

AMENDED IN ASSEMBLY MAY 3, 1995

AMENDED IN ASSEMBLY APRIL 6, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1100

Introduced by Assembly Member Speier

February 23, 1995

An act to ~~amend Section 52 of, and to~~ add Section 51.6 to, the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 1100, as amended, Speier. Civil rights: price discrimination.

Existing law prohibits a business establishment from discriminating against a person because of the sex of the person, and specifies the remedies for a violation of this provision. ~~Under existing law, a person aggrieved by an alleged unlawful practice in violation of this provision may file a complaint with the Department of Fair Employment and Housing.~~

This bill would provide specifically that no business establishment may discriminate, with respect to the price charged for services of similar or like kind, against a person solely because of the person's gender. The bill would specify the remedies for a violation of this provision, ~~and would authorize the filing of a complaint with the Department of Fair Employment and Housing.~~

The bill would provide further that its provisions do not alter or affect the provisions of the Health and Safety Code, the Insurance Code, or other laws that govern health care service plan or insurer underwriting or rating practices.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

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

1 SECTION 1. Section 51.6 is added to the Civil Code,
2 to read:

3 51.6. (a) This section shall be known, and may be
4 cited, as the Gender Tax Repeal Act of 1995.

5 (b) No business establishment of any kind whatsoever
6 may discriminate, with respect to the price charged for
7 services of similar or like kind, against a person solely
8 because of the person’s gender.

9 (c) Nothing in subdivision (b) prohibits price
10 differences based specifically upon the amount of time,
11 difficulty, or cost of providing the services or upon the
12 offering of services at a sale price for a reasonable period
13 of time.

14 (d) The remedies for a violation of this section are the
15 remedies provided in ~~subdivisions (a) and (e)~~ *subdivision*
16 *(a)* of Section 52. However, an action under this section
17 is independent of any other remedy or procedure that
18 may be available to an aggrieved party.

19 (e) This act does not alter or affect the provisions of
20 the Health and Safety Code, the Insurance Code, or other
21 laws that govern health care service plan or insurer
22 underwriting or rating practices.

23 ~~SEC. 2. Section 52 of the Civil Code is amended to~~
24 ~~read:~~

25 ~~52. (a) Whoever denies, aids or incites a denial, or~~
26 ~~makes any discrimination or distinction contrary to~~
27 ~~Section 51 or 51.5, is liable for each and every offense for~~
28 ~~the actual damages, and any amount that may be~~
29 ~~determined by a jury, or a court sitting without a jury, up~~
30 ~~to a maximum of three times the amount of actual~~
31 ~~damage but in no case less than one thousand dollars~~



1 ~~(\$1,000), and any attorney's fees that may be determined~~
2 ~~by the court in addition thereto, suffered by any person~~
3 ~~denied the rights provided in Section 51 or 51.5.~~

4 ~~(b) Whoever denies the right provided by Section~~
5 ~~51.7, or aids, incites, or conspires in that denial, is liable for~~
6 ~~each and every offense for the actual damages suffered by~~
7 ~~any person denied that right and, in addition, the~~
8 ~~following:~~

9 ~~(1) An amount to be determined by a jury, or a court~~
10 ~~sitting without a jury, for exemplary damages.~~

11 ~~(2) A civil penalty of twenty five thousand dollars~~
12 ~~(\$25,000) to be awarded to the person denied the right~~
13 ~~provided by Section 51.7.~~

14 ~~(3) Attorney fees as may be determined by the court.~~

15 ~~(c) Whenever there is reasonable cause to believe that~~
16 ~~any person or group of persons is engaged in conduct of~~
17 ~~resistance to the full enjoyment of any of the rights~~
18 ~~hereby secured, and that conduct is of that nature and is~~
19 ~~intended to deny the full exercise of the rights herein~~
20 ~~described, the Attorney General, any district attorney or~~
21 ~~city attorney, or any person aggrieved by the conduct~~
22 ~~may bring a civil action in the appropriate court by filing~~
23 ~~with it a complaint. The complaint shall contain the~~
24 ~~following:~~

25 ~~(1) The signature of the officer, or, in his or her~~
26 ~~absence, the individual acting on behalf of the officer, or~~
27 ~~the signature of the person aggrieved.~~

28 ~~(2) The facts pertaining to the conduct.~~

29 ~~(3) A request for preventive relief, including an~~
30 ~~application for a permanent or temporary injunction,~~
31 ~~restraining order, or other order against the person or~~
32 ~~persons responsible for the conduct, as the complainant~~
33 ~~deems necessary to insure the full enjoyment of the rights~~
34 ~~herein described.~~

35 ~~(d) Whenever an action has been commenced in any~~
36 ~~court seeking relief from the denial of equal protection of~~
37 ~~the laws under the Fourteenth Amendment to the~~
38 ~~Constitution of the United States on account of race,~~
39 ~~color, religion, sex, national origin, or disability, the~~
40 ~~Attorney General or any district attorney or city attorney~~



1 ~~for or in the name of the people of the State of California~~
 2 ~~may intervene in the action upon timely application if the~~
 3 ~~Attorney General or any district attorney or city attorney~~
 4 ~~certifies that the case is of general public importance. In~~
 5 ~~that action the people of the State of California shall be~~
 6 ~~entitled to the same relief as if it had instituted the action.~~

7 ~~(e) Actions under this section shall be independent of~~
 8 ~~any other remedies or procedures that may be available~~
 9 ~~to an aggrieved party.~~

10 ~~(f) Any person claiming to be aggrieved by an alleged~~
 11 ~~unlawful practice in violation of Section 51, 51.6, or 51.7~~
 12 ~~may also file a verified complaint with the Department~~
 13 ~~of Fair Employment and Housing pursuant to Section~~
 14 ~~12948 of the Government Code.~~

15 ~~(g) Nothing in this section shall be construed to~~
 16 ~~require any construction, alteration, repair, structural or~~
 17 ~~otherwise, or modification of any sort whatsoever to any~~
 18 ~~new or existing establishment, facility, building,~~
 19 ~~improvement, or any other structure, or to augment,~~
 20 ~~restrict, or alter in any way the authority of the State~~
 21 ~~Architect to require construction, alteration, repair, or~~
 22 ~~modifications that the State Architect otherwise possesses~~
 23 ~~pursuant to other laws.~~

24 ~~(h) For the purposes of this section, "actual damages"~~
 25 ~~means special and general damages. This subdivision is~~
 26 ~~declaratory of existing law.~~

