

Assembly Bill No. 1400

CHAPTER 420

An act to amend Sections 51, 51.5, 51.7, 51.8, and 53 of the Civil Code, relating to civil rights.

[Approved by Governor September 29, 2005. Filed with
Secretary of State September 29, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1400, Laird. Civil Rights Act.

The Unruh Civil Rights Act generally prohibits business establishments from discriminating on the basis of sex, race, color, religion, ancestry, national origin, disability, or medical condition. The Unruh Civil Rights Act provides civil remedies for violations of its provisions.

This bill would further prohibit that discrimination on the basis of marital status or sexual orientation, and would define related terms. The bill would also integrate those definitions into other related provisions, and would make specified findings and declarations in that regard.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as "The Civil Rights Act of 2005."

SEC. 2. The Legislature finds and declares as follows:

(a) Even prior to passage of the Unruh Civil Rights Act, California law afforded broad protection against arbitrary discrimination by business establishments. The Unruh Civil Rights Act was enacted to provide broader, more effective protection against arbitrary discrimination. California's interest in preventing that discrimination is longstanding and compelling.

(b) In keeping with that history and the legislative history of the Unruh Civil Rights Act, California courts have interpreted the categories enumerated in the act to be illustrative rather than restrictive. It is the intent of the Legislature that these enumerated bases shall continue to be construed as illustrative rather than restrictive.

(c) The Legislature affirms that the bases of discrimination prohibited by the Unruh Civil Rights Act include, but are not limited to, marital status and sexual orientation, as defined herein. By specifically enumerating these bases in the Unruh Civil Rights Act, the Legislature intends to clarify the existing law, rather than to change the law, as well as the principle that the bases enumerated in the act are illustrative rather than restrictive.

(d) It is the intent of the Legislature that the amendments made to the Unruh Civil Rights Act by this act do not affect the California Supreme

Court's rulings in *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 721 and *O'Connor v. Village Green Owners Association* (1983) 33 Cal.3d 790.

SEC. 3. Section 51 of the Civil Code is amended to read:

51. (a) This section shall be known, and may be cited, as the Unruh Civil Rights Act.

(b) All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

(c) This section shall not be construed to confer any right or privilege on a person that is conditioned or limited by law or that is applicable alike to persons of every sex, color, race, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(d) Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond that construction, alteration, repair, or modification that is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any other structure, nor shall anything in this section be construed to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

(e) For purposes of this section:

(1) "Disability" means any mental or physical disability as defined in Sections 12926 and 12926.1 of the Government Code.

(2) "Medical condition" has the same meaning as defined in subdivision (h) of Section 12926 of the Government Code.

(3) "Religion" includes all aspects of religious belief, observance, and practice.

(4) "Sex" has the same meaning as defined in subdivision (p) of Section 12926 of the Government Code.

(5) "Sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation" includes a perception that the person has any particular characteristic or characteristics within the listed categories or that the person is associated with a person who has, or is perceived to have, any particular characteristic or characteristics within the listed categories.

(6) "Sexual orientation" has the same meaning as defined in subdivision (q) of Section 12926 of the Government Code.

(f) A violation of the right of any individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section.

SEC. 4. Section 51.5 of the Civil Code is amended to read:

51.5. (a) No business establishment of any kind whatsoever shall discriminate against, boycott or blacklist, or refuse to buy from, contract

with, sell to, or trade with any person in this state on account of any characteristic listed or defined in subdivision (b) or (e) of Section 51, or of the person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers, because the person is perceived to have one or more of those characteristics, or because the person is associated with a person who has, or is perceived to have, any of those characteristics.

(b) As used in this section, "person" includes any person, firm, association, organization, partnership, business trust, corporation, limited liability company, or company.

(c) This section shall not be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond that construction, alteration, repair, or modification that is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any other structure, nor shall this section be construed to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

SEC. 5. Section 51.7 of the Civil Code is amended to read:

51.7. (a) All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of political affiliation, or on account of any characteristic listed or defined in subdivision (b) or (e) of Section 51, or position in a labor dispute, or because another person perceives them to have one or more of those characteristics. The identification in this subdivision of particular bases of discrimination is illustrative rather than restrictive.

(b) This section does not apply to statements concerning positions in a labor dispute which are made during otherwise lawful labor picketing.

SEC. 6. Section 51.8 of the Civil Code is amended to read:

51.8. (a) No franchisor shall discriminate in the granting of franchises solely on account of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the franchisee and the composition of a neighborhood or geographic area reflecting any characteristic listed or defined in subdivision (b) or (e) of Section 51 in which the franchise is located. Nothing in this section shall be interpreted to prohibit a franchisor from granting a franchise to prospective franchisees as part of a program or programs to make franchises available to persons lacking the capital, training, business experience, or other qualifications ordinarily required of franchisees, or any other affirmative action program adopted by the franchisor.

(b) Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond that construction, alteration, repair, or modification that is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any

other structure, nor shall anything in this section be construed to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

SEC. 7. Section 53 of the Civil Code is amended to read:

53. (a) Every provision in a written instrument relating to real property that purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of that real property to any person because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 is void, and every restriction or prohibition as to the use or occupation of real property because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 is void.

(b) Every restriction or prohibition, whether by way of covenant, condition upon use or occupation, or upon transfer of title to real property, which restriction or prohibition directly or indirectly limits the acquisition, use or occupation of that property because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 is void.

(c) In any action to declare that a restriction or prohibition specified in subdivision (a) or (b) is void, the court shall take judicial notice of the recorded instrument or instruments containing the prohibitions or restrictions in the same manner that it takes judicial notice of the matters listed in Section 452 of the Evidence Code.