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LEGISLATURE OF THE STATE OF IDAHO  
Sixtieth Legislature Second Regular Session - 2010  
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IN THE \_\_\_\_\_

BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

1 AN ACT  
2 RELATING TO THE HUMAN RIGHTS COMMISSION; AMENDING SECTION 18-7301, IDAHO  
3 CODE, TO PROVIDE THAT DISCRIMINATION AGAINST SEXUAL ORIENTATION OR  
4 GENDER IDENTITY IS A CRIMINAL OFFENSE; AMENDING SECTION 67-5901, IDAHO  
5 CODE, TO PROVIDE THAT DISCRIMINATION BECAUSE OF SEXUAL ORIENTATION AND  
6 GENDER IDENTITY IS A CIVIL RIGHT; AND AMENDING SECTION 67-5909, IDAHO  
7 CODE, TO PROHIBIT DISCRIMINATION AGAINST A PERSON BECAUSE OF SEXUAL  
8 ORIENTATION OR GENDER IDENTITY WITH EXCEPTIONS.

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 18-7301, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 18-7301. FREEDOM FROM DISCRIMINATION CONSTITUTES A CIVIL RIGHT. The  
13 right to be free from discrimination because of race, creed, color, sex,  
14 sexual orientation, gender identity or national origin is recognized as and  
15 declared to be a civil right. This right shall include, but not be limited  
16 to:

- 17 (1) The right to obtain and hold employment without discrimination.  
18 (2) The right to the full enjoyment of any of the accommodations,  
19 facilities or privileges of any place of public resort, accommodation,  
20 assemblage or amusement.

21 SECTION 2. That Section 67-5901, Idaho Code, be, and the same is hereby  
22 amended to read as follows:

23 67-5901. PURPOSE OF CHAPTER. The general purposes of this chapter are:

24 (1) To provide for execution within the state of the policies  
25 embodied in the federal Civil Rights Act of 1964, as amended, and the Age  
26 Discrimination in Employment Act of 1967, as amended, and Titles I and III of  
27 the Americans with Disabilities Act.

28 (2) To secure for all individuals within the state freedom from  
29 discrimination because of race, color, religion, sex, sexual orientation,  
30 gender identity or national origin or disability in connection with  
31 employment, public accommodations, and real property transactions,  
32 discrimination because of race, color, religion, sex or national origin in  
33 connection with education, discrimination because of age in connection with  
34 employment, and thereby to protect their interest in personal dignity, to  
35 make available to the state their full productive capacities, to secure the  
36 state against domestic strife and unrest, to preserve the public safety,  
37 health, and general welfare, and to promote the interests, rights and  
38 privileges of individuals within the state.

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1 SECTION 3. That Section 67-5909, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 67-5909. ACTS PROHIBITED. It shall be a prohibited act to discriminate  
4 against a person because of, or on a basis of, race, color, religion, sex,  
5 sexual orientation, gender identity or national origin, in any of the  
6 following subsections. It shall be a prohibited act to discriminate against  
7 a person because of, or on the basis of, age in subsections (1), (2), (3) and  
8 (4) of this section. It shall be a prohibited act to discriminate against  
9 a person because of, or on the basis of, disability in subsections (1),  
10 (2), (3) and (4) of this section, provided that the prohibition against  
11 discrimination because of disability shall not apply if the particular  
12 disability, even with a reasonable accommodation, prevents the performance  
13 of the work required in that job, and in subsections (6), (8), (9), (10) and  
14 (11) of this section. The prohibition to discriminate shall also apply to  
15 those individuals without disabilities who are associated with a person with  
16 a disability.

17 (1) For an employer to fail or refuse to hire, to discharge, or to  
18 otherwise discriminate against an individual with respect to compensation  
19 or the terms, conditions or privileges of employment or to reduce the wage of  
20 any employee in order to comply with this chapter;

21 (2) For an employment agency to fail or refuse to refer for employment,  
22 or otherwise to discriminate against an individual or to classify or refer an  
23 individual for employment;

24 (3) For a labor organization:

25 (a) To exclude or to expel from membership, or to otherwise  
26 discriminate against, a member or applicant for membership,

27 (b) To limit, segregate or classify membership, or to fail or refuse to  
28 refer for employment an individual in any way,

29 1. Which would deprive an individual of employment opportunities,  
30 or

31 2. Which would limit employment opportunities or adversely affect  
32 the status of an employee or of an applicant for employment, or

33 (c) To cause or attempt to cause an employer to violate this chapter.

34 (4) For an employer labor organization or employment agency to print  
35 or publish or cause to be printed or published a notice or advertisement  
36 relating to employment by the employer or membership in or a classification  
37 or referral for employment by the labor organization, or relating to  
38 a classification or referral for employment by an employment agency,  
39 indicating a preference, limitation, specification or discrimination;  
40 but a notice or advertisement may indicate a preference limitation,  
41 specification, or discrimination when such is a bona fide occupational  
42 qualification for employment;

43 (5) For a person:

44 (a) To deny an individual the full and equal enjoyment of the goods,  
45 services, facilities, privileges, advantages and accommodations of a  
46 place of public accommodation, or

47 (b) To print, circulate, post, or mail or otherwise cause to be  
48 published a statement, advertisement or sign which indicates that  
49 the full and equal enjoyment of the goods, services, facilities,

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1 privileges, advantages of a place of public accommodation will be  
2 refused, withheld from, or denied an individual or that an individual's  
3 patronage of or presence at a place of public accommodation is  
4 objectionable, unwelcome, unacceptable, or undesirable.

5 (6) For a person who owns, leases or operates a place of public  
6 accommodation:

7 (a) To deny an individual on the basis of disability the full and equal  
8 enjoyment of the goods, services, facilities, privileges, advantages  
9 or accommodations of a place of public accommodation;

10 (b) To impose or apply eligibility criteria that screen out or tend to  
11 screen out an individual with a disability or any class of individuals  
12 with disabilities from fully and equally enjoying any goods, services,  
13 facilities, privileges, advantages or accommodations of a place of  
14 public accommodation, unless such criteria can be shown to be necessary  
15 for the provision of the goods, services, facilities, privileges,  
16 advantages or accommodations being offered;

17 (c) To fail to make reasonable modifications in policies, practices, or  
18 procedures when such modifications are necessary to afford such goods,  
19 services, facilities, privileges, advantages, or accommodations to  
20 individuals with disabilities, unless the entity can demonstrate  
21 that making such modifications would fundamentally alter the nature  
22 of such goods, services, facilities, privileges, advantages or  
23 accommodations;

24 (d) To fail to take such steps as may be necessary to ensure that no  
25 individual with a disability is excluded, denied services, segregated  
26 or otherwise treated differently than other individuals because of  
27 the absence of auxiliary aids and services, unless the entity can  
28 demonstrate that taking such steps would fundamentally alter the  
29 nature of the goods, services, facilities, privileges, advantages, or  
30 accommodations being offered or would result in an undue burden;

31 (e) To fail to remove architectural barriers and communication  
32 barriers that are structural in nature, in existing facilities and  
33 transportation barriers in existing vehicles used by an establishment  
34 for transporting individuals (not including barriers that can only  
35 be removed through retrofitting of vehicles), where such removal is  
36 readily achievable; or

37 (f) Where an entity can demonstrate that the removal of a barrier under  
38 paragraph (e) of this subsection is not readily achievable, to fail  
39 to make such goods, services, facilities, privileges, advantages or  
40 accommodations available through alternative methods if such methods  
41 are readily achievable.

42 (7) For an educational institution:

43 (a) To exclude, expel, limit, or otherwise discriminate against an  
44 individual seeking admission as a student or an individual enrolled as a  
45 student in the terms, conditions, and privileges of the institution, or

46 (b) To make or use a written or oral inquiry or form of application for  
47 admission that elicits or attempts to elicit information, or to make or  
48 keep a record, of an applicant for admission, except as permitted by the  
49 regulations of the commission,

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1 (c) To print or publish or cause to be printed or published a catalogue  
2 or other notice or advertisement indicating a preference, limitation,  
3 specification, discrimination of an applicant for admission, or

4 (d) To announce or follow a policy of denial or limitation through  
5 a quota or otherwise of educational opportunities of a group or its  
6 members.

7 (8) For an owner or any other person engaging in a real estate  
8 transaction, or for a real estate broker or salesman:

9 (a) To refuse to engage in a real estate transaction with a person,

10 (b) To discriminate against a person in the terms, conditions or  
11 privileges of a real estate transaction or in the furnishing of  
12 facilities or services in connection therewith,

13 (c) To refuse to receive or to fail to transmit a bona fide offer to  
14 engage in a real estate transaction from a person,

15 (d) To refuse to negotiate a real estate transaction with a person,

16 (e) To represent to a person that real property is not available for  
17 inspection, sale, rental, or lease when in fact it is so available, or to  
18 fail to bring a property listing to his attention, or to refuse to permit  
19 him to inspect real property,

20 (f) To print, circulate, post or mail or cause to be so published a  
21 statement, advertisement or sign, or to use a form of application for a  
22 real estate transaction, or to make a record or inquiry in connection  
23 with a prospective real estate transaction, which indicates, directly  
24 or indirectly, an intent to make a limitation, specification, or  
25 discrimination with respect thereto,

26 (g) To offer, solicit, accept, use or retain a listing of real property  
27 with the understanding that a person may be discriminated against in a  
28 real estate transaction or in the furnishing of facilities or services  
29 in connection therewith, or

30 (h) To refuse to permit, at the expense of a person with a disability,  
31 reasonable modifications of existing premises occupied or to be  
32 occupied by such person if the modifications may be necessary to afford  
33 such person full enjoyment of the premises. Provided, that in the case  
34 of a rental, the landlord may, where it is reasonable to do so, condition  
35 permission for a modification on the renter agreeing to restore the  
36 interior, exterior, or both, of the premises, to the condition that  
37 existed before the modification, reasonable wear and tear excepted.  
38 The provision for restoration shall be included in any lease or rental  
39 agreement.

40 (9) For a person to whom application is made for financial assistance  
41 in connection with a real estate transaction or for the construction,  
42 rehabilitation, repair, maintenance, or improvement of real property, or a  
43 representative of such a person:

44 (a) To discriminate against the applicant,

45 (b) To use a form of application for financial assistance or to make or  
46 keep a record or inquiry in connection with applications for financial  
47 assistance which indicates directly or indirectly, an intent to make a  
48 limitation, specification, or discrimination.

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1 (10) To insert in a written instrument relating to real property a  
2 provision which purports to forbid or restrict the conveyance, encumbrance,  
3 occupancy or lease thereof;

4 (11) For a person for the purpose of inducing a real estate transaction  
5 from which he may benefit financially:

6 (a) To represent that a change has occurred or will or may occur in the  
7 composition of the owners or occupants in the block, neighborhood, or  
8 area in which the real property is located, or

9 (b) To represent that this change will or may result in the lowering of  
10 property values, an increase in criminal or antisocial behavior, or a  
11 decline in the quality of schools in the block, neighborhood, or area in  
12 which the real property is located;

13 (12) The prohibition against discrimination against sexual  
14 orientation or gender identity shall not apply to a religious  
15 organization or an expressive association whose employment of a person  
16 protected by this chapter would burden the associations rights of  
17 expressive association under Boy Scouts of America v. Dale, 530 U.S.  
18 640 (2000); the United States government, any of its departments or  
19 agencies or any corporation wholly owned by it..

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1 HUMAN RIGHTS COMMISSION - SEXUAL ORIENTATION - Amends existing law to  
2 provide that discrimination against sexual orientation or gender identity  
3 is a criminal offense; and to prohibit discrimination against a person  
4 because of sexual orientation or gender identity under the Human Rights  
5 Commission Act with exceptions.