

HOUSE BILL No. 5389

December 18, 2003, Introduced by Reps. Ward, Nitz, Pastor, Casperson and Hune and referred to the Committee on Transportation.

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 or operation of a motorcycle, or the wearing of

1 **clothing associated with motorcycle ownership or operation;** to
 2 preserve the confidentiality of records regarding arrest,
 3 detention, or other disposition in which a conviction does not
 4 result; to prescribe the powers and duties of the civil rights
 5 commission and the department of civil rights; to provide
 6 remedies and penalties; to provide for fees; and to repeal
 7 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
 10 public accommodations, public service, and educational facilities
 11 without discrimination because of religion, race, color, national
 12 origin, age, sex, height, weight, familial status, ~~or~~ marital
 13 status, **the ownership or operation of a motorcycle, or the**
 14 **wearing of clothing associated with motorcycle ownership or**
 15 **operation** as prohibited by this act, is recognized and declared
 16 to be a civil right.

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

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

Sec. 103. As used in this act:

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

(b) "Clothing associated with motorcycle ownership or operation" means clothing that displays the name or likeness of a motorcycle, a motorcycle-related product, or the name of a motorcycle-related organization, manufacturer, or association.

(c) —(b)— "Commission" means the civil rights commission established by section 29 of article V of the state constitution of 1963.

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

(e) —(d)— "Department" means the department of civil rights or its employees.

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

(g) —(f)— "National origin" includes the national origin of an ancestor.

(h) —(g)— "Person" means an individual, agent, association, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, unincorporated organization, the state or a political subdivision

1 of the state or an agency of the state, or any other legal or
2 commercial entity.

3 (i) ~~-(h)-~~ "Political subdivision" means a county, city,
4 village, township, school district, or special district or
5 authority of the state.

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

11 (i) Submission to the conduct or communication is made a term
12 or condition either explicitly or implicitly to obtain
13 employment, public accommodations or public services, education,
14 or housing.

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

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

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

27 (a) Fail or refuse to hire or recruit, discharge, or

1 otherwise discriminate against an individual with respect to
2 employment, compensation, or a term, condition, or privilege of
3 employment, because of religion, race, color, national origin,
4 age, sex, height, weight, ~~or~~ marital status, **the ownership or**
5 **operation of a motorcycle, or the wearing of clothing associated**
6 **with motorcycle ownership or operation.**

7 (b) Limit, segregate, or classify an employee or applicant
8 for employment in a way that deprives or tends to deprive the
9 employee or applicant of an employment opportunity, or otherwise
10 adversely affects the status of an employee or applicant because
11 of religion, race, color, national origin, age, sex, height,
12 weight, ~~or~~ marital status, **the ownership or operation of a**
13 **motorcycle, or the wearing of clothing associated with motorcycle**
14 **ownership or operation.**

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

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

26 (2) This section shall not be construed to prohibit the
27 establishment or implementation of a bona fide retirement policy

1 or system that is not a subterfuge to evade the purposes of this
2 section.

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

5 Sec. 203. An employment agency shall not fail or refuse to
6 procure, refer, recruit, or place for employment, or otherwise
7 discriminate against, an individual because of religion, race,
8 color, national origin, age, sex, height, weight, ~~or~~ marital
9 status, **the ownership or operation of a motorcycle, or the**
10 **wearing of clothing associated with motorcycle ownership or**
11 **operation;** or classify or refer for employment an individual on
12 the basis of religion, race, color, national origin, age, sex,
13 height, weight, ~~or~~ marital status, **the ownership or operation**
14 **of a motorcycle, or the wearing of clothing associated with**
15 **motorcycle ownership or operation.**

16 Sec. 204. A labor organization shall not:

17 (a) Exclude or expel from membership, or otherwise
18 discriminate against, a member or applicant for membership
19 because of religion, race, color, national origin, age, sex,
20 height, weight, ~~or~~ marital status, **the ownership or operation**
21 **of a motorcycle, or the wearing of clothing associated with**
22 **motorcycle ownership or operation.**

23 (b) Limit, segregate, or classify membership or applicants
24 for membership, or classify or fail or refuse to refer for
25 employment an individual in a way ~~which~~ **that** would deprive or
26 tend to deprive that individual of an employment opportunity, or
27 ~~which~~ **that** would limit an employment opportunity, or ~~which~~

1 **that** would adversely affect wages, hours, or employment
2 conditions, or otherwise adversely affect the status of an
3 employee or an applicant for employment, because of religion,
4 race, color, national origin, age, sex, height, weight, ~~or~~
5 marital status, **the ownership or operation of a motorcycle, or**
6 **the wearing of clothing associated with motorcycle ownership or**
7 **operation.**

8 (c) Cause or attempt to cause an employer to violate this
9 article.

10 (d) Fail to fairly and adequately represent a member in a
11 grievance process because of religion, race, color, national
12 origin, age, sex, height, weight, ~~or~~ marital status, **the**
13 **ownership or operation of a motorcycle, or the wearing of**
14 **clothing associated with motorcycle ownership or operation.**

15 Sec. 205. An employer, labor organization, or joint
16 labor-management committee controlling an apprenticeship, on the
17 job, or other training or retraining program, shall not
18 discriminate against an individual because of religion, race,
19 color, national origin, age, sex, height, weight, ~~or~~ marital
20 status, **the ownership or operation of a motorcycle, or the**
21 **wearing of clothing associated with motorcycle ownership or**
22 **operation,** in admission to, or employment or continuation in, a
23 program established to provide apprenticeship on the job, or
24 other training or retraining.

25 Sec. 206. (1) An employer, labor organization, or
26 employment agency shall not print, circulate, post, mail, or
27 otherwise cause to be published a statement, advertisement,

1 notice, or sign relating to employment by the employer, or
2 relating to membership in or a classification or referral for
3 employment by the labor organization, or relating to a
4 classification or referral for employment by the employment
5 agency, ~~which~~ **that** indicates a preference, limitation,
6 specification, or discrimination, based on religion, race, color,
7 national origin, age, sex, height, weight, ~~or~~ marital status,
8 **the ownership or operation of a motorcycle, or the wearing of**
9 **clothing associated with motorcycle ownership or operation.**

10 (2) Except as permitted by rules promulgated by the
11 commission or by applicable federal law, an employer or
12 employment agency shall not:

13 (a) Make or use a written or oral inquiry or form of
14 application that elicits or attempts to elicit information
15 concerning the religion, race, color, national origin, age, sex,
16 height, weight, ~~or~~ marital status, **the ownership or operation**
17 **of a motorcycle, or the wearing of clothing associated with**
18 **motorcycle ownership or operation** of a prospective employee.

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

21 (c) Make or use a written or oral inquiry or form of
22 application that expresses a preference, limitation,
23 specification, or discrimination based on religion, race, color,
24 national origin, age, sex, height, weight, ~~or~~ marital status,
25 **the ownership or operation of a motorcycle, or the wearing of**
26 **clothing associated with motorcycle ownership or operation** of a
27 prospective employee.

1 Sec. 207. An individual seeking employment shall not
2 publish or cause to be published a notice or advertisement that
3 specifies or indicates the individual's religion, race, color,
4 national origin, age, sex, height, weight, ~~or~~ marital status,
5 **the ownership or operation of a motorcycle, or the wearing of**
6 **clothing associated with motorcycle ownership or operation,** or
7 expresses a preference, specification, limitation, or
8 discrimination as to the religion, race, color, national origin,
9 age, height, weight, sex, ~~or~~ marital status, **the ownership or**
10 **operation of a motorcycle, or the wearing of clothing associated**
11 **with motorcycle ownership or operation** of a prospective
12 employer.

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

15 (a) Deny an individual the full and equal enjoyment of the
16 goods, services, facilities, privileges, advantages, or
17 accommodations of a place of public accommodation or public
18 service because of religion, race, color, national origin, age,
19 sex, ~~or~~ marital status, **the ownership or operation of a**
20 **motorcycle, or the wearing of clothing associated with motorcycle**
21 **ownership or operation.**

22 (b) Print, circulate, post, mail, or otherwise cause to be
23 published a statement, advertisement, notice, or sign ~~which~~
24 **that** indicates that the full and equal enjoyment of the goods,
25 services, facilities, privileges, advantages, or accommodations
26 of a place of public accommodation or public service will be
27 refused, withheld from, or denied an individual because of

1 religion, race, color, national origin, age, sex, ~~or~~ marital
2 status, **the ownership or operation of a motorcycle, or the**
3 **wearing of clothing associated with motorcycle ownership or**
4 **operation**, or that an individual's patronage of or presence at a
5 place of public accommodation is objectionable, unwelcome,
6 unacceptable, or undesirable because of religion, race, color,
7 national origin, age, sex, ~~or~~ marital status, **the ownership or**
8 **operation of a motorcycle, or the wearing of clothing associated**
9 **with motorcycle ownership or operation.**