THE OWNERSHIP OR OPERATION OF**
10 **A MOTORCYCLE, OR THE WEARING OF CLOTHING ASSOCIATED WITH MOTORCYCLE**
11 **OWNERSHIP OR OPERATION** of a prospective employee.

12 (b) Make or keep a record of information described in
13 subdivision (a) or to disclose that information.

14 (c) Make or use a written or oral inquiry or form of
15 application that expresses a preference, limitation, specification,
16 or discrimination based on religion, race, color, national origin,
17 age, sex, height, weight, ~~or~~ marital status, **THE OWNERSHIP OR**
18 **OPERATION OF A MOTORCYCLE, OR THE WEARING OF CLOTHING ASSOCIATED**
19 **WITH MOTORCYCLE OWNERSHIP OR OPERATION** of a prospective employee.

20 Sec. 207. An individual seeking employment shall not publish
21 or cause to be published a notice or advertisement that specifies
22 or indicates the individual's religion, race, color, national
23 origin, age, sex, height, weight, ~~or~~ marital status, **THE**
24 **OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR THE WEARING OF CLOTHING**
25 **ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR OPERATION**, or expresses a
26 preference, specification, limitation, or discrimination as to the
27 religion, race, color, national origin, age, height, weight, sex,

1 ~~or~~ marital status, **THE OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR**
2 **THE WEARING OF CLOTHING ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR**
3 **OPERATION** of a prospective employer.

4 Sec. 302. Except where permitted by law, a person shall not:

5 (a) Deny an individual the full and equal enjoyment of the
6 goods, services, facilities, privileges, advantages, or
7 accommodations of a place of public accommodation or public service
8 because of religion, race, color, national origin, age, sex, ~~or~~
9 marital status, **THE OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR THE**
10 **WEARING OF CLOTHING ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR**
11 **OPERATION.**

12 (b) Print, circulate, post, mail, or otherwise cause to be
13 published a statement, advertisement, notice, or sign ~~which~~ **THAT**
14 indicates that the full and equal enjoyment of the goods, services,
15 facilities, privileges, advantages, or accommodations of a place of
16 public accommodation or public service will be refused, withheld
17 from, or denied an individual because of religion, race, color,
18 national origin, age, sex, ~~or~~ marital status, **THE OWNERSHIP OR**
19 **OPERATION OF A MOTORCYCLE, OR THE WEARING OF CLOTHING ASSOCIATED**
20 **WITH MOTORCYCLE OWNERSHIP OR OPERATION,** or that an individual's
21 patronage of or presence at a place of public accommodation is
22 objectionable, unwelcome, unacceptable, or undesirable because of
23 religion, race, color, national origin, age, sex, ~~or~~ marital
24 status, **THE OWNERSHIP OR OPERATION OF A MOTORCYCLE, OR THE WEARING**
25 **OF CLOTHING ASSOCIATED WITH MOTORCYCLE OWNERSHIP OR OPERATION.**