

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 269

Introduced by Watermeier, 1.

Read first time January 11, 2017

Committee: Judiciary

1 A BILL FOR AN ACT relating to civil rights; to amend sections 20-113,
2 20-132, 20-133, 20-134, 20-135, 20-136, 20-138, 20-139, 20-140,
3 20-141, 20-142, and 20-143, Reissue Revised Statutes of Nebraska; to
4 require motion picture theaters to provide open captioning as
5 prescribed; to harmonize provisions; to provide an operative date
6 and a termination date; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Any public accommodation that operates as a motion
2 picture theater that consists of five or more screens at one location
3 within this state shall provide open movie captioning during at least two
4 showings per week of each motion picture otherwise shown at the theater
5 that is produced and offered with open movie captioning.

6 (2) A person who violates this section shall be guilty of a
7 discriminatory practice and shall be subject to the penalties of sections
8 20-132 to 20-143.

9 (3) For purposes of this section, motion picture theater means a
10 movie theater, a screening room, or another venue used primarily for the
11 exhibition of motion pictures.

12 (4) This section shall terminate on January 1, 2022.

13 Sec. 2. Section 20-113, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 20-113 Any incorporated city may enact ordinances and any county may
16 adopt resolutions which are substantially equivalent to the Age
17 Discrimination in Employment Act, the Nebraska Fair Employment Practice
18 Act, the Nebraska Fair Housing Act, and sections 20-126 to 20-143 and
19 section 1 of this act and 48-1219 to 48-1227 or which are more
20 comprehensive than such acts and sections in the protection of civil
21 rights. No such ordinance or resolution shall place a duty or liability
22 on any person, other than an employer, employment agency, or labor
23 organization, for acts similar to those prohibited by section 48-1115.
24 Such ordinance or resolution may include authority for a local agency to
25 seek an award of damages or other equitable relief on behalf of the
26 complainant by the filing of a petition in the district court in the
27 county with appropriate jurisdiction. The local agency shall have within
28 its authority jurisdiction substantially equivalent to or more
29 comprehensive than the Equal Opportunity Commission or other enforcement
30 agencies provided under such acts and sections and shall have authority
31 to order backpay and other equitable relief or to enforce such orders or

1 relief in the district court with appropriate jurisdiction. Certified
2 copies of such ordinances or resolutions shall be transmitted to the
3 commission. When the commission determines that any such city or county
4 has enacted an ordinance or adopted a resolution that is substantially
5 equivalent to such acts and sections or is more comprehensive than such
6 acts and sections in the protection of civil rights and has established a
7 local agency to administer such ordinance or resolution, the commission
8 may thereafter refer all complaints arising in such city or county to the
9 appropriate local agency. All complaints arising within a city shall be
10 referred to the appropriate agency in such city when both the city and
11 the county in which the city is located have established agencies
12 pursuant to this section. When the commission refers a complaint to a
13 local agency, it shall take no further action on such complaint if the
14 local agency proceeds promptly to handle such complaint pursuant to the
15 local ordinance or resolution. If the commission determines that a local
16 agency is not handling a complaint with reasonable promptness or that the
17 protection of the rights of the parties or the interests of justice
18 require such action, the commission may regain jurisdiction of the
19 complaint and proceed to handle it in the same manner as other complaints
20 which are not referred to local agencies. In cases of conflict between
21 this section and section 20-332, for complaints subject to the Nebraska
22 Fair Housing Act, section 20-332 shall control.

23 Any club which has been issued a license by the Nebraska Liquor
24 Control Commission to sell, serve, or dispense alcoholic liquor shall
25 have that license revoked if the club discriminates because of race,
26 color, religion, sex, familial status as defined in section 20-311,
27 handicap as defined in section 20-313, or national origin in the sale,
28 serving, or dispensing of alcoholic liquor to any person who is a guest
29 of a member of such club. The procedure for revocation shall be as
30 prescribed in sections 53-134.04, 53-1,115, and 53-1,116.

31 Sec. 3. Section 20-132, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 20-132 All persons within this state shall be entitled to a full and
3 equal enjoyment of any place of public accommodation, as defined in
4 sections 20-132 to 20-143 and section 1 of this act, without
5 discrimination or segregation on the grounds of race, color, sex,
6 religion, national origin, or ancestry.

7 Sec. 4. Section 20-133, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 20-133 As used in sections 20-132 to 20-143 and section 1 of this
10 act, unless the context otherwise requires, places of public
11 accommodation shall mean all places or businesses offering or holding out
12 to the general public goods, services, privileges, facilities,
13 advantages, and accommodations for the peace, comfort, health, welfare,
14 and safety of the general public and such public places providing food,
15 shelter, recreation, and amusement including, but not limited to:

16 (1) Any inn, hotel, motel, or other establishment which provides
17 lodging to transient guests, other than an establishment located within a
18 building which contains not more than five rooms for rent or hire and
19 which is actually occupied by the proprietor of such establishment as his
20 or her residence;

21 (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda
22 fountain, or other facility principally engaged in selling food for
23 consumption on the premises, including, but not limited to, any such
24 facility located on the premises of any retail establishment;

25 (3) Any gasoline station, including all facilities located on the
26 premises of such station and made available to the patrons thereof;

27 (4) Any motion picture house, theatre, concert hall, sports arena,
28 stadium, or other place of exhibition or entertainment;

29 (5) Any public facility owned, operated, or managed by or on behalf
30 of this state or any agency or subdivision thereof, or any public
31 corporation, and any such facility supported in whole or in part by

1 public funds; and

2 (6) Any establishment which is physically located within the
3 premises of any establishment otherwise covered by this section or within
4 the premises of which is physically located any such covered
5 establishment and which holds itself out as serving patrons of such
6 covered establishment.

7 Sec. 5. Section 20-134, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 20-134 Any person who directly or indirectly refuses, withholds
10 from, denies, or attempts to refuse, withhold, or deny, to any other
11 person any of the accommodations, advantages, facilities, services, or
12 privileges, or who segregates any person in a place of public
13 accommodation on the basis of race, creed, color, sex, religion, national
14 origin, or ancestry, shall be guilty of discriminatory practice and shall
15 be subject to the penalties of sections 20-132 to 20-143 and section 1 of
16 this act.

17 Sec. 6. Section 20-135, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 20-135 Any person who aids, abets, incites, compels, or coerces any
20 activity prohibited by the provisions of sections 20-132 to 20-143 and
21 section 1 of this act, or who attempts to do so, shall be guilty of
22 discriminatory practice and shall be subject to the penalties of sections
23 20-132 to 20-143 and section 1 of this act.

24 Sec. 7. Section 20-136, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 20-136 Retaliation or discrimination, in any manner, against any
27 person who has opposed any activity prohibited by the provisions of
28 sections 20-132 to 20-143 and section 1 of this act or who has testified,
29 assisted, or participated in any manner in any investigation, proceeding,
30 or hearing conducted pursuant to sections 20-132 to 20-143 and section 1
31 of this act shall be a discriminatory practice and shall be punishable

1 according to the provisions of sections 20-132 to 20-143 and section 1 of
2 this act.

3 Sec. 8. Section 20-138, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 20-138 The provisions of sections 20-132 to 20-143 and section 1 of
6 this act shall not apply to a private club or other establishment not in
7 fact open to the public, except to the extent that the facilities of such
8 establishments are made available to the customers or patrons of an
9 establishment within the scope of section 20-133.

10 Sec. 9. Section 20-139, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 20-139 The Nebraska Fair Housing Act and sections 20-123, 20-124,
13 and 20-132 to 20-143 and section 1 of this act shall be administered by
14 the Equal Opportunity Commission, except that the State Fire Marshal
15 shall administer the act and sections as they relate to accessibility
16 standards and specifications set forth in sections 81-5,147 and 81-5,148.
17 The county attorneys are granted the authority to enforce such act and
18 sections 20-123, 20-124, and 20-132 to 20-143 and section 1 of this act
19 and shall possess the same powers and duties with respect thereto as the
20 commission. If a complaint is filed with the county attorney, the
21 commission shall be notified. Powers granted to and duties imposed upon
22 the commission pursuant to such act and sections shall be in addition to
23 the provisions of the Nebraska Fair Employment Practice Act and shall not
24 be construed to amend or restrict those provisions. In carrying out the
25 Nebraska Fair Housing Act and sections 20-123, 20-124, and 20-132 to
26 20-143 and section 1 of this act, the commission shall have the power to:

27 (1) Seek to eliminate and prevent discrimination in places of public
28 accommodation because of race, color, sex, religion, national origin,
29 familial status as defined in section 20-311, handicap as defined in
30 section 20-313, or ancestry;

31 (2) Effectuate the purposes of sections 20-132 to 20-143 and section

1 1 of this act by conference, conciliation, and persuasion so that persons
2 may be guaranteed their civil rights and goodwill may be fostered;

3 (3) Formulate policies to effectuate the purposes of sections 20-132
4 to 20-143 and section 1 of this act and make recommendations to agencies
5 and officers of the state or local subdivisions of government in aid of
6 such policies and purposes;

7 (4) Adopt and promulgate rules and regulations to carry out the
8 powers granted by the Nebraska Fair Housing Act and sections 20-123,
9 20-124, and 20-132 to 20-143 and section 1 of this act, subject to the
10 provisions of the Administrative Procedure Act. The commission shall, not
11 later than one hundred eighty days after September 6, 1991, issue draft
12 rules and regulations to implement subsection (3) of section 20-336,
13 which regulations may incorporate regulations of the Department of
14 Housing and Urban Development as applicable;

15 (5) Designate one or more members of the commission or a member of
16 the commission staff to conduct investigations of any complaint alleging
17 a violation of section 1 of this act or discrimination because of race,
18 color, sex, religion, national origin, familial status, handicap, or
19 ancestry, attempt to resolve such complaint by conference, conciliation,
20 and persuasion, and conduct such conciliation meetings and conferences as
21 are deemed necessary to resolve a particular complaint, which meetings
22 shall be held in the county in which the complaint arose;

23 (6) Determine that probable cause exists for crediting the
24 allegations of a complaint;

25 (7) Determine that a complaint cannot be resolved by conference,
26 conciliation, or persuasion, such determination to be made only at a
27 meeting where a quorum is present;

28 (8) Dismiss a complaint when it is determined there is not probable
29 cause to credit the allegations;

30 (9) Hold hearings, subpoena witnesses and compel their attendance,
31 administer oaths, take the testimony of any person under oath, and in

1 connection therewith require for examination any books or papers relating
2 to any matter under investigation or in question before the commission;
3 and

4 (10) Issue publications and the results of studies and research
5 which will tend to promote goodwill and minimize or eliminate
6 discrimination because of race, color, sex, religion, national origin,
7 familial status, handicap, or ancestry.

8 Sec. 10. Section 20-140, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 20-140 Any person claiming to be aggrieved by an unlawful
11 discriminatory practice may personally or through his or her agent or by
12 ~~himself, his agent, or his~~ attorney file with the commission a verified
13 complaint in writing which shall state the name and address of the person
14 alleged to have committed the unlawful discriminatory practice complained
15 of and which shall set forth the particulars thereof and contain such
16 other information as may be required by the commission. The Attorney
17 General shall, in like manner, make, sign, and file such complaint.

18 After the filing of such complaint, the commission shall furnish the
19 person named in the complaint with a copy of the charge and make an
20 investigation of such charge, but such charge shall not be made public by
21 the commission. If the commission determines after such investigation
22 that there is reasonable cause to believe that the charge is true, the
23 commission shall endeavor to eliminate any such alleged unlawful practice
24 by informal methods of conference, conciliation, and persuasion. Nothing
25 said or done during or as a part of such endeavors may be made public by
26 the commission without the written consent of the parties or used as
27 evidence in a subsequent proceeding except as provided in subsection (2)
28 of section 20-141. Any officer or employee of the commission who shall
29 make public in any manner whatever any information in violation of this
30 subsection shall be guilty of a misdemeanor and upon conviction thereof
31 shall be fined not more than one hundred dollars or imprisoned not more

1 than thirty days.

2 Sec. 11. Section 20-141, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 20-141 (1) In case of failure to eliminate any unlawful practice by
5 informal methods of conference, conciliation, and persuasion, the
6 commission shall cause to be issued and served in the name of the
7 commission a written notice, together with a copy of the complaint,
8 requiring the person named in the complaint, hereinafter referred to as
9 respondent, to answer the charges of the complaint at a public hearing,
10 at a time and place to be specified in the notice. The place of the
11 hearing shall be in the county in which the alleged discrimination
12 occurred.

13 (2) The case in support of the complaint shall be presented before
14 the commission by an attorney on the staff of the Attorney General, and
15 the investigator who made the investigation shall not participate in the
16 hearings except as a witness, nor shall he or she participate in the
17 deliberation of the commission in the case. Evidence concerning endeavors
18 at conciliation may be included.

19 (3) The respondent may file a written verified answer to the
20 complaint and appear at the hearing with or without counsel, submit
21 testimony, and compel the appearance of witnesses and records in his or
22 her behalf. At the discretion of the commission, the complainant may be
23 allowed to intervene and present testimony in person or by counsel. The
24 commission may reasonably and fairly amend any complaint either prior to
25 or during the hearing in accordance with facts developed by the
26 investigation or adduced in evidence at the hearing, and the respondent
27 may amend his or her answer in the same manner. The testimony taken at
28 the hearing shall be under oath and be transcribed.

29 (4) If, upon all the evidence at the hearing, the commission finds
30 that a respondent has engaged in an unlawful discriminatory practice as
31 defined in sections 20-132 to 20-143 and section 1 of this act, the

1 commission shall state its findings of fact and shall issue and cause to
2 be served on the respondent an order requiring the respondent to cease
3 and desist from the unlawful discriminatory practice and to take such
4 affirmative action, including, but not limited to, the extension of full,
5 equal, and unsegregated accommodations, advantages, facilities, and
6 privileges to all persons as in the judgment of the commission will
7 effectuate the purposes of sections 20-132 to 20-143 and section 1 of
8 this act, including a requirement for a report of the manner of
9 compliance.

10 (5) If, upon all the evidence, the commission finds that a
11 respondent has not engaged in any unlawful discriminatory practice, the
12 commission shall state its findings of fact and shall issue and cause to
13 be served on the complainant an order dismissing the complaint as to the
14 respondent. A copy of the order shall be delivered in all cases to the
15 Attorney General and such other public officers as the commission deems
16 proper.

17 (6) The commission shall establish rules of practice to govern,
18 expedite, and effectuate the procedure set forth in this section and its
19 own actions thereunder. Any complaint filed pursuant to this section must
20 be so filed within ten days after the alleged act of discrimination and
21 the complainant shall give written notice of the filing of the complaint
22 and furnish a copy thereof to the party complained against.

23 Sec. 12. Section 20-142, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 20-142 (1) Any party to a proceeding before the commission aggrieved
26 by any decision and order of the commission and directly affected thereby
27 may appeal the decision and order, and the appeal shall be in accordance
28 with the Administrative Procedure Act.

29 (2) In any action or proceeding under sections 20-132 to 20-143 and
30 section 1 of this act, wherein an appeal is lodged in the district court,
31 the court in its discretion may allow the prevailing party reasonable

1 attorney's fees as part of the costs.

2 (3) If no proceeding to obtain judicial review is instituted by a
3 respondent within thirty days from the service of an order of the
4 commission, the commission may obtain a decree of the court for the
5 enforcement of such order upon showing that the respondent is subject to
6 the commission's jurisdiction and resides or transacts business within
7 the county in which the petition for enforcement is brought.

8 Sec. 13. Section 20-143, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 20-143 Any person or place of public accommodation who or which
11 ~~shall~~ willfully resists, prevents, impedes, or interferes ~~resist,~~
12 ~~prevent, impede, or interfere~~ with the commission or any of its members
13 or representatives in the performance of duty under sections 20-132 to
14 20-143 and section 1 of this act, or ~~shall~~ willfully violates ~~violate~~ an
15 order of the commission shall, upon conviction thereof, be imprisoned in
16 the county jail for not more than thirty days, or be fined not more than
17 one hundred dollars, or be both so fined and imprisoned. Procedure for
18 the review of an order of the commission shall not be deemed to be such
19 willful conduct.

20 Sec. 14. This act becomes operative on January 1, 2018.

21 Sec. 15. Original sections 20-113, 20-132, 20-133, 20-134, 20-135,
22 20-136, 20-138, 20-139, 20-140, 20-141, 20-142, and 20-143, Reissue
23 Revised Statutes of Nebraska, are repealed.