

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

768H0161

HOUSE BILL NO. 1057

Introduced by: Representatives Kooistra, Glenski, Lange, McCoy, Murschel, and Van Etten
and Senators McIntyre, Diedtrich (Elmer), and Moore

1 FOR AN ACT ENTITLED, An Act to prohibit age discrimination in state government and all
2 political subdivisions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. For the purpose of chapters 20-12 and 20-13, age is defined as individuals who
5 are at least forty years of age.

6 Section 2. That § 20-12-4 be amended to read as follows:

7 20-12-4. Any municipality or county may investigate any discriminatory practices based on
8 sex, race, color, creed, religion, ancestry, disability, familial status, age, or national origin, with
9 respect to employment, labor union membership, housing accommodations, property rights,
10 education, public accommodations, or public services.

11 Section 3. That § 20-13-1 be amended to read as follows:

12 20-13-1. Terms used in this chapter mean:

- 13 (1) "Commission," the South Dakota State Commission of Human Rights;
14 (2) "Commissioner," a member of the commission;
15 (3) "Court," the circuit court in and for the judicial circuit of the State of South Dakota



1 in which the alleged unfair or discriminatory practice occurred;

2 (4) "Disability," a physical or mental impairment of a person resulting from disease,
3 injury, congenital condition of birth, or functional disorder which substantially limits
4 one or more of the person's major life functions; a record of having such an
5 impairment; or being regarded as having such an impairment which:

6 (a) For purposes of §§ 20-13-10 to 20-13-17, inclusive, is unrelated to an
7 individual's ability to perform the major duties of a particular job or position,
8 or is unrelated to an individual's qualifications for employment or promotion;

9 (b) For purposes of §§ 20-13-20 to 20-13-21.1, inclusive, is unrelated to an
10 individual's ability to acquire, rent or maintain property;

11 (c) For purposes of §§ 20-13-22 to 20-13-25, inclusive, is unrelated to an
12 individual's ability to utilize and benefit from educational opportunities,
13 programs and facilities at an educational institution.

14 This term does not include current illegal use of or addiction to marijuana as defined
15 in subdivision 22-42-1(7) or a controlled substance as defined in subdivision
16 22-42-1(1);

17 (5) "Educational institution," any public or private institution of education and includes
18 an academy, college, elementary or secondary school, extension course, kindergarten,
19 nursery, school system, and any business, nursing, professional, secretarial, technical,
20 or vocational school, and includes any agent of such institutions;

21 (6) "Employee," any person who performs services for any employer for compensation,
22 whether in the form of wages, salary, commission, or otherwise;

23 (7) "Employer," any person within the State of South Dakota who hires or employs any
24 employee, and any person wherever situated who hires or employs any employee

- 1 whose services are to be partially or wholly performed in the State of South Dakota;
- 2 (8) "Employment agency," any person regularly undertaking, with or without
3 compensation, to procure employees for an employer or to procure for employees
4 opportunities to work for an employer and includes any agent of such a person;
- 5 (9) "Familial status," the relationship of individuals by birth, adoption, or guardianship
6 who are domiciled together;
- 7 (10) "Labor organization," includes any person, employee representation committee, plan
8 in which employees participate, or other organization which exists wholly or in part
9 for the purpose of dealing with employers concerning grievances, labor disputes,
10 wages, rates of pay, hours, or other terms or conditions of employment;
- 11 (11) "Person," includes one or more individuals, partnerships, associations, limited liability
12 companies, corporations, unincorporated organizations, mutual companies, joint stock
13 companies, trusts, agents, legal representatives, trustees, trustees in bankruptcy,
14 receivers, labor organizations, public bodies, public corporations, and the State of
15 South Dakota, and all political subdivisions and agencies thereof;
- 16 (12) "Public accommodations," any place, establishment, or facility of whatever kind,
17 nature, or class that caters or offers services, facilities, or goods to the general public
18 for a fee, charge, or gratuitously. Public accommodation does not mean any bona fide
19 private club or other place, establishment, or facility which is by its nature distinctly
20 private, except when such distinctly private place, establishment, or facility caters or
21 offers services, facilities, or goods to the general public for fee or charge or
22 gratuitously, it shall be deemed a public accommodation during such period of use;
- 23 (13) "Public service," any public facility, department, agency, board, or commission,
24 owned, operated, or managed by or on behalf of the State of South Dakota, any

1 political subdivision thereof, or any other public corporation;

2 (14) "Real estate broker" and "real estate salesman," real estate broker and real estate
3 salesman as defined by § 36-21A-6 or as licensed pursuant to § 36-21A-47;

4 (15) "Real property," any right, title, interest in or to the possession, ownership,
5 enjoyment, or occupancy of any parcel of land, any building situated thereon, or any
6 portion of such building;

7 (16) "Unfair or discriminatory practice," any act or attempted act which because of race,
8 color, creed, religion, sex, ancestry, disability, age, or national origin accords unequal
9 treatment or separation or segregation of any person, or denies, prevents, limits, or
10 otherwise adversely affects, or if accomplished would deny, prevent, limit, or
11 otherwise adversely affect, the benefit or enjoyment by any person of employment,
12 labor union membership, housing accommodations, property rights, education, public
13 accommodations, and public services.