



CHAPTER 225  
(S.B. No. 1381)

AN ACT

RELATING TO THE IDAHO HUMAN RIGHTS COMMISSION; AMENDING SECTIONS 67-5901, 67-5902, 67-5909 AND 67-5910, IDAHO CODE, TO PROHIBIT DISCRIMINATION BASED ON HANDICAP IN EMPLOYMENT, TO DEFINE HANDICAP AND TO PROVIDE LIMITATIONS IF A HANDICAPPED PERSON IS UNABLE TO PERFORM THE WORK OR IS A THREAT TO THE HEALTH OR SAFETY OF THE HANDICAPPED PERSON OR OTHERS.

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

SECTION 1. That Section 67-5901, Idaho Code, be, and the same is hereby amended to read as follows:

67-5901. PURPOSE OF ACT. The general purposes of this act are:

(1) To provide for execution within the state of the policies embodied in the federal Civil Rights Act of 1964, as amended, and the Age Discrimination in Employment Act of 1967, as amended.

(2) To secure for all individuals within the state freedom from discrimination because of race, color, religion, sex or national origin in connection with employment, public accommodations, education and real property transactions, and discrimination because of age or handicap in connection with employment, and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights and privileges of individuals within the state.

SECTION 2. That Section 67-5902, Idaho Code, be, and the same is hereby amended to read as follows:

67-5902. DEFINITIONS. In this act, unless the context otherwise requires:

(1) "Commission" means the commission on human rights created by this act;

(2) "Commissioner" means a member of the commission;

(3) "Discriminatory practice" means a practice designated as discriminatory under the terms of this act;

(4) "National origin" includes the national origin of an ancestor;

(5) "Person" includes an individual, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, any other legal or commercial entity, the state, or any governmental entity or agency;

(6) "Employer" means a person who has ten (10) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year. The term also means;

(a) a person who as contractor or subcontractor is furnishing

material or performing work for the state;

(b) agency of or any governmental entity within the state; and

(c) any agent of such employer.

(7) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person;

(8) "Labor organization" includes;

(a) an organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievance, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;

(b) a conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization; or

(c) an agent of a labor organization.

(9) "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public;

(10) "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, or university and a business, nursing, professional, secretarial, technical, or vocational school; and includes an agent of an educational institution;

(11) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal or any interest therein;

(12) "Real estate transaction" includes the sale, exchange, rental or lease of real property;

(13) "Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or as the home or residence of one or more individuals;

(14) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these.

(15) "Handicap" means a physical or mental condition of a person, whether congenital or acquired, which constitutes a substantial disability to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques. A handicapped person is one who (a) has such a disability, or (b) has a record of such a disability.

ity, or (c) is regarded as having such a disability.

(16) "Reasonable accommodation" means an adjustment which does not (a) unduly disrupt or interfere with the employer's normal operations, (b) threaten the health or safety of the handicapped person or others, (c) contradict a business necessity of the employer, or (d) impose undue hardship on the employer based on the size of the employer's business, the type of business, the financial resources, and the estimated cost and extent of the adjustment.

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

67-5909. ACTS PROHIBITED. It shall be a prohibited act to discriminate against a person because of, or on a basis of, race, color, religion, sex or national origin, in any of the following and on the basis of age or handicap in subsections (1), (2), (3) and (4) following~~ing~~, provided that the prohibition against discrimination because of handicap shall not apply if the particular disability, even with a reasonable accommodation by the employer, prevents the performance of the work required by the employer in that job.

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

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

(3) For a labor organization;

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

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

1. which would deprive an individual of employment opportunities, or

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

(c) to cause or attempt to cause an employer to violate this act.

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

(5) For a person;

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

(b) to print, circulate, post, or mail or otherwise cause to be

published a statement, advertisement or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages of a place of public accommodation will be refused, withheld from, or denied an individual or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable.

(6) For an educational institution;

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

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

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

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

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

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

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

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

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

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

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

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

(8) For a person to whom application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of such a person;

- (a) to discriminate against the applicant,
- (b) to use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates directly or indirectly, an intent to make a limitation, specification, or discrimination.
- (9) To insert in a written instrument relating to real property a provision which purports to forbid or restrict the conveyance, encumbrance, occupancy or lease thereof;
- (10) For a person for the purpose of inducing a real estate transaction from which he may benefit financially;
  - (a) to represent that a change has occurred or will or may occur in the composition of the owners or occupants in the block, neighborhood, or area in which the real property is located, or
  - (b) to represent that this change will or may result in the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

SECTION 4. That Section 67-5910, Idaho Code, be, and the same is hereby amended to read as follows:

67-5910. LIMITATIONS. (1) This act does not apply to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by the corporation, association, or society of its religious activities.

- (2) It is not a discriminatory practice;
  - (a) for an employer to employ an employee, or an employment agency to classify or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship or other training or retraining program, on the basis of his religion, sex, national origin, or age if religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise, or
  - (b) for an employer, employment agency, or labor organization to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit involuntary retirement of any individual specified by ~~section 67-5910(7), Idaho Code, of this act~~ in subsection (7) of this section because of the age of such individual; however, the prohibition against age discrimination contained in this act shall not be construed to prohibit compulsory retirement if such retirement is permitted under the terms of 29 USC, section 631(c)(1) and (2), or
  - (c) for a religious educational institution or an educational organization to limit employment or give preference to members of

the same religion.

(d) for an employer, employment agency, or labor organization to discriminate against a person with a handicap which, under the circumstances, poses a serious threat to the health or safety of the handicapped person or others. The burden of proving this defense is upon the employer, labor organization, or employment agency.

(3) This act does not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages or accommodations of the establishment are made available to the customers or patrons of another establishment that is a place of public accommodation.

(4) Notwithstanding any other provisions of this act, it is not a discriminatory practice for;

(a) a religious educational institution or an educational institution operated, supervised, or controlled by a religious institution (operated, supervised, or controlled by a religious institution) or organization to limit admission or give preference to applicants of the same religion, or

(b) an educational institution to accept and administer an inter vivos or testamentary gift upon the terms and conditions prescribed by the donor.

(5) The provisions of section 67-5909(7) do not apply;

(a) to the rental of a housing accommodation in a building which contains housing accommodations for not more than two (2) families living independently of each other, if the lessor or a member of his family resides in one (1) of the housing accommodations, or

(b) to the rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides therein.

(6) It is not a discriminatory practice for a religious institution or organization or a charitable or educational organization operated, supervised or controlled by a religious institution or organization to give preference to members of the same religion in a real property transaction.

(7) The prohibitions against discrimination based on age contained in this act shall be limited to individuals who are at least forty (40) years of age but less than seventy (70) years of age.

Approved March 29, 1988.

CHAPTER 226  
(S.B. No. 1383, As Amended)

AN ACT  
RELATING TO ADOPTION; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY  
THE ADDITION OF A NEW SECTION 18-1512A, IDAHO CODE, TO PROVIDE  
CERTAIN PROHIBITED CONDUCT REGARDING ADOPTIONS, TO PROVIDE PENAL-  
TIES AND TO PROVIDE ALLOWABLE CONDUCT.

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



## CHAPTER 225

(S.B. No. 1381) **ES20779**

## AN ACT

RELATING TO THE IDAHO HUMAN RIGHTS COMMISSION; AMENDING SECTIONS 67-5901, 67-5902, 67-5909 AND 67-5910, IDAHO CODE, TO PROHIBIT DISCRIMINATION BASED ON HANDICAP IN EMPLOYMENT, TO DEFINE HANDICAP AND TO PROVIDE LIMITATIONS IF A HANDICAPPED PERSON IS UNABLE TO PERFORM THE WORK OR IS A THREAT TO THE HEALTH OR SAFETY OF THE HANDICAPPED PERSON OR OTHERS.

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

SECTION 1. That Section 67-5901, Idaho Code, be, and the same is hereby amended to read as follows:

**67-5901. PURPOSE OF ACT.** The general purposes of this act are:

(1) To provide for execution within the state of the policies embodied in the federal Civil Rights Act of 1964, as amended, and the Age Discrimination in Employment Act of 1967, as amended.

(2) To secure for all individuals within the state freedom from discrimination because of race, color, religion, sex or national origin in connection with employment, public accommodations, education and real property transactions, and discrimination because of age or handicap in connection with employment, and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights and privileges of individuals within the state.

SECTION 2. That Section 67-5902, Idaho Code, be, and the same is hereby amended to read as follows:

**67-5902. DEFINITIONS.** In this act, unless the context otherwise requires:

(1) "Commission" means the commission on human rights created by this act;

(2) "Commissioner" means a member of the commission;

(3) "Discriminatory practice" means a practice designated as discriminatory under the terms of this act;

(4) "National origin" includes the national origin of an ancestor;

(5) "Person" includes an individual, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, any other legal or commercial entity, the state, or any governmental entity or agency;

(6) "Employer" means a person who has ten (10) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year. The term also means;

(a) a person who as contractor or subcontractor is furnishing

material or performing work for the state;

(b) agency of or any governmental entity within the state; and

(c) any agent of such employer.

(7) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person;

(8) "Labor organization" includes;

(a) an organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievance, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;

(b) a conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization; or

(c) an agent of a labor organization.

(9) "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public;

(10) "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, or university and a business, nursing, professional, secretarial, technical, or vocational school; and includes an agent of an educational institution;

(11) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal or any interest therein;

(12) "Real estate transaction" includes the sale, exchange, rental or lease of real property;

(13) "Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or as the home or residence of one or more individuals;

(14) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these.

(15) "Handicap" means a physical or mental condition of a person, whether congenital or acquired, which constitutes a substantial disability to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques. A handicapped person is one who (a) has such a disability, or (b) has a record of such a disability.

ity, or (c) is regarded as having such a disability.

(16) "Reasonable accommodation" means an adjustment which does not (a) unduly disrupt or interfere with the employer's normal operations, (b) threaten the health or safety of the handicapped person or others, (c) contradict a business necessity of the employer, or (d) impose undue hardship on the employer based on the size of the employer's business, the type of business, the financial resources, and the estimated cost and extent of the adjustment.

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

**67-5909. ACTS PROHIBITED.** It shall be a prohibited act to discriminate against a person because of, or on a basis of, race, color, religion, sex or national origin, in any of the following and on the basis of age or handicap in subsections (1), (2), (3) and (4) following, provided that the prohibition against discrimination because of handicap shall not apply if the particular disability, even with a reasonable accommodation by the employer, prevents the performance of the work required by the employer in that job.

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

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

(3) For a labor organization;

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

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

1. which would deprive an individual of employment opportunities, or

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

(c) to cause or attempt to cause an employer to violate this act.

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

(5) For a person;

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

(b) to print, circulate, post, or mail or otherwise cause to be

published a statement, advertisement or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages of a place of public accommodation will be refused, withheld from, or denied an individual or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable.

(6) For an educational institution;

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

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

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

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

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

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

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

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

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

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

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

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

(8) For a person to whom application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of such a person;

- (a) to discriminate against the applicant,
- (b) to use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates directly or indirectly, an intent to make a limitation, specification, or discrimination.
- (9) To insert in a written instrument relating to real property a provision which purports to forbid or restrict the conveyance, encumbrance, occupancy or lease thereof;
- (10) For a person for the purpose of inducing a real estate transaction from which he may benefit financially;
  - (a) to represent that a change has occurred or will or may occur in the composition of the owners or occupants in the block, neighborhood, or area in which the real property is located, or
  - (b) to represent that this change will or may result in the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

SECTION 4. That Section 67-5910, Idaho Code, be, and the same is hereby amended to read as follows:

**67-5910. LIMITATIONS.** (1) This act does not apply to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by the corporation, association, or society of its religious activities.

(2) It is not a discriminatory practice;

(a) for an employer to employ an employee, or an employment agency to classify or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship or other training or retraining program, on the basis of his religion, sex, national origin, or age if religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise, or

(b) for an employer, employment agency, or labor organization to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit involuntary retirement of any individual specified by ~~section 67-5910(7), Idaho Code, of this act in subsection (7) of this section~~ because of the age of such individual; however, the prohibition against age discrimination contained in this act shall not be construed to prohibit compulsory retirement if such retirement is permitted under the terms of 29 USC, section 631(c)(1) and (2), or

(c) for a religious educational institution or an educational organization to limit employment or give preference to members of

the same religion.

(d) for an employer, employment agency, or labor organization to discriminate against a person with a handicap which, under the circumstances, poses a serious threat to the health or safety of the handicapped person or others. The burden of proving this defense is upon the employer, labor organization, or employment agency.

(3) This act does not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages or accommodations of the establishment are made available to the customers or patrons of another establishment that is a place of public accommodation.

(4) Notwithstanding any other provisions of this act, it is not a discriminatory practice for;

(a) a religious educational institution or an educational institution operated, supervised, or controlled by a religious institution (operated, supervised, or controlled by a religious institution) or organization to limit admission or give preference to applicants of the same religion, or

(b) an educational institution to accept and administer an inter vivos or testamentary gift upon the terms and conditions prescribed by the donor.

(5) The provisions of section 67-5909(7) do not apply;

(a) to the rental of a housing accommodation in a building which contains housing accommodations for not more than two (2) families living independently of each other, if the lessor or a member of his family resides in one (1) of the housing accommodations, or

(b) to the rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides therein.

(6) It is not a discriminatory practice for a religious institution or organization or a charitable or educational organization operated, supervised or controlled by a religious institution or organization to give preference to members of the same religion in a real property transaction.

(7) The prohibitions against discrimination based on age contained in this act shall be limited to individuals who are at least forty (40) years of age but less than seventy (70) years of age.

Approved March 29, 1988.

CHAPTER 226  
(S.B. No. 1383, As Amended)

AN ACT  
RELATING TO ADOPTION; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY  
THE ADDITION OF A NEW SECTION 18-1512A, IDAHO CODE, TO PROVIDE  
CERTAIN PROHIBITED CONDUCT REGARDING ADOPTIONS, TO PROVIDE PENAL-  
TIES AND TO PROVIDE ALLOWABLE CONDUCT.

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

IN THE SENATE

SENATE BILL NO. 1381

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE IDAHO HUMAN RIGHTS COMMISSION; AMENDING SECTIONS 67-5901, 67-5902, 67-5909 AND 67-5910, IDAHO CODE, TO PROHIBIT DISCRIMINATION BASED ON HANDICAP IN EMPLOYMENT, TO DEFINE HANDICAP AND TO PROVIDE LIMITATIONS IF A HANDICAPPED PERSON IS UNABLE TO PERFORM THE WORK OR IS A THREAT TO THE HEALTH OR SAFETY OF THE HANDICAPPED PERSON OR OTHERS.

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

SECTION 1. That Section 67-5901, Idaho Code, be, and the same is hereby amended to read as follows:

67-5901. PURPOSE OF ACT. The general purposes of this act are:

(1) To provide for execution within the state of the policies embodied in the federal Civil Rights Act of 1964, as amended, and the Age Discrimination in Employment Act of 1967, as amended.

(2) To secure for all individuals within the state freedom from discrimination because of race, color, religion, sex or national origin in connection with employment, public accommodations, education and real property transactions, and discrimination because of age or handicap in connection with employment, and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights and privileges of individuals within the state.

SECTION 2. That Section 67-5902, Idaho Code, be, and the same is hereby amended to read as follows:

67-5902. DEFINITIONS. In this act, unless the context otherwise requires:

(1) "Commission" means the commission on human rights created by this act;

(2) "Commissioner" means a member of the commission;

(3) "Discriminatory practice" means a practice designated as discriminatory under the terms of this act;

(4) "National origin" includes the national origin of an ancestor;

(5) "Person" includes an individual, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, any other legal or commercial entity, the state, or any governmental entity or agency;

(6) "Employer" means a person who has ten (10) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year. The term also means;

(a) a person who as contractor or subcontractor is furnishing material or performing work for the state;

(b) agency of or any governmental entity within the state; and

1 (c) any agent of such employer.

2 (7) "Employment agency" means a person regularly undertaking with or  
3 without compensation to procure employees for an employer or to procure for  
4 employees opportunities to work for an employer and includes an agent of such  
5 a person;

6 (8) "Labor organization" includes;

7 (a) an organization of any kind, an agency or employee representation  
8 committee, group, association, or plan in which employees participate and  
9 which exists for the purpose, in whole or in part, of dealing with employ-  
10 ers concerning grievance, labor disputes, wages, rates of pay, hours, or  
11 other terms or conditions of employment;

12 (b) a conference, general committee, joint or system board, or joint  
13 council which is subordinate to a national or international labor organi-  
14 zation; or

15 (c) an agent of a labor organization.

16 (9) "Place of public accommodation" means a business, accommodation,  
17 refreshment, entertainment, recreation, or transportation facility of any  
18 kind, whether licensed or not, whose goods, services, facilities, privileges,  
19 advantages or accommodations are extended, offered, sold, or otherwise made  
20 available to the public;

21 (10) "Educational institution" means a public or private institution and  
22 includes an academy, college, elementary or secondary school, extension  
23 course, kindergarten, nursery, school system, or university and a business,  
24 nursing, professional, secretarial, technical, or vocational school; and  
25 includes an agent of an educational institution;

26 (11) "Real property" includes buildings, structures, real estate, lands,  
27 tenements, leaseholds, interests in real estate cooperatives, condominiums,  
28 and hereditaments, corporeal and incorporeal or any interest therein;

29 (12) "Real estate transaction" includes the sale, exchange, rental or  
30 lease of real property;

31 (13) "Housing accommodation" includes any improved or unimproved real  
32 property, or part thereof, which is used or occupied, or as the home or resi-  
33 dence of one or more individuals;

34 (14) "Real estate broker or salesman" means a person, whether licensed or  
35 not, who, for or with the expectation of receiving a consideration, lists,  
36 sells, purchases, exchanges, rents, or leases real property, or who negotiates  
37 or attempts to negotiate any of these activities, or who holds himself out as  
38 engaged in these activities, or who negotiates or attempts to negotiate a loan  
39 secured or to be secured by mortgage or other encumbrance upon real property,  
40 or who is engaged in the business of listing real property in a publication;  
41 or a person employed by or acting on behalf of any of these.

42 (15) "Handicap" means a physical or mental condition of a person, whether  
43 congenital or acquired, which constitutes a substantial disability to that  
44 person and is demonstrable by medically accepted clinical or laboratory diag-  
45 nostic techniques. A handicapped person is one who (a) has such a disability,  
46 or (b) has a record of such a disability, or (c) is regarded as having such a  
47 disability.

48 (16) "Reasonable accommodation" means an adjustment which does not (a)  
49 unduly disrupt or interfere with the employer's normal operations, (b)  
50 threaten the health or safety of the handicapped person or others, (c) contra-  
51 dict a business necessity of the employer, or (d) impose undue hardship on the  
52 employer based on the size of the employer's business, the type of business,  
53 the financial resources, and the estimated cost and extent of the adjustment.

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

67-5909. ACTS PROHIBITED. It shall be a prohibited act to discriminate against a person because of, or on a basis of, race, color, religion, sex or national origin, in any of the following and on the basis of age or handicap in subsections (1), (2), (3) and (4) ~~following~~, provided that the prohibition against discrimination because of handicap shall not apply if the particular disability, even with a reasonable accommodation by the employer, prevents the performance of the work required by the employer in that job.

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

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

(3) For a labor organization;

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

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

1. which would deprive an individual of employment opportunities, or

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

(c) to cause or attempt to cause an employer to violate this act.

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

(5) For a person;

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

(b) to print, circulate, post, or mail or otherwise cause to be published a statement, advertisement or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages of a place of public accommodation will be refused, withheld from, or denied an individual or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable.

(6) For an educational institution;

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

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

- 1 regulations of the commission,  
 2 (c) to print or publish or cause to be printed or published a catalogue  
 3 or other notice or advertisement indicating a preference, limitation,  
 4 specification, discrimination of an applicant for admission, or  
 5 (d) to announce or follow a policy of denial or limitation through a  
 6 quota or otherwise of educational opportunities of a group or its members.  
 7 (7) For an owner or any other person engaging in a real estate transac-  
 8 tion, 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 privi-  
 11 leges of a real estate transaction or in the furnishing of facilities or  
 12 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 with  
 23 a prospective real estate transaction, which indicates, directly or indi-  
 24 rectly, an intent to make a limitation, specification, or discrimination  
 25 with respect thereto, or  
 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 in  
 29 connection therewith.  
 30 (8) For a person to whom application is made for financial assistance in  
 31 connection with a real estate transaction or for the construction, rehabilita-  
 32 tion, repair, maintenance, or improvement of real property, or a representa-  
 33 tive of such a person;  
 34 (a) to discriminate against the applicant,  
 35 (b) to use a form of application for financial assistance or to make or  
 36 keep a record or inquiry in connection with applications for financial  
 37 assistance which indicates directly or indirectly, an intent to make a  
 38 limitation, specification, or discrimination.  
 39 (9) To insert in a written instrument relating to real property a provi-  
 40 sion which purports to forbid or restrict the conveyance, encumbrance, occu-  
 41 pancy or lease thereof;  
 42 (10) For a person for the purpose of inducing a real estate transaction  
 43 from which he may benefit financially;  
 44 (a) to represent that a change has occurred or will or may occur in the  
 45 composition of the owners or occupants in the block, neighborhood, or area  
 46 in which the real property is located, or  
 47 (b) to represent that this change will or may result in the lowering of  
 48 property values, an increase in criminal or anti-social behavior, or a  
 49 decline in the quality of schools in the block, neighborhood, or area in  
 50 which the real property is located.

51 SECTION 4. That Section 67-5910, Idaho Code, be, and the same is hereby  
 52 amended to read as follows:

67-5910. LIMITATIONS. (1) This act does not apply to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by the corporation, association, or society of its religious activities.

(2) It is not a discriminatory practice;

(a) for an employer to employ an employee, or an employment agency to classify or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship or other training or retraining program, on the basis of his religion, sex, national origin, or age if religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise, or

(b) for an employer, employment agency, or labor organization to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit involuntary retirement of any individual specified by ~~section--67-5910(7),--Idaho Code,--of-this-act~~ in subsection (7) of this section because of the age of such individual; however, the prohibition against age discrimination contained in this act shall not be construed to prohibit compulsory retirement if such retirement is permitted under the terms of 29 USC, section 631(c)(1) and (2), or

(c) for a religious educational institution or an educational organization to limit employment or give preference to members of the same religion.

(d) for an employer, employment agency, or labor organization to discriminate against a person with a handicap which, under the circumstances, poses a serious threat to the health or safety of the handicapped person or others. The burden of proving this defense is upon the employer, labor organization, or employment agency.

(3) This act does not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages or accommodations of the establishment are made available to the customers or patrons of another establishment that is a place of public accommodation.

(4) Notwithstanding any other provisions of this act, it is not a discriminatory practice for;

(a) a religious educational institution or an educational institution operated, supervised, or controlled by a religious institution (operated, supervised, or controlled by a religious institution) or organization to limit admission or give preference to applicants of the same religion, or  
(b) an educational institution to accept and administer an inter vivos or testamentary gift upon the terms and conditions prescribed by the donor.

(5) The provisions of section 67-5909(7) do not apply;

(a) to the rental of a housing accommodation in a building which contains housing accommodations for not more than two (2) families living independently of each other, if the lessor or a member of his family resides in one (1) of the housing accommodations, or

1 (b) to the rental of a room or rooms in a housing accommodation by an  
2 individual if he or a member of his family resides therein.

3 (6) It is not a discriminatory practice for a religious institution or  
4 organization or a charitable or educational organization operated, supervised  
5 or controlled by a religious institution or organization to give preference to  
6 members of the same religion in a real property transaction.

7 (7) The prohibitions against discrimination based on age contained in  
8 this act shall be limited to individuals who are at least forty (40) years of  
9 age but less than seventy (70) years of age.

S1380.....By Judiciary & Rules  
DRIVING UNDER INFLUENCE DRUGS, ALCOHOL (DUI) - Adds to  
existing law to allow the administration of a blood or  
breath test for concentration of alcohol, drugs, or other  
intoxicating substances without the consent of the individ-  
ual when the individual is unconscious, dead, or in a condi-  
tion rendering him incapable of refusal.

2/11 Senate intro - 1st rdg - to printing  
2/12 Rpt prt - to Jud

S1381.....By State Affairs  
EMPLOYEES AND EMPLOYMENT - DISCRIMINATION - Amends existing  
law to prohibit discrimination in employment based on handi-  
caps.

2/11 Senate intro - 1st rdg - to printing  
2/12 Rpt prt - to St Aff  
2/23 Rpt out - rec d/p - to 2nd rdg  
2/24 2nd rdg - to 3rd rdg  
2/29 3rd rdg - PASSED - 39-0-3  
NAYS -- None.  
Absent and excused -- Beitelspacher, Crapo, Lacy.  
Title apvd - to House  
3/1 House intro - 1st rdg - to St Aff  
3/16 Rpt out - rec d/p - to 2nd rdg  
2nd rdg - to 3rd rdg  
3/21 3rd rdg as amen - PASSED - 55-26-3  
NAYS -- Allan-Hodge, Brimhall, Callen, Crane, Crow,  
Davis, Geddes, Gould, Hale, Hartung, Hawkins,  
Infanger, Loertscher, Martens, Neibaur, Newcomb(24),  
Newcomb(23), Parks, Peters, Reynolds, Schaefer,  
Slater, Steger, Stucki, Taylor, Wood.  
Absent and excused -- Black(23), Jones(13),  
Montgomery.  
Title apvd - to Senate  
3/22 To enrol  
3/23 Rpt enrol - Pres signed  
Sp signed  
3/24 To Governor  
3/29 Governor signed  
Session Law Chapter 225  
Effective: 7-1-88

S1382.....By Health & Welfare  
ADOPTION - Amends existing law to further define the term  
"authorized agency" in the statutes relating to adoption to  
eliminate rehabilitative services of the Department of  
Health and Welfare.

2/12 Senate intro - 1st rdg - to printing  
2/15 Rpt prt - to Health/Wel  
2/24 Rpt out - rec d/p - to 2nd rdg  
2/25 2nd rdg - to 3rd rdg  
2/29 3rd rdg - PASSED - 27-11-4  
NAYS -- Anderson, Darrington, Hanson(18), Parry,  
Ricks, Rydalch, Smyser, Staker, Thorne, Tominaga,  
Twiggs.  
Absent and excused -- Beitelspacher, Hansen(32C),  
Lacy, Peavey.  
Title apvd - to House  
3/1 House intro - 1st rdg - to Health/Wel  
3/11 Rpt out - rec d/p - to 2nd rdg  
2nd rdg - to 3rd rdg  
3/17 3rd rdg - PASSED - 73-5-6  
NAYS -- Allan-Hodge, Childers, Hartung, Schaefer,  
Steele.  
Absent and excused -- Hay, Hill, Lloyd, Mahoney,  
Peters, Wood.  
Title apvd - to Senate  
3/18 To enrol  
Rpt enrol - Pres signed  
3/21 Sp signed  
To Governor

3/23 Governor signed  
Session Law Chapter 138  
Effective: 7-1-88

S1383aa.....By Health & Welfare  
ADOPTION - Adds to and amends existing law to prohibit  
advertising or posting notice of a child or children offered  
or wanted for adoption.

2/12 Senate intro - 1st rdg - to printing  
2/15 Rpt prt - to Health/Wel  
2/24 Rpt out - to 14th Ord  
2/25 Rpt out amen - to engros  
2/26 Rpt engros - 1st rdg - to 2nd rdg as amen  
2/29 2nd rdg - to 3rd rdg as amen  
3/3 3rd rdg as amen - PASSED - 23-18-1  
NAYS -- Anderson, Batt, Beck, Carlson, Crystal,  
Fairchild, Gilbert, Hansen(32C), Herndon, McRoberts,  
Parry, Ringert, Risch, Smyser, Staker, Sverdsten,  
Thorne, Tominaga.  
Absent and excused -- Twiggs.  
Title apvd - to House  
3/4 House intro - 1st rdg as amen - to Health/Wel  
3/11 Rpt out - rec d/p - to 2nd rdg as amen  
2nd rdg - to 3rd rdg as amen  
3/21 3rd rdg as amen - PASSED - 63-14-7  
NAYS -- Allan-Hodge, Black(23), Callen, Crane, Crow,  
Duffin, Hawkins, Hill, Infanger, Martens, Reynolds,  
Schaefer, Taylor, Wilde.  
Absent and excused -- Bengson, Brocksome, Fry,  
Giovannelli, Lloyd, Montgomery, Slater.  
Title apvd - to Senate  
3/22 To enrol  
3/23 Rpt enrol - Pres signed  
Sp signed  
3/24 To Governor  
3/29 Governor signed  
Session Law Chapter 226  
Effective: 7-1-88

S1384aa.....By Health & Welfare  
ADOPTION - Amends existing law to modify the procedures for  
adoption, to require specific residency requirements and to  
require an investigative report.

2/12 Senate intro - 1st rdg - to printing  
2/15 Rpt prt - to Health/Wel  
2/24 Rpt out - to 14th Ord  
2/25 Rpt out amen - to engros  
2/26 Rpt engros - 1st rdg - to 2nd rdg as amen  
2/29 2nd rdg - to 3rd rdg as amen  
3/4 3rd rdg as amen - PASSED - 22-18-2  
NAYS -- Anderson, Beck, Carlson, Crystal, Fairchild,  
Hansen(28), Hansen(32C), Herndon, Parry, Ricks,  
Ringert, Risch, Rydalch, Smyser, Staker, Thorne,  
Tominaga, Twiggs.  
Absent and excused -- Gilbert, McRoberts.  
Title apvd - to House  
3/7 House intro - 1st rdg as amen - to Health/Wel  
3/15 Rpt out - rec d/p - to 2nd rdg as amen  
2nd rdg - to 3rd rdg as amen  
3/18 3rd rdg as amen - PASSED - 69-1-14  
NAYS -- Crane.  
Absent and excused -- Allan-Hodge, Childers, Field,  
Hansen, Hawkins, Hooper, Lloyd, Loertscher, Lucas,  
Neibaur, Peters, Simpson, Slater, Wilde.  
Title apvd - to Senate  
3/21 To enrol  
Rpt enrol - Pres signed  
Sp signed  
To Governor  
3/23 Governor signed  
Session Law Chapter 139  
Effective: 7-1-88

## STATEMENT OF PURPOSE

RS 20779 C1

This bill would prohibit discrimination based on handicap in employment. It covers all phases of the employment relationship including hiring, termination, and terms and conditions of employment. It allows discrimination against a handicapped person if that person poses a threat to the health or safety of himself or others.

## FISCAL IMPACT

A study of the ratio of handicap to other discrimination claims was conducted among other state fair employment practice agencies. Handicap complaints averaged 12% of the work among the 30 states responding. The range was great: a low of 2% to a high of 34%.

We would expect few cases the first two years that the Commission had this new jurisdiction, and would not anticipate the need for additional investigative staff until FY'91. At that time, an additional 0.5 FTE would probably be required.

Processing handicap complaints often requires expert medical opinion when respondent's and complainant's medical authorities disagree. The cost for such consultative examinations is approximately \$135. We estimate 10 cases would need such medical information for a \$1,350 cost to the Human Rights Commission.

There will be no federal reimbursement for these cases. The Commission currently contracts with EEOC for cases jointly jurisdictional under federal employment discrimination laws.

STATEMENT OF PURPOSE/FISCAL IMPACT

S-1381

1370 (RS 21292) H/W 2/10/88; 2/19/88.

1371 (RS 21270) ED 2/10/88; 3/8/88.  
HOUSE ED 3/22/88.

1372 (RS 21269) ED 2/10/88; 3/8/88; 3/11/88.

1373 (RS 21234) RES/ENV 2/10/88; 2/19/88.  
HOUSE RES/CON 3/15/88; 3/17/88.

1374 (RS 21218) RES/ENV 2/1/88; 2/10/88; 2/15/88.  
HOUSE RES/CON 3/1/88; 3/3/88; 3/7/88.

1375 (RS 21419) RES/ENV 2/10/88; 2/22/88.  
HOUSE RES/CON 3/11/88.

1376 (RS 21331) LOC GOV 2/10/88; 2/15/88.  
HOUSE REV/TAX 3/15/88.

1377 (RS 21165) JUD 2/10/88; 3/9/88.

1378 (RS 21166) JUD 2/10/88; 3/9/88.

1379 (RS 21167) JUD 2/10/88; 3/9/88.  
HOUSE ST AFF 3/23/88.

1380 (RS 21216) JUD 2/10/88; 2/29/88; 3/2/88.

1381 (RS 20779) ST AFF 2/10/88; 2/22/88PM.  
HOUSE ST AFF 3/15/88.

1382 (RS 21143) H/W 2/11/88; 2/23/88.  
HOUSE H/W 3/10/88.

1383 (RS 21138) H/W 2/11/88; 2/23/88.  
HOUSE H/W 3/10/88.

1384 (RS 21137) H/W 2/11/88; 2/23/88.  
HOUSE H/W 3/14/88.

1385 (RS 21441) INVEST/RET 2/11/88; 2/23/88.

1386 (RS 21197) INVEST/RET 2/11/88; 3/8/88.  
HOUSE ST AFF 3/23/88.

1387 (RS 21457) INVEST/RET 2/11/88; 2/25/88; 3/1/88.  
HOUSE ST AFF 3/18/88.

1388 (RS 21455) INVEST/RET 2/11/88; 2/25/88; 3/1/88.  
HOUSE ST AFF 3/18/88.

1389 (RS 21456) INVEST/RET 2/11/88; 3/1/88.  
HOUSE ST AFF 3/18/88.

1390 (RS 21454) INVEST/RET 2/11/88; 3/1/88; 3/8/88.  
HOUSE ST AFF 3/18/88.

STATE AFFAIRS COMMITTEE

MINUTES

Room 350

February 10, 1988

3:00 P.M.

PRESENT: All Committee members were present.

Chairman Batt called the meeting to order at 3:05 p.m.

Moved by Ricks, seconded by Twiggs, that the minutes of February 8 be approved as written. By voice vote, the motion carried.

Senator Smyser questioned the testimony of Steven Schenk, Coeur d'Alene, during the dog racing hearing. The notes from the hearing will be researched to clarify his comments. Approval of the February 3 hearing minutes was postponed.

\*

GUBERNATORIAL APPOINTMENTS -- VOTE

Roland Palagi - Veterans Affairs Commission

MOTION Moved by Risch, seconded by Smyser, that the appointment  
CARRIED of Roland Palagi be sent out of Committee with a "do confirm" recommendation. By voice vote, the motion carried.

Senator Lacy will be the sponsor.

William Rigby - State Building Authority

MOTION Moved by Ricks, seconded by Twiggs, that the reappointment  
CARRIED of William Rigby be sent out of Committee with a "do confirm" recommendation. By voice vote, the motion carried.

Senator Crapo will be the sponsor.

\*

RS20779c1 PROHIBITING HANDICAP DISCRIMINATION

Senator Calabretta addressed the Committee and explained that this bill would prohibit discrimination based on a handicap. It covers all phases of the employment relationship including hiring, termination, and terms and conditions of employment. It allows discrimination against a handicapped person if that person poses a threat to the health or safety of himself or others. She informed the Committee that Idaho is one of five states with no protection for the handicapped in this area.

MOTION Moved by Fairchild, seconded by Reed, that RS20779c1 be sent to print. By voice vote, the motion carried.

\*

STATE AFFAIRS COMMITTEE

MINUTES

Room 350

February 22, 1988

3:00 P.M.

PRESENT: All Committee members were present.

Chairman Batt called the meeting to order at 3:10 p.m.

RS21422c1 RICKS COLLEGE PROCLAMATION - 100 years

Senator Ricks addressed the Committee and informed them that Ricks College in Rexburg is celebrating its 100th birthday and is the oldest private educational institution in Idaho.

MOTION Moved by Risch, seconded by Twiggs, that RS21422c1 be sent to  
CARRIED print. By voice vote, the motion carried.

Senator Ricks will be the sponsor.

\*

RS21515 IDAHO CODE - CHANGE "WORKMEN" TO "WORKERS"

Chairman Batt explained that Idaho is one of four states that still uses the term workmen when referring to its work force. He stated that there is nothing to be gained by changing the Code except that the term "worker" more accurately describes the work force at the present time. He also stated that "worker" is used in most business and interstate matters.

MOTION Moved by Smyser, seconded by Sweeney, that RS21515 be sent  
CARRIED to print. By voice vote, the motion carried.

Senator Batt will be the sponsor.

\*

RS21323c3 LOTTERY IMPLEMENTATION

Senator Blackbird reviewed the changes made in the lottery legislation and stated that legislative overview had been included as requested.

MOTION Moved by Risch, seconded by Sweeney, that RS21323c3 be sent  
CARRIED to print. By voice vote, the motion carried with Senators Ricks and Twiggs voicing a nay vote.

Senator Blackbird will be the sponsor.

\*

IDAHO STATE RACING COMMISSION - RULES AND REGULATIONS

Senator Smyser informed the Committee that he had reviewed the Rules and Regulations governing the Racing Commission and they met with his approval. Senator Bray also had no problems with the Rules and Regulations.

MOTION      Moved by Ricks, seconded by Sweeney, that the Rules and Regulations of the State Racing Commission be approved.  
CARRIED      By voice vote, the motion carried.

\*

S 1381

HANDICAPPED - DISCRIMINATION

Senator Calabretta reviewed for the Committee the purpose behind this legislation which is to protect the handicapped against discrimination in employment.

John Watts, Director, Council for Developmental Disabilities, addressed the Committee and stated that this legislation will remove barriers to employment and bring the disabled under the protection of the state. He felt that this was a compromise bill and that costs for implementing hiring of the disabled would be minimal. He also stated that employers would not be required to hire the handicapped if the health and safety of others would be jeopardized.

Jim Mowbry, Manager, TCBY Yogurt, testified that he has hired a handicapped worker and found there to be no additional cost. The employee is a good worker with a good attitude and looks forward to proving he can do the work.

Greg Casey, President, IACI, stated that he does not support the bill or oppose it although he does support the definition of disabled that was put into the legislation which is similar to the definition used by other states.

Jim Kerns, AFL-CIO, supports this legislation and feels that it would assist the state "Hire the Handicapped" program. He is satisfied that some of the problems and questions were worked out and feels that this legislation is needed.

Steve Hammett, Idaho Disabilities Coalition, informed the Committee that it is time to go beyond physical barriers to attitude barriers. This bill addresses the problems of giving the disabled a chance at employment. He described his wife's situation of not being given a chance to teach after she has had previous successful teaching experience in a different school district.

Dana Gover, Idaho Commission for the Blind, stated that her job requires travel throughout the state which she is able to do with a special van and powered wheelchair. She welcomes the opportunity to prove that she can do the job and feels that the handicapped do not want special considerations. She also mentioned that she

may lose her handicapped benefits because she has been successfully employed for two years.

Deb Bannister, Idaho Easter Seals, informed the Committee that her job is to try to develop jobs for the disabled and has encountered businesses which would not consider hiring a handicapped worker. She feels that this bill would help encourage hiring the handicapped.

Joe Karpach, attorney, is presently working for Judge Newhouse in the District Court but has been looking for employment since 1984. He is concerned that people who go through the educational system in Idaho must then leave to seek employment elsewhere.

MOTION Moved by Fairchild, seconded by Smyser, that S 1381 be sent out  
CARRIED with a "do pass" recommendation. By voice vote, the motion carried.

Senator Calabretta will be the sponsor.

\*

RS21150c2 CONFLICT OF INTEREST - NEPOTISM

Pat Kole, Deputy Attorney General, stated that the changes recommended by the Committee had been made in the legislation. This bill addresses an intentional act and the penalty would be a misdemeanor. Senator Sweeney inquired as to who has the burden of proving a conflict of interest. Mr. Kole informed him that it would be the prosecutor's responsibility.

MOTION Moved by Risch, seconded by Bray, that RS21150c2 be sent to  
print. By voice vote, the motion carried.

\*

S 1445 DESSERT WINES - PERCENTAGE OF ALCOHOL

Senator Peavey requested that this legislation be sent to the 14th Order for amendment since problems had been discovered with the legislation. This legislation is to help the restaurant owners in resort areas but should not allow increased alcohol content retail sales.

MOTION Moved by Smyser, seconded by Reed, to send S 1445 to the 14th  
Order for Amendment.

Boyd Harris, Director, Liquor Dispensary, voiced his disapproval of S 1445 as it is written. He stated that this legislation would allow higher content alcohol to be sold in retail stores. This is not what the state had in mind when wine sales were allowed in retail stores.

Jim Baugh recommended changing the type of license issued to restaurant owners so that dessert wines could be offered.

MINUTES OF THE MEETING OF THE STATE AFFAIRS COMMITTEE

March 15, 1988

TIME: 8:45 a.m.

PLACE: Room 412, Statehouse, Boise, Idaho.

PRESENT: All members of the committee.

The meeting was called to order by Chairman Bengson.

The minutes of March 14, 1988 were not available for approval.

H 721 Representative Callen requested unanimous consent that H 721 be reconsidered. There was an objection. Representative Callen moved that H 721 be placed on the calendar tomorrow for reconsideration. Seconded by Representative Stone. Discussion centered around the fact that some members of the committee have been contacted by interested parties who would like to have the bill reconsidered. A DIVISION was called for resulting in 8 AYES and 6 NAYS. Motion carried.

RS 21633 RELATING TO POLICE OFFICERS, DISABILITY

Ron Kirtley, Idaho State Police, discussed the merits of RS 21633 saying that it would allow any employee of the state of Idaho who is categorized as a police officer for retirement purposes (Department of Law Enforcement, Department of Corrections, and Fish and Game Conservation Officers), if injured in the regular course of their duties by a second party, to have full pay and benefits for the period of one year. He stated the incidents are rare, but officers have been forced to use their sick leave and vacation leave before going on total workman's compensation to retain their retirement benefits and maintain their income level to support their families.

In answer to a question Mr. Kirtley said this bill differs from the previous proposed legislation in that the definition of police officer has been expanded to include the Department of Corrections and Fish and Game Conservation officers.

MOTION Representative Crane moved that RS 21633 be introduced for printing. Seconded by Representative Duffin. Motion carried.

RS 21706 RELATING TO PREPAID FUNERAL ARRANGEMENTS

Representative Crane explained this RS is a compromise between the cemeterians and funeral directors. He asked that it be introduced for printing and referred to the Business Committee.

MOTION It was moved by Representative Haagenson that RS 21706 be introduced for printing and referred to the Business Committee. Seconded by Representative Sutton. Motion carried.

RS 21725 RETIREMENT PROGRAMS FOR CERTAIN FACULTY AND STAFF OF THE COLLEGE AND UNIVERSITIES AND OFFICE OF HIGHER EDUCATION

Richard Sperring, executive director, Office of the State Board of Education, related that this proposed legislation would allow the Board of Education to approve participation in optional retirement plans other than the Idaho Public Employees Retirement Plan subject to certain restrictions and conditions. He pointed out that only employees who have been appointed after July 1, 1988 would be eligible to ensure that present employees "do not jump ship" from the PERSI plan. This new plan would enhance the recruiting ability of Idaho's universities and college by allowing retirement options for newly hired faculty members and non-classified staff.

MOTION It was moved by Representative Brown and seconded by Representative Givens that RS 21725 be introduced for printing. Motion carried.

S 1381 EMPLOYMENT, HANDICAP DISCRIMINATION

John Watts, executive director, Idaho Council of Developmental Disabilities, reviewed S 1381 for the committee. He shared the fact that he had discussed this legislation with Marilyn Schuler of the Human Rights Commission, Pete Skamser of the National Federation of Small Businesses, Greg Casey of the Idaho Association of Commerce and Industry, and Jim Kerns of the AFL/CIO. The proposed legislation has met the concerns and approval of all of the above organizations.

Jim Mowbry, owner of TCBY yogurt shops, spoke in support of the legislation citing the fact that he has hired a handicap employee and it has worked out very well. He sees the need for employers to look a little closer at the person being considered for a position. He stated there was nothing in the bill that says he has to hire an applicant that he feels is not qualified.

John Madsen, handicapped former professor, spoke of the problems he has had since moving to Idaho ten years ago in finding employment. Even though he has received many academic honors in his life and has been gainfully employed as a professor, after moving to Idaho his contribution to society has been as a volunteer in many organizations. In his opinion this bill would help people such as him find employment.

Joe Karpach, handicapped attorney, spoke of his efforts in the last 4 years to find a job. He has found much discrimination and feels that this legislation would at least give handicapped people seeking employment an opportunity to get an interview to demonstrate their ability. They "just want a fair shot at any type of employment."

Mike Dunn, owner of Burger King restaurants, told the committee of his favorable experiences in hiring handicapped employees. He stated they are capable people, take no longer to train, they just have to practice their skills a little more and then they are dependable, long-time employees.

Dana Grover, handicapped administrator, told of the risks in taking the opportunity to work, i.e. loss of state support funds and expense of \$5,000 wheelchair, \$20,000 van and \$800 a month for an attendant to help her. In her opinion the risk is worth taking because of the sense of self-worth employment gives a handicapped person.

Jim Kerns, AFL-CIO, offered his support of S 1381 stating it was a "passport to dignity" for handicapped people.

MOTION After general discussion, Representative Brown moved that S 1381 be reported out of committee with a DO PASS recommendation. Seconded by Representative Stone. Motion carried. Representatives Brown and Stone will co-sponsor S 1381.

S 1505 RELATING TO COUNTY FAIR BOARDS


Roger Simmons, director Western Idaho State Fair, revealed that only one word is changed in the Idaho Code by this legislation. It changes the word ten to twelve in reference to the number of days in a calendar year the concession or service at a county fair may be awarded without bid. He pointed out that the Western Idaho State Fair is the only fair in Idaho that will run 10 days. The change is needed to clarify the law.

MOTION It was moved by Representative Deckard that S 1505 be reported out of committee with a DO PASS recommendation. Seconded by Representative Allan-Hodge. Motion carried.

Chairman Bengson announced that tomorrow would be the last day to receive RS's in the committee unless it is an extreme emergency.

There being no further business to come before the committee, the meeting was adjourned at 10:00 a.m.

  
Pamela I. Bengson, Chairman

  
Phyllis N. Evans, Secretary

# HOUSE INDEX

459

<u>Senate Bill No.</u>	<u>Introduced By</u>	<u>Intro- duction Page</u>	<u>Subject Matter</u>	<u>House Vote Page</u>	<u>Final Action Page</u>	<u>Final Disposition</u>
1378	Judiciary and Rules	243	CRIME AND CRIMINAL PRO- CEDURES, providing trial jurisdiction for offenses on aircraft. . . . .	317	330	LAW
1379	Judiciary and Rules	243	CRIME AND CRIMINAL PRO- CEDURES, providing penalty threatening flight crew . . . . .	319	330	LAW
1381	State Affairs	163	EMPLOYEE DISCRIMINATION, prohibits based on handi- caps. . . . .	286	303	LAW
1382	Health and Welfare	163	ADOPTION, defining "auth- orized agency" to eliminate services of the Department of Health and Welfare . . . . .	267	279	LAW
1383	Health and Welfare	181	ADOPTION, prohibiting adver- tising . . . . . (S.A. - See Senate Journal)	284	303	LAW
1384	Health and Welfare	190	ADOPTION, modifying pro- dures . . . . . (S.A. - See Senate Journal)	276	279	LAW
1386	Investment and Retirement Funds	233	RETIREMENT, clarifying participation in state's plan . . . . .	324	330	LAW
1387	Investment and Retirement Funds	216	PUBLIC EMPLOYEES RETIRE- MENT SYSTEM, increasing compensation paid to board members . . . . . (S.A. - See Senate Journal)	306	322	LAW
1388	Investment and Retirement Funds	216	PUBLIC EMPLOYEES RETIRE- MENT SYSTEM, providing for confidentiality of members records. . . . .	315	330	LAW
1389	Investment and Retirement Funds	216	PUBLIC EMPLOYEES RETIRE- MENT SYSTEM, distribution requirements to members . . . . (S.A. - See Senate Journal)	307	322	LAW
1390	Investment and Retirement Funds	233	PUBLIC EMPLOYEES RETIRE- MENT SYSTEM, providing amortization rate changes . . . .	307	322	LAW
1391	Investment and Retirement Funds	174	INSURANCE, UNEMPLOYMENT, adjusting ratios used to determine tax rates . . . . .	-	255	House State Affairs
1393	Investment and Retirement Funds	181	RETIREMENT, INSURANCE, pro- viding a voluntary plan for state retirees . . . . . (S.A. - See Senate Journal)	325	330	LAW
1394	Commerce and Labor	243	CORPORATION, BUSINESS AND INDUSTRIAL, establishment for raising funds to invest . . . . (S.A. - See Senate Journal)	-	371	House Calendar
1395	Commerce and Labor	181	VETERANS, SERVICE OFFICER, allowing appointment in counties . . . . . (S.A. - See Senate Journal)	-	181	House State Affairs

Clark, Crane, Crow, Davis, Deckard, Duffin, Fry, Geddes, Giovanelli, Givens(Wright), Gould, Gurnsey, Haagenson, Hale, Hall, Hansen, Hartung, Hawkins, Hay, Hill, Hooper, Horvath, Johnson, Jones(23), Judd, Kellogg, Kenneville, Lasuen, Linford, Lloyd, Loertscher, Loveland, Lucas, Mahoney, Martens, McCann, McDermott, Neibaur, Newcomb(24), Newcomb(23), Peters, Reid, Reynolds, Robbins, Robison, Scates, Schaefer, Sessions, Simpson, Slater, Smock, Sorensen, Steele, Steger, Stoicheff, Stone, Stucki, Sutton, Taylor, Tucker, Vickers, Vincent, White, Wilde, Wood, Mr. Speaker. Total - 77.

NAYS - Field, Infanger, Parks. Total - 3.

Absent and excused - Black(23), Brocksome, Jones(13), Montgomery. Total - 4.  
Total - 84.

Whereupon the Speaker Pro Tem declared **S 1376**, as amended, passed the House. Title was approved and the bill ordered returned to the Senate.

**S 1280**, as amended, was read the third time at length, section by section, and placed before the House for final consideration.

The question being, "Shall **S 1280**, as amended, pass?"

Roll call resulted as follows:

AYES - Adams, Bengson, Black(27), Braun, Brown, Burt, Clark, Deckard, Duffin, Fry, Giovanelli, Givens(Wright), Gould, Gurnsey, Haagenson, Hale, Hall, Hansen, Hay, Hooper, Johnson, Jones(23), Judd, Kellogg, Kenneville, Lasuen, Linford, Lloyd, Loertscher, Lucas, Mahoney, McCann, McDermott, Newcomb(24), Newcomb(23), Reid, Reynolds, Robbins, Robison, Scates, Sessions, Slater, Smock, Sorensen, Steger, Stoicheff, Stone, Stucki, Sutton, Taylor, Tucker, Vickers, Vincent, White, Wilde, Mr. Speaker. Total - 56.

NAYS - Allan-Hodge, Antone, Brimhall, Callen, Childers, Crane, Crow, Davis, Field, Geddes, Hartung, Hawkins, Hill, Infanger, Loveland, Martens, Neibaur, Parks, Peters, Schaefer, Steele, Wood. Total - 22.

Absent and excused - Black(23), Brocksome, Horvath, Jones(13), Montgomery, Simpson. Total - 6.  
Total - 84.

Whereupon the Speaker Pro Tem declared **S 1280**, as amended, passed the House. Title was approved and the bill ordered returned to the Senate.

**S 1281**, as amended, as amended, was read the third time at length, section by section, and placed before the House for final consideration.

The question being, "Shall **S 1281**, as amended, as amended, pass?"

Roll call resulted as follows:

AYES - Adams, Antone, Bengson, Black(27), Braun, Brimhall, Brown, Burt, Callen, Childers, Clark, Crane, Crow, Davis, Deckard, Duffin, Field, Fry, Geddes, Giovanelli, Gurnsey, Haagenson, Hale, Hall, Hansen, Hartung, Hawkins, Hay, Hill, Hooper, Horvath, Infanger, Johnson, Jones(23), Judd, Kellogg, Kenneville, Lasuen, Linford, Lloyd, Loertscher, Loveland, Lucas, Mahoney, Martens, Montgomery, Neibaur, Newcomb(24), Newcomb(23), Parks, Peters, Reid, Reynolds, Robbins, Scates, Schaefer, Sessions, Simpson, Slater, Sorensen, Steele, Steger, Stoicheff, Stone, Stucki, Sutton, Taylor,

Tucker, Vickers, Vincent, White, Wilde, Wood, Mr. Speaker. Total - 74.

NAYS - Allan-Hodge, Brocksome, Givens(Wright), McCann, McDermott, Robison, Smock. Total - 7.

Absent and excused - Black(23), Gould, Jones(13). Total - 3.

Total - 84.

Whereupon the Speaker Pro Tem declared **S 1281**, as amended, as amended, passed the House. Title was approved and the bill ordered returned to the Senate.

Mr. Kenneville asked unanimous consent that the remaining bills on the Third Reading Calendar retain their places for one legislative day. There being no objection, it was so ordered.

At this time, the Speaker returned to the Chair.

There being no objection, the House advanced to the Sixteenth Order of Business.

#### Adjournment

Mr. Kenneville moved that the House do now adjourn until 9:00 a.m., Tuesday, March 22, 1988. Seconded by Mr. Stoicheff. Motion carried.

Whereupon the Speaker declared the House adjourned until 9:00 a.m., Tuesday, March 22, 1988.

TOM BOYD, Speaker

ATTEST:

PHYLLIS WATSON, Chief Clerk

#### SEVENTY-SECOND LEGISLATIVE DAY TUESDAY, MARCH 22, 1988

House of Representatives

The House convened at 9:00 a.m., the Speaker in the Chair.

Roll call showed 83 members present.

Absent and excused - Allan-Hodge. Total - 1.  
Total - 84.

Prayer was offered by Chaplain John Pickrell.

#### Approval of Journal

March 22, 1988

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES AND ADMINISTRATION, report that we have read and approved the House Journal of the Seventy-first Legislative Day and recommend that same be adopted as corrected.

LOVELAND, Chairman

Moved by Mr. Loveland that the report be adopted. Seconded by Miss McDermott. Report adopted.

Whereupon the Speaker Pro Tem declared the House at recess until 1:15 p.m.

### RECESS

#### Afternoon Session

The House reconvened at 1:15 p.m., the Speaker in the Chair.

Roll call showed 83 members present.  
Absent and excused -- Crane. Total -- 1.  
Total -- 84.

Prior to recess, the House was at the Eleventh Order of Business.

#### Third Reading of Bills and Joint Resolutions

H 729, as amended, having previously been read the third time at length, was before the House for final consideration.

The question being, "Shall H 729, as amended, pass?"

Roll call resulted as follows:

AYES -- Adams, Antone, Bengson, Brocksome, Burt, Childers, Crane, Crow, Deckard, Fry, Giovanelli, Gurnsey, Haagenon, Hansen, Hay, Hooper, Horvath, Jones(23), Kenneville, Linford, Lucas, McCann, Montgomery, Reid, Reynolds, Robison, Scates, Slater, Smock, Steger, Stoicheff, Tucker, Vickers, Vincent, White, Wilde.  
Total -- 36.

NAYS -- Allan-Hodge, Black(27), Black(23), Braun, Brimhall, Brown, Callen, Davis, Duffin, Field, Geddes, Givens(Givens), Gould, Hale, Hall, Hartung, Hawkins, Hill, Infanger, Johnson, Jones(13), Judd, Kellogg, Lasuen, Lloyd, Loertscher, Loveland, Mahoney, Martens, McDermott, Neibaur, Newcomb(24), Newcomb(23), Parks, Peters, Robbins, Schaefer, Sessions, Simpson, Sorensen, Steele, Stone, Stucki, Sutton, Taylor, Wood, Mr. Speaker.  
Total -- 47.

Absent and excused -- Clark. Total -- 1.

Paired Votes:

AYE -- Bengson	NAY -- Johnson
AYE -- Crane	NAY -- Schaefer
AYE -- McCann	NAY -- Sessions

(Pairs enumerated in roll call above.)

Total -- 84.

Whereupon the Speaker declared H 729, as amended, failed to pass the House and ordered the bill filed in the office of the Chief Clerk.

There being no objection, the House returned to the Fourth Order of Business.

#### Consideration of Messages from the Governor and the Senate

March 23, 1988

Mr. Speaker:

I transmit herewith enrolled S 1280, as amended, S 1281, as amended, as amended, S 1354, S 1376, as amended, S 1381, S 1383, as amended, and S 1505 for the signature of the Speaker, and I return herewith enrolled H 470, H 545, H 628, H 578, as amended, H 531, H 573, as amended, H 539, H 566, H 516, H 497, HCR 41, HJM 15, HCR 51, H 513, H 454, H 525, H 616, H 515, H 550, H 448, as amended, H 541, H 555, H 556,

H 557, H 594, H 602, H 381, H 563, H 445, H 398, as amended in the Senate, H 536, as amended in the Senate, H 412, as amended in the Senate, H 624, H 652, as amended, as amended in the Senate, and H 626 which have been signed by the President.

BAXTER, Secretary

The Speaker announced he was about to sign enrolled S 1280, as amended, S 1281, as amended, as amended, S 1354, S 1376, as amended, S 1381, S 1383, as amended, and S 1505 and, when so signed, ordered them returned to the Senate.

Enrolled H 470, H 545, H 628, H 578, as amended, H 531, H 573, as amended, H 539, H 566, H 516, H 497, H 513, H 454, H 525, H 616, H 515, H 550, H 448, as amended, H 541, H 555, H 556, H 557, H 594, H 602, H 381, H 563, H 445, H 398, as amended in the Senate, H 536, as amended in the Senate, H 412, as amended in the Senate, H 624, H 652, as amended, as amended in the Senate, and H 626 were referred to the Judiciary, Rules and Administration Committee for delivery to the Governor.

Enrolled HCR 41, HJM 15 and HCR 51 were referred to the Judiciary, Rules and Administration Committee for delivery to the Secretary of State.

#### Report of Standing Committees

March 23, 1988

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES AND ADMINISTRATION, report that we have correctly enrolled H 687, as amended in the Senate.

LOVELAND, Chairman

The Speaker announced he was about to sign enrolled H 687, as amended in the Senate, and, when so signed, ordered it transmitted to the Senate for the signature of the President.

March 23, 1988

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES AND ADMINISTRATION, report that we have correctly engrossed H 508, as amended in the Senate.

LOVELAND, Chairman

H 508, as amended in the Senate, was filed for first reading of engrossed bills.

There being no objection, the House advanced to the Ninth Order of Business.

#### First Reading of Engrossed Bills

H 508, as amended in the Senate, by State Affairs Committee, was read the first time by title and filed for second reading.

There being no objection, the House advanced to the Twelfth Order of Business.

#### Consideration of General Orders

Mr. Kenneville moved that the House do now resolve itself into a Committee of the Whole House for the consideration of General Orders. Seconded by Mr. Black(27). Motion carried.

## SENATE INDEX

411

Senate Bill No.	Introduced by	Final Action	Subject Matter	Introduction Page	Senate Vote Page	Final Disp. Page
1378	Judiciary & Rules	Law	CRIME AND CRIMINAL PROCEDURE - Amends existing law to provide trial jurisdiction for offenses committed on aircraft. . . . .	81	220	337
1379	Judiciary & Rules	Law	CRIME AND CRIMINAL PROCEDURE - Amends existing law to provide a penalty for threatening an aircraft's flight crew. . . . .	81	221	337
1380	Judiciary & Rules	Senate Judiciary & Rules	DRIVING UNDER INFLUENCE DRUGS, ALCOHOL (DUI) - Adds to existing law to allow the administration of a blood or breath test for concentration of alcohol, drugs, or other intoxicating substances without the consent of the individual when the individual is unconscious, dead, or in a condition rendering him incapable of refusal. . . . .	81	<i>AM</i>	84
1381	State Affairs	Law	EMPLOYEES AND EMPLOYMENT - DISCRIMINATION - Amends existing law to prohibit discrimination in employment based on handicaps . . . . .	81	✓ 156	✓ 331 ✓
1382	Health & Welfare	Law	ADOPTION - Amends existing law to further define the term "authorized agency" in the statutes relating to adoption to eliminate rehabilitative services of the Department of Health and Welfare. . . . .	94	156	293
1383	Health & Welfare	Law	ADOPTION - Adds to and amends existing law to prohibit advertising or posting notice of a child or children offered or wanted for adoption. . . . . A.S. . . . .	94 140	177	331
1384	Health & Welfare	Law	ADOPTION - Amends existing law to modify the procedures for adoption, to require specific residency requirements and to require an investigative report. . . . . A.S. . . . .	94 140	181	293
1385	Investment & Retirement Funds	Senate Investment & Retirement Funds	EMPLOYEES AND EMPLOYMENT - FIREMEN CLASSIFICATION - Adds to existing law to provide a classification of fireman for certain employees of the Department of Lands and the Timber Protective Associations for the purposes of retirement. . . . .	94	—	97
1386	Investment & Retirement Funds	Law	RETIREMENT - Amends existing law to clarify participation in the state's retirement incentive plan. . . . .	94	215	337
1387	Investment & Retirement Funds	Law	PUBLIC EMPLOYEES RETIREMENT SYSTEM - Amends existing law to provide for an increase in the compensation paid to the members of the Retirement Board. . . . . A.S. . . . .	94 170	201	333
1388	Investment & Retirement Funds	Law	PUBLIC EMPLOYEES RETIREMENT SYSTEM - Adds to existing law to provide that the records of members of the Public Employees Retirement System are confidential. . . . .	94	199	337

**S 1379**  
**BY JUDICIARY AND RULES COMMITTEE**

AN ACT  
RELATING TO INTERFERENCE WITH A FLIGHT CREW OR FLIGHT ATTENDANTS; AMENDING SECTION 18-7504, IDAHO CODE, TO PROVIDE THAT IT IS A FELONY TO THREATEN AN AIRCRAFT'S FLIGHT CREW; AND DECLARING AN EMERGENCY.

**S 1380**  
**BY JUDICIARY AND RULES COMMITTEE**

AN ACT  
RELATING TO TESTS FOR CONCENTRATION OF ALCOHOL, DRUGS, OR OTHER INTOXICATING SUBSTANCES; AMENDING SECTION 18-8002, IDAHO CODE, TO PROVIDE CERTAIN CONDITIONS FOR ADMINISTRATION OF A BREATH OR BLOOD TEST WITHOUT THE CONSENT OF THE INDIVIDUAL.

**S 1381**  
**BY STATE AFFAIRS COMMITTEE**

AN ACT  
RELATING TO THE IDAHO HUMAN RIGHTS COMMISSION; AMENDING SECTIONS 67-5901, 67-5902, 67-5909 AND 67-5910, IDAHO CODE, TO PROHIBIT DISCRIMINATION BASED ON HANDICAP IN EMPLOYMENT, TO DEFINE HANDICAP AND TO PROVIDE LIMITATIONS IF A HANDICAPPED PERSON IS UNABLE TO PERFORM THE WORK OR IS A THREAT TO THE HEALTH OR SAFETY OF THE HANDICAPPED PERSON OR OTHERS.

**S 1371, S 1372, S 1373, S 1374, S 1375, S 1376, S 1377, S 1378, S 1379, S 1380, and S 1381** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

**H 425**, by Judiciary, Rules and Administration Committee, was introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

**H 428**, by Local Government Committee, was introduced, read the first time at length, and referred to the Commerce and Labor Committee.

**H 394** and **H 403**, by Revenue and Taxation Committee, were introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

**H 411** and **H 463**, by Resources and Conservation Committee, were introduced, read the first time at length, and referred to the Resources and Environment Committee.

Senator Peavey was recorded present at this order of business.

**Second Reading of Bills**

**S 1273**, by Health and Welfare Committee, was read the second time at length and filed for third reading.

**S 1310**, by Commerce and Labor Committee, was read the second time at length and filed for third reading.

**S 1308** and **S 1240**, by Transportation Committee, were read the second time at length and filed for third reading.

**Third Reading of Bills**

On request by Senator Peavey, granted by unanimous consent, **S 1323** retained its place on the calendar for one legislative day.

**H 401** was read the third time at length, section by section, and placed before the Senate for final consideration, the question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Anderson, Batt, Beck, Beitelspacher, Bilyeu, Blackbird, Bray, Carlson, Christiansen, Crapo, Crystal, Darrington, Fairchild, Gilbert, Dennis Hansen, John Hansen, Jerry Hanson, Hyde, Lacy, Mackin, Marley, McLaughlin, McRoberts, Noh, Parry, Peavey, Reed, Ricks, Ringert, Risch, Rydallch, Smyser, Staker, Sverdsten, Sweeney, Thorne, Tominaga, Twiggs, Wetherell.  
Total - 39.

NAYS—None.

Absent and excused—Brooks, Calabretta, Herndon.  
Total - 3.

Total - 42.

Whereupon the President declared **H 401** passed, title was approved, and the bill ordered returned to the House.

**S 1302** was read the third time at length, section by section, and placed before the Senate for final consideration, the question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Anderson, Batt, Beck, Beitelspacher, Bilyeu, Blackbird, Bray, Carlson, Christiansen, Crapo, Crystal, Darrington, Fairchild, Gilbert, Dennis Hansen, John Hansen, Jerry Hanson, Hyde, Lacy, Mackin, Marley, McLaughlin, McRoberts, Noh, Parry, Peavey, Reed, Ricks, Ringert, Risch, Rydallch, Smyser, Staker, Sverdsten, Sweeney, Thorne, Tominaga, Twiggs, Wetherell.  
Total - 39.

NAYS—None.

Absent and excused—Brooks, Calabretta, Herndon.  
Total - 3.

Total - 42.

Whereupon the President declared **S 1302** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Crystal, granted by unanimous consent, **H 400** retained its place on the calendar for one legislative day.

**General Calendar**

At this time Senator Crapo arose on a point of personal privilege to announce that a distinguished visitor had arrived and the President appointed Senators

**S 1381** was read the third time at length, section by section, and placed before the Senate for final consideration, the question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Anderson, Beck, Bilyeu, Blackbird, Bray, Brooks, Calabretta, Carlson, Christiansen, Corbet, Crystal, Darrington, Fairchild, Gilbert, Dennis Hansen, John Hansen, Jerry Hanson, Herndon, Hyde, Mackin, Marley, McLaughlin, McRoberts, Noh, Parry, Peavey, Reed, Ricks, Ringert, Risch, Rydallch, Smyser, Staker, Sverdsten, Sweeney, Thorne, Tominaga, Twiggs, Wetherell. Total - 39.

NAYS--None.

Absent and excused--Beitelspacher, Crapo, Lacy. Total - 3.

Total - 42.

Whereupon the Acting President declared **S 1381** passed, title was approved, and the bill ordered transmitted to the House.

**S 1446** was read the third time at length, section by section, and placed before the Senate for final consideration, the question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Anderson, Beck, Bilyeu, Bray, Brooks, Calabretta, Christiansen, Corbet, Crapo, Crystal, Darrington, Fairchild, Gilbert, Dennis Hansen, John Hansen, Jerry Hanson, Herndon, Hyde, Mackin, Marley, McLaughlin, McRoberts, Noh, Parry, Peavey, Reed, Ricks, Risch, Rydallch, Smyser, Staker, Sverdsten, Sweeney, Thorne, Tominaga, Twiggs, Wetherell. Total - 37.

NAYS--None.

Absent and excused--Beitelspacher, Blackbird, Carlson, Lacy, Ringert. Total - 5.

Total - 42.

Whereupon the Acting President declared **S 1446** passed, title was approved, and the bill ordered transmitted to the House.

**S 1382** was read the third time at length, section by section, and placed before the Senate for final consideration, the question being, "Shall the bill pass?"

The Acting President called Senator Darrington to the Chair.

Roll call resulted as follows:

AYES--Beck, Bilyeu, Blackbird, Bray, Brooks, Calabretta, Carlson, Christiansen, Corbet, Crapo, Crystal, Fairchild, Gilbert, Dennis Hansen, Herndon, Hyde, Mackin, Marley, McLaughlin, McRoberts, Noh, Reed, Ringert, Risch, Sverdsten, Sweeney, Wetherell. Total - 27.

NAYS--Anderson, Darrington, Jerry Hanson, Parry, Ricks, Rydallch, Smyser, Staker, Thorne, Tominaga, Twiggs. Total - 11.

Absent and excused--Beitelspacher, John Hansen, Lacy, Peavey. Total - 4.

Total - 42.

Whereupon the Acting President declared **S 1382** passed, title was approved, and the bill ordered transmitted to the House.

**S 1414** was read the third time at length, section by section, and placed before the Senate for final consideration, the question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Anderson, Bilyeu, Blackbird, Bray, Brooks, Calabretta, Christiansen, Corbet, Crapo, Darrington, Jerry Hanson, Herndon, Hyde, Marley, McLaughlin, Peavey, Reed, Ricks, Sverdsten, Sweeney, Wetherell. Total - 21.

NAYS--Beck, Carlson, Crystal, Fairchild, Gilbert, Dennis Hansen, John Hansen, Mackin, McRoberts, Noh, Parry, Ringert, Risch, Rydallch, Smyser, Staker, Thorne, Tominaga, Twiggs. Total - 19.

Absent and excused--Beitelspacher, Lacy. Total - 2.

Total - 42.

Whereupon the Acting President declared **S 1414** passed, title was approved, and the bill ordered transmitted to the House.

On motion by Senator Ricks, seconded by Senator Sweeney, the Senate recessed until 1:15 p.m. of this day.

#### RECESS AFTERNOON SESSION

The Senate reconvened at 1:15 p.m., pursuant to recess, Acting President Ricks presiding.

Roll call showed all members present except President Pro Tempore Risch and Senators Beck, Bray, Carlson, Fairchild, Herndon, McLaughlin, Peavey, Sweeney, and Tominaga, absent and excused; and Senators Beitelspacher and Lacy, absent and formally excused by the Chair.

Prior to recess the Senate was at the Thirteenth Order of Business, Third Reading of Bills.

The President assumed the Chair.

President Pro Tempore Risch and Senators Beitelspacher, Bray, Carlson, Fairchild, Herndon, Peavey, Sweeney, and Tominaga were recorded present at this order of business.

**S 1291** was read the third time at length, section by section, and placed before the Senate for final consideration, the question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Anderson, Beck, Beitelspacher, Bilyeu, Blackbird, Bray, Brooks, Calabretta, Corbet, Crapo, Darrington, Fairchild, John Hansen, Jerry Hanson, Herndon, Mackin, Marley, McLaughlin, McRoberts,

**AMENDMENT TO THE BILL**

On page 2, following line 23, insert:

"SECTION 2. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1007A, Idaho Code, and to read as follows:

33-1007A. FEASIBILITY STUDY AND PLAN FOR SCHOOL CLOSURE, SCHOOL DISTRICT CONSOLIDATION. The state superintendent of public instruction shall determine the costs reimbursable to any school district which is required by the provisions of section 33-310B, Idaho Code, to conduct a feasibility study and to submit a plan for school closure which may include school district consolidation.

The school district shall be entitled to reimbursement of costs pursuant to rules and regulations promulgated by the department, but not to exceed a maximum of five thousand dollars (\$5,000) as provided in section 33-310B, Idaho Code."

**CORRECTION TO TITLE**

On page 1, in line 6, following "CONSOLIDATION", delete "." and insert: "; AND AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1007A, IDAHO CODE, TO PROVIDE FOR REIMBURSEMENT OF COSTS FOR CONDUCTING A FEASIBILITY STUDY FOR SCHOOL CLOSURE AND POSSIBLE DISTRICT CONSOLIDATION."

**SENATE AMENDMENT TO H 472****AMENDMENT TO SECTION 1**

On page 1, line 11 of the printed bill, delete "the appropriate fee as", delete line 12, and insert: "an appropriate fee not in excess of thirty dollars (\$30.00) which fee shall be determined by rule and regulation."

**CORRECTION TO TITLE**

On page 1 of the printed bill, delete line 3 and insert: "41-334, IDAHO CODE, TO PROVIDE FOR SETTING THE FEE BY RULE AND REGULATION WITH A CAP ON THE AMOUNT OF THE FEE."

**SENATE AMENDMENT TO H 599, AS AMENDED****AMENDMENT TO THE BILL**

On page 16 of the engrossed bill, following line 11, delete the remainder of the page and all of pages 17 and 18.

**CORRECTION TO TITLE**

On page 1, line 20 of the engrossed bill, following "COMMODITY";, insert: "AND"; in line 21, following "REFERENCE", delete the remainder of the line and delete lines 22, 23, 24 and 25 and insert: ".".

**SENATE AMENDMENTS TO H 774****AMENDMENT TO SECTION 1**

On page 1 of the printed bill, delete lines 26 through 30 and insert: "public works for the Idaho transportation department, the department of fish and game, and the department of parks and recreation, except for administrative office buildings and all associated improvements, are exempt from the provisions of this section that relate to the administration and review of such projects by the director of the department of administration or his designee and by the permanent

building fund advisory council. This exemption shall not relieve the Idaho transportation department, the department of fish and game, and the department of parks and recreation, in the letting of contracts for public works, from complying with the procedures of section 67-5718, Idaho Code, related to the advertising and bidding for contracts. The permanent building fund".

**CORRECTION TO TITLE**

On page 1 of the printed bill, delete line 7 and insert: "TION OR HIS DESIGNEE AND THE PERMANENT BUILDING FUND ADVISORY COUNCIL, AND TO PROVIDE PROCEDURES IN THE LETTING OF CONTRACTS FOR ADVERTISING AND BIDDING FOR CONTRACTS."

**SENATE AMENDMENTS TO H 612****AMENDMENTS TO SECTION 1**

On page 2, line 25 of the printed bill, following "attempts," insert: "at the option of the buyer"; following "shall" insert: "either"; on page 3, line 27, following "LIABILITY", delete "-- ENFORCEMENT LIMITATION. (1)" and insert: "."; delete lines 32, 33 and 34, and insert:

"48-908. DAMAGE AWARD. If a buyer pursues an action against a manufacturer pursuant to this chapter because a manufacturer refuses or fails to replace or refund as provided in section 48-904, Idaho Code, and a court finds in favor of the buyer, the manufacturer shall be liable for treble the amount of the full purchase price including all collateral charges less a reasonable allowance for the buyer's use of the vehicle."

In line 35, delete "908" and insert: "909".

**CORRECTION TO TITLE**

On page 1, line 11, following "LIABILITY," insert: "TO PROVIDE FOR AWARD OF DAMAGES,".

**SENATE AMENDMENTS TO H 721****AMENDMENTS TO SECTION 4**

On page 14, line 16 of the printed bill, delete "for the occupancy of such owner and not intended for sale"; delete lines 25 and 26 and insert: "farming enterprise"; in line 28, delete "and" and insert: "or"; in line 32, delete "." and insert: ";"; following line 32, insert:

"(9) The performance of regular maintenance or repair needs of properties that do not alter any permanent fixed part of the structure; and

(10) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, canal companies or reclamation districts, except when performed by a person required to be licensed under this act."; and on page 15, in line 13, following "work", insert: "involving the expenditure of public moneys".

**SENATE AMENDMENTS TO H 757****AMENDMENTS TO SECTION 1**

On page 1, line 13 of the printed bill, delete "DISABILITY PAYMENTS" and insert: "WORKMEN'S COMPENSATION BENEFITS"; in line 19, delete ", in lieu of"; in line 20, delete "regular disability payments as provided by law,"; in line 21, following ".", insert: "Any workmen's compensation payments made to the employee shall revert back to the employee's department."; in line 25, following "person", insert: "during a chargeable

# Idaho Human Rights Act 1988 Legislative History Check Lists

67-5901  
S.B. 1381  
RS 20779

Item	Included	Notes
Session Law	✓ R	
Bill	✓ R	
Bill Status	✓ R	
Statement of Purpose	✓ R	
Committee Minutes		
- House	✓ M	
- Senate	✓ R	
Journal		
- House	✓ R	
- Senate	✓ R	
Interim Committee Minutes	N/A	

I believe we are missing one piece of our Leg. history. There was an ~~amendment~~ amendment to 67-5910 in 1988; ch. 28 §1. I think that changed the age protection to 40 and above.