

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 4475

(As passed the House, December 2, 1999)

A bill to amend 1976 PA 220, entitled "Persons with disabilities civil rights act," by amending sections 103 and 301 (MCL 37.1103 and 37.1301), section 103 as amended by 1998 PA 20 and section 301 as amended by 1980 PA 478.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 103. As used in this act:

2 (a) "Alcoholic liquor" means that term as defined in section
3 ~~2~~ 105 of the Michigan liquor control ~~act, 1933 (Ex Sess) PA 8,~~
4 ~~MCL 436.2~~ CODE OF 1998, 1998 PA 58, MCL 436.1105.

5 (b) "Commission" means the civil rights commission estab-
6 lished by section 29 of article V of the state constitution of
7 1963.

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1 (c) "Controlled substance" means that term as defined in
2 section 7104 of the public health code, 1978 PA 368, MCL
3 333.7104.

4 (d) Except as provided under subdivision (f), "disability"
5 means 1 or more of the following:

6 (i) A determinable physical or mental characteristic of an
7 individual, which may result from disease, injury, congenital
8 condition of birth, or functional disorder, if the
9 characteristic:

10 (A) For purposes of article 2, substantially limits 1 or
11 more of the major life activities of that individual and is unre-
12 lated to the individual's ability to perform the duties of a par-
13 ticular job or position or substantially limits 1 or more of the
14 major life activities of that individual and is unrelated to the
15 individual's qualifications for employment or promotion.

16 (B) For purposes of article 3, is unrelated to the
17 individual's ability to utilize and benefit from a place of
18 public accommodation or public service.

19 (C) For purposes of article 4, is unrelated to the
20 individual's ability to utilize and benefit from educational
21 opportunities, programs, and facilities at an educational
22 institution.

23 (D) For purposes of article 5, substantially limits 1 or
24 more of that individual's major life activities and is unrelated
25 to the individual's ability to acquire, rent, or maintain
26 property.

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1 (ii) A history of a determinable physical or mental
2 characteristic described in subparagraph (i).

3 (iii) Being regarded as having a determinable physical or
4 mental characteristic described in subparagraph (i).

5 (e) "Drug" means that term as defined in section 7105 of the
6 public health code, 1978 PA 368, MCL 333.7105.

7 (f) For purposes of article 2, disability does not include
8 either of the following:

9 (i) A determinable physical or mental characteristic caused
10 by the current illegal use of a controlled substance by that
11 individual.

12 (ii) A determinable physical or mental characteristic caused
13 by the use of an alcoholic liquor by that individual, if that
14 physical or mental characteristic prevents that individual from
15 performing the duties of his or her job.

16 (g) "Person" includes an individual, agent, association,
17 corporation, joint apprenticeship committee, joint-stock company,
18 labor union, legal representative, mutual company, partnership,
19 receiver, trust, trustee in bankruptcy, unincorporated organiza-
20 tion, this state, or any other legal, commercial, or governmental
21 entity or agency

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25 (h) "Person with a disability" or "person with disabilities"
26 means an individual who has 1 or more disabilities.

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

4 (j) "State average weekly wage" means the state average
5 weekly wage as determined by the Michigan employment security
6 commission under section 27 of the Michigan employment security
7 act, 1936 (Ex Sess) PA 1, MCL 421.27.

8 (k) "Temporary employee" means an employee hired for a posi-
9 tion that will not exceed 90 days in duration.

10 (l) "Unrelated to the individual's ability" means, with or
11 without accommodation, an individual's disability does not pre-
12 vent the individual from doing 1 or more of the following:

13 (i) For purposes of article 2, performing the duties of a
14 particular job or position.

15 (ii) For purposes of article 3, utilizing and benefiting
16 from a place of public accommodation or public service.

17 (iii) For purposes of article 4, utilizing and benefiting
18 from educational opportunities, programs, and facilities at an
19 educational institution.

20 (iv) For purposes of article 5, acquiring, renting, or main-
21 taining property.

22 Sec. 301. As used in this article:

23 (a) "Place of public accommodation" means a business, educa-
24 tional institution, refreshment, entertainment, recreation,
25 health, or transportation facility of any kind, whether licensed
26 or not, whose goods, services, facilities, privileges,

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1 advantages, or accommodations are extended, offered, sold, or
2 otherwise made available to the public.

3 (b) "Public service" means a public facility, department,
4 agency, board, or commission —, owned, operated, or managed by
5 or on behalf of this state or a subdivision of this state, a
6 county, city, village, township, or independent or regional dis-
7 trict in this state — or a tax exempt private agency estab-
8 lished to provide service to the public, EXCEPT THAT PUBLIC SERV-
9 ICE DOES NOT INCLUDE A STATE OR COUNTY CORRECTIONAL FACILITY WITH
10 RESPECT TO ACTIONS OR DECISIONS REGARDING AN INDIVIDUAL SERVING A
11 SENTENCE OF IMPRISONMENT.

12 Enacting section 1. This amendatory act is curative and
13 intended to correct any misinterpretation of legislative intent in
14 in the court of appeals decision in Doe v Department of Corrections,
15 236 Mich App 801 (1999). This legislation further expresses
16 the original intent of the legislature that an individual serving
17 a sentence of imprisonment in a state or county correctional
18 facility is not within the purview of this act.

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