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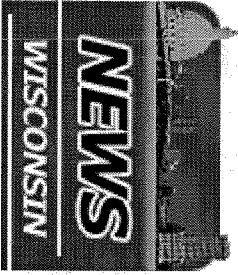
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## Doyle signs single-sex fitness bill

### Women's health club chain can exclude men

By **RICHARD P. JONES**  
rjones@journal sentinel.com

Last Updated: May 19, 2003

**Madison** - Flanked by women sporting Curves T-shirts, Gov. Jim Doyle signed a bill Monday to allow single-sex fitness centers, saying it would encourage better health among women and not deal women's rights the setback that opponents fear.

"I believe that government should do everything we can to encourage physical fitness, and if this bill can help encourage women to lead healthy lives and to exercise by offering a supportive environment, then it deserves our support," Doyle said.

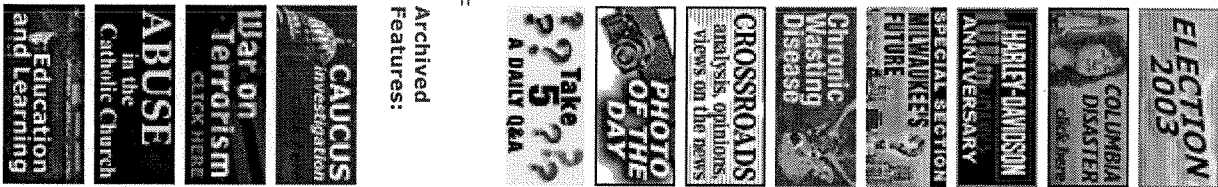
### Single-Sex Fitness Bill



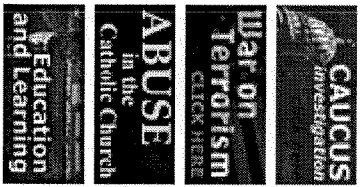
Curves for Women, a women-only fitness center, has more than 200 locations in Wisconsin. When a competing health club

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owner in La Crosse filed a discrimination suit against a Curves franchise, Sen. Carol Roessler (R-Oshkosh) introduced the bill. Several other women in the Legislature, Democrats like Doyle, saw it as a step backward toward a slippery slope of discrimination.

Doyle, former attorney general, sought to allay such concerns.

"After careful legal review of this bill, I am satisfied that it is narrowly constructed so that fitness centers would be the only public facilities that would be able to provide gender only membership," he said.

Doyle also signed a bill to hold Wisconsin's presidential primary in mid-February, instead of April. The earlier date is designed to give Wisconsin a greater role in choosing the party nominees. Instead of the first Tuesday in April, the primary in the 2004 presidential race will be on the third Tuesday in February.

Before signing the primary bill, Doyle recalled how Wisconsin once played a crucial role. In the 1960 election, Wisconsin's bellwether primary set John F. Kennedy, a young senator from Massachusetts, on the road to the White House. Doyle thanked Republican lawmakers for proposing the earlier primary.

"I'm glad the Republicans passed this bill, because this is going to be all Democratic action in this primary this time around," said Doyle, enjoying a laugh with one of the sponsors, Sen. Bob Welch (R-

*Photo/Losie Liming*  
Christina Rothery(from left), James Kroemer and Robert Morgan exercise at the Schroeder Branch YMCA. A spokeswoman said the YMCA of Metropolitan Milwaukee has no plans to open single-sex fitness facilities, although a new state law will allow them.

**Quotable**

“It’s privacy for women of my age and disabilities. I go three times a week. It keeps me limber.”

- Eleanora Theiss, 86, who has been a member of a Curves center in Sun Prairie for 18 months

**Background**

- 📄 Editorial: No curve in this legislation (5/7/03)
- 📄 Lawsuit: Raises blood pressure of members at women-only gym (5/3/03)
- 📄 Legislature: Single-sex fitness clubs win Assembly OK (4/30/03)



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Redgranite), and other Republicans present.

But more than presidential politics, the focus Monday was the so-called Curves bill signed by the governor.

"It's privacy for women of my age and disabilities," said Eleanora Theiss, who watched as Doyle signed the bill.

Though she's 86 and walks with a cane, she said she has been a member of a Curves center in Sun Prairie for 18 months. "I go three times a week. It keeps me limber."

Being able to exercise in a women-only setting makes a world of difference, she said.

"It's easier to do," Theiss said. "It seems more competitive if you have the opposite sex. So this was really nice for me."

Also present was Steve Hill, 34, of Watertown, who operates two Curves centers in West Bend and Fond du Lac with his wife, Mary, and his sister, Angela Mueller. Opponents had argued that few men would want to join a Curves center and dismissed the bill as "overkill." Hill said that once or twice a year, a man tries to join.

The lawsuit that prompted the Curves law was filed by Charlie Swayne, former fitness club operator in La Crosse. He said he wanted to open a Curves franchise a decade ago. At the time, Curves International in Waco, Texas, was promoting the new approach to fitness. But Swayne said state officials told him that restricting membership to women only would violate state anti-discrimination laws.

"It just shows that lobbying works," Swayne said in a telephone interview. He said he agreed with Doyle's point on encouraging exercise. "No matter what the law is, I'll follow it. My big complaint is the state never enforced the law, and when Curves for Women got called on it, they were smart enough, and had enough money, the

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franchiser in Waco, Texas, had enough money to lobby to get this thing through."

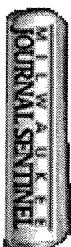
Sen. Judy Robson (D-Beloit) was among those opposed to the Curves bill.

"I also agree in fitness and exercise, but not at the expense of perhaps gender discrimination," said Robson, a registered nurse. "I don't think we should discriminate against men or women. It's a solution in search of a problem that may cause a huge problem later on."

From the May 20, 2003 editions of the Milwaukee Journal Sentinel

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W050802a

# Doyle 'considering' bill that would allow health clubs to serve gender of their choice

**MEASURE, From 1A**

173 Curves locations in Wisconsin, alleging that they violate state anti-discrimination laws. His lawsuit prompted Sen. Carol Roessler (R-Oshkosh) to introduce the bill.

Swayne wanted to open a female-only fitness center in the early 1990s, but state regulators told him that would be illegal, he said in a phone interview from his La Crosse home Tuesday.

"Idiots like me who complied with the law were the ones who got penalized," said Swayne, who operated two health clubs in La Crosse, and now leases the facilities. "It was a bozo law in the first place."

Rep. Glenn Grothman (R-West Bend) defended the bill, passed last month by the Senate, saying that it represents a small exception to the state's public accommodations law that is designed to make fitness center customers feel more comfortable.

"One of the reasons for this bill is basic modesty. They

**"One of the reasons for this bill is basic modesty. They don't want to feel like they are working out for men."**

Rep. Glenn Grothman,  
(R-West Bend)

**"The strangest thing in the world for me is to have women bring forth a bill that is gender discriminatory. . . . We're going against our own interests as women."**

Rep. Johnnie Morris,  
(D-Milwaukee)

don't want to feel like they are working out for men," Grothman said, noting that he received more constituent comments on this issue than he did on anything since the debate over a new stadium for the Milwaukee Brewers.

The state's public accommodations law says that no one may deny equal enjoyment of public accommodations based on sex, race, color, creed, disability, sexual orientation, national origin or ancestry.

Grothman noted that state law already makes exceptions for accommodations such as toilets, showers, dormitories and dressing rooms, and allows domestic abuse shelters to set up separate facilities and treatment for different genders.

Berceau said that the bill is "overkill," since most men would not want to go to a fitness club called Curves for Women.

"I would call this a comfort bill," she said. "We get into a quagmire when we try to make people comfortable. . . . We need to work on a cultural attitude that doesn't make people feel funny about their bodies."

Rep. Johnnie Morris (D-Milwaukee) opposes the bill, saying the measure opens the door to discrimination.

"In America, we stand for

things that are higher and of more value than our comfort," Morris said. "There was a day when these chambers would have been all white males and that, perhaps, would have been comfortable. But it would not have been right."

She added: "The strangest

thing in the world for me is to have women bring forth a bill that is gender discriminatory. . . . We're going against our own interests as women."

But Schmidt said it's a matter of privacy, not discrimination, and that the legislation is intended to allow women,

some of whom would not venture into a conventional health club, the opportunity to work out in a receptive environment.

"It certainly isn't about politics or discrimination," said Schmidt. "Social stigmas do dictate what we do and don't

do. Being able to choose this type of facility is important."

However, Swayne said that while he followed the law when he tried to open a women's only fitness center a decade ago, Curves went about changing the law by lobbying hard in Madison.

And now that the Assen and Senate have voted to allow single-sex health clubs, Swayne sees an opportunity to open Businessman's Fitness for men only.

Tom Held of the Journal Sentinel contributed to this report.

In \_\_\_ Charles Swayne of LaCrosse approached the Wisconsin Equal Rights Division to inquire the possibility of establishing a women's only fitness center. He was told that Wisconsin's public accommodation law, which is the anti-discrimination law, would not allow for separate gender facilities. \_\_\_ years later a Texas based fitness center, called Curves for Women, began appearing throughout Wisconsin - 173 centers <sup>fitness businesses</sup> to be exact.

Curves had already began <sup>business</sup> operation in Wisconsin when the Division of Equal Rights informed Curves that operating as a woman's only fitness center is not allowed in Wisconsin because the public accommodation law does not provide an <sup>gender specific</sup> exception for fitness centers. The vast majority of states that Curves <sup>business</sup> operate in (do not exclude) single sex fitness centers in their anti-discrimination laws. In addition, the federal public accommodation law does not exclude fitness centers.

Illinois and Massachusetts <sup>are</sup> two states whose public accommodation law was similar to Wisconsin's; however <sup>Passed legislation</sup> both of these states <sup>are</sup> have successfully made exceptions to their public accommodation law so that men and women are allowed to <sup>exercise</sup> exercise their freedom of choice to exercise in privacy with people of the same gender. Michigan is currently working on legislation ~~to~~ to amend their statutes.

In order for Curves <sup>business</sup> to continue to operate in Wisconsin, an exception to the public accommodation law is necessary. Without an exception, Curves ~~can~~ <sup>or</sup> any fitness center cannot even designate <sup>specifically</sup> specific times for separate workout times for men and women.

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Every state  
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~ 29 states have public  
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makes it illegal

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6 states including

WI is ambiguous b/c of  
exceptions

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have amended to allow separate health club  
- Ill, Mass New Jersey Tennessee

14

~~10~~ 9 states have no sex discrimination  
in public accommodation law.



**JIM DOYLE**  
**GOVERNOR**  
**STATE OF WISCONSIN**

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MAY 19 2003

May 5, 2003

Senator Carol Roessler  
State Capitol, Room 8 South  
Madison, WI 53702


Dear <sup>Carol</sup> Senator Roessler:

Thank you for taking the time to contact me regarding the passage of Senate Bill 24.

The information you have provided will be extremely helpful while I consider the merits of the "Curves Bill". This is an important piece of legislation and deserves a thorough review at each step in the legislative process. It is imperative that we are certain that this bill will not lead to unforeseen consequences or increased discrimination.

I assure you that the information you have provided will part of my deliberations and I look forward to working with you on this issue. Please feel free to contact me if my office can ever be of service.

Sincerely,

  
Jim Doyle  
Governor

JED/ph



## Jermstad, Sara

---

**From:** Malaise, Gordon  
**Sent:** Wednesday, May 07, 2003 6:18 PM  
**To:** Roessler, Carol  
**Subject:** Constitutionality of Curves Bill



Roessler5/8/03

Senator Roessler:

Jolene asked me to prepare a brief memorandum analyzing the constitutionality of the Curves Bill to assist the governor's staff in its review of the bill. Attached is that memorandum. If you have any questions, please give me a call at 6-9738.

Gordon M. Malaise  
Senior Legislative Attorney  
Legislative Reference Bureau



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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CHIEF

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LEGAL FAX: (608) 264-6948

REFERENCE SECTION: (608) 266-0341  
REFERENCE FAX: (608) 266-5648

May 8, 2003

## MEMORANDUM

**To:** Senator Carol Roessler

**From:** Gordon M. Malaise, Senior Legislative Attorney

**Subject:** Constitutionality of 2003 SB 24 (Curves Bill)

---

### Introduction

Jolene Plautz has asked me to write a brief memorandum discussing the constitutionality of SB-24 to assist the governor's staff in reviewing the bill.

The most likely basis for a constitutional challenge to the bill would be that somehow the bill denies equal protection of the laws in violation of the 14th Amendment to the U.S. Constitution and Article I, Section 1, of the Wisconsin Constitution. Specifically, a challenger might allege that the bill unconstitutionally classifies persons on the basis of gender or that the bill unconstitutionally classifies fitness centers on the basis of whether they are coed or single-sex. Although it is difficult to predict the potential for and outcome of any court action concerning the bill, it would appear that the bill would withstand an equal protection challenge for all of the following reasons:

1. The bill does not classify persons on the basis of gender; rather, the bill is drafted in gender-neutral terms. Therefore, because the bill does not discriminate against men or against women based on gender, the bill does not deny equal protection of the laws to either men or women.

2. The distinction in the bill between a coed fitness center and a single-sex fitness center has a rational basis in that the distinction is rationally related to a legitimate state interest. Specifically, the state has a legitimate interest in promoting physical fitness among its citizens, and permitting single-sex fitness centers for persons who do not feel comfortable exercising at a coed fitness center is a rational means of achieving that legitimate state interest.

### Discussion

**Gender classification.** A challenger might claim that the bill discriminates based on gender because the bill permits a single-sex fitness center to exclude persons of the opposite sex. Such a challenge, however, would fail at its very outset because "(a) statute is only subject to a challenge for gender discrimination under the equal protection clause when it discriminates on its face, or in effect, between males and females." *Phillips. v. Wisconsin Personnel Commission*, 167 Wis 2d 205, 227

(Ct. App. 1992). Nowhere does SB-24 discriminate between males and females. Rather, the bill is drafted entirely in gender-neutral terms, *i.e.*, the bill refers to "persons of the same sex" and persons of the opposite sex" and not to "men" and "women." The bill treats men and women equally in that the bill permits both all-female fitness centers and all-male fitness centers. Therefore, because the bill does not classify based on gender, a claim that the bill improperly classifies based on gender would fail at its outset.

**Fitness center classification.** A challenger might also claim that the bill creates an improper classification between coed fitness centers, which may not discriminate based on gender, and single-sex fitness centers, which may discriminate based on gender, because there is no rational basis for prohibiting coed fitness centers from so discriminating, but permitting single-sex fitness centers to so discriminate. Such a challenge, however, would fail because the distinction between a coed fitness center and a single-sex fitness center is "rationally related to a legitimate state interest." *Funk v. Wollin Silo & Equipment, Inc.*, 148 Wis. 2d 59, 69 (1989). Specifically as we heard at the public hearings, the state has a legitimate interest in promoting physical fitness among its citizens. Many people, however, do not feel comfortable exercising in a coed setting and were it not for a single-sex setting would not exercise at all. Thus, permitting single-sex fitness centers to discriminate based on gender rationally furthers the state's interest in physical fitness by providing a place to exercise for people who otherwise would not exercise at all.

The Wisconsin Supreme Court has devised a five-factor test for determining whether a legislative classification passes the rational basis test. Under *City of Brookfield v. Milwaukee Metropolitan Sewerage District*, 144 Wis. 2d 896 (1988), a legislative classification must meet all of the following to pass the rational basis test:

1. The classification must be based upon substantial distinctions that make one class really different from another. In this case, a coed fitness center is different from a single-sex fitness center in that a coed fitness center permits both men and women to use its facilities whereas a single-sex fitness center permits only men or only women to use its facilities.

Now, a coed fitness center might argue that if a single-sex fitness center can exclude members of the opposite sex, then a coed fitness center should be allowed to designate certain facilities only for men or only for women. The Wisconsin Supreme Court has held, however, that "(a) statute does not violate the equal protection clause merely because it is not all-embracing. The state may direct its laws against the problems it perceives without covering the whole field . . . . The statute is not invalid on equal protection grounds because it might have gone further than it did." *State ex rel. Strykowski v. Wilkie*, 81 Wis. 2d 491, 512 (1978).

2. The classification is germane to the purpose of the law. As already discussed above, the distinction between a coed fitness center and a single-sex fitness center is germane to the purpose of the law, which is to promote physical fitness by providing a single-sex environment in which to exercise for persons who do not wish to exercise in a coed setting and who otherwise would not exercise at all.

3. The class is open to additional members. Classification as a single-sex fitness center is not written in stone. New single-sex fitness centers may open up. Coed fitness centers may convert to a single-sex business model.

4. The law applies equally to all members of the class. SB-24 applies to all single-sex fitness centers, whether intended for men or women.

5. The characteristics of each class are so different from those of the other classes that substantially different treatment is justified. A coed fitness center is different from a single-sex fitness center in that persons who attend a coed fitness center do not mind exercising in a coed setting whereas persons who attend a single-sex fitness center prefer to exercise in a single-sex setting. Therefore, if the alternative is to not exercise at all, different treatment of single-sex fitness center is justified.

Accordingly, for all of the foregoing reasons, there appears to be a rational basis for distinguishing between a coed fitness center and a single-sex fitness center in that the distinction rationally furthers the state's interest in promoting physical fitness.

### **Conclusion**

I hope that this memorandum is helpful to the governor's staff in its review of the bill. If there are any questions about the bill or this memorandum, I can be reached directly at 266-9738 or at [gordon.malaise@legis.state.wi.us](mailto:gordon.malaise@legis.state.wi.us)

May 1, 2003

The Honorable James Doyle  
115 East, State Capitol  
Madison, WI 53702

Dear Governor Doyle:

As you know, Senate Bill 24 has passed both houses of the legislature, and now waits for your signature to be signed into law. Legislation to allow an exception to the public accommodation law for fitness centers, Senate Bill 24, has been overwhelmingly approved on bipartisan votes – 7-2 in the Senate Health Committee; 23-8 in the Senate; 9-1 in the Assembly Small Business Committee; and 65-31 in the Assembly.

The purpose of Senate Bill 24 is to allow fitness centers to legally operate with the purpose of allowing women or men privacy and the ability to exercise freely without the influence of the other gender, or to simply allow for separate “workout” times. Senate Bill 24 would allow men and women the freedom of choice to exercise in gender specific facilities – if they choose to.

In the early nineties, Charles Swayne of LaCrosse approached the Wisconsin Equal Rights Division to inquire about the possibility of establishing a women’s only fitness center. He was told that Wisconsin’s public accommodation law, which is the anti-discrimination law, would not allow for separate gender facilities. A few years later a Texas based fitness center, called Curves for Women, began establishing facilities throughout Wisconsin – there are currently 173 fitness center businesses in the state.

However, Curves is **not** the first business in this state that provides services for women only. For many years, women only fitness centers have been operating in Wisconsin and up until now, nobody in this state has had a problem with their business practices, nor has anybody claimed to be discriminated against because of the exclusivity of these fitness centers.

Some opponents of the bill claim that this legislation will lead to men only golf clubs, etc. Well, under current law, the private, not for profit organizations that are not open to the general public, such as golf clubs, already have the right to cater exclusively to one gender. So, to say that Senate Bill 24 will now allow for men only golf clubs is erroneous – they already have that ability.

Illinois, Massachusetts, New Jersey, and Tennessee are four other states whose public accommodation law did not provide for gender exclusive fitness centers. These states have passed legislation amending their public accommodation law so that men and women are allowed to exercise their freedom of choice to exercise in privacy with people of the same gender. I have enclosed copies of both the Illinois and Massachusetts state statutes pertaining to their public accommodation laws. Michigan is currently working on legislation to amend their statutes. In addition, the federal public accommodation law does not prohibit gender specific fitness centers.

In order for women fitness center businesses to continue to operate in Wisconsin, an exception to the public accommodation law is necessary. Without an exception, a fitness center cannot even designate separate workout times specifically for men or women.

During the public hearings, the committees heard from younger adults, older adults, and those with disabilities, all saying that if they are not able to exercise in a gender specific atmosphere, they will no longer continue to exercise. Many women attribute the support of other women working toward weight loss, muscle strengthening, flexibility training, and restorative exercise as the key to their realizing their wellness goals. In today's society of wellness promotion and disease management, we should be helping to promote exercise, not curtailing it.

While some may feel this legislation is frivolous and will promote future discrimination, myself and the overwhelming majority of legislators, as is demonstrated by their votes, disagree. This bill allows existing businesses to continue operating in Wisconsin with their intended purpose. Most importantly, this bill promotes health and wellness – two elements that are essential towards containing skyrocketing health costs.

Governor, it is my hope you will sign what's become known as the "Curves Bill" into law in the near future. Thank you for your review and action.

Sincerely,

CAROL ROESSLER  
State Senator  
18th Senate District

# GENERAL LAWS OF MASSACHUSETTS

## PART IV. CRIMES, PUNISHMENTS AND PROCEEDINGS IN CRIMINAL CASES.

### TITLE I. CRIMES AND PUNISHMENTS.

#### CHAPTER 272. CRIMES AGAINST CHASTITY, MORALITY, DECENCY AND GOOD ORDER.

##### **Chapter 272: Section 92A. Advertisement, book, notice or sign relative to discrimination; definition of place of public accommodation, resort or amusement.**

Section 92A. No owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement shall, directly or indirectly, by himself or another, publish, issue, circulate, distribute or display, or cause to be published, issued, circulated, distributed or displayed, in any way, any advertisement, circular, folder, book, pamphlet, written or painted or printed notice or sign, of any kind or description, intended to discriminate against or actually discriminating against persons of any religious sect, creed, class, race, color, denomination, sex, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, nationality, or because of deafness or blindness, or any physical or mental disability, in the full enjoyment of the accommodations, advantages, facilities or privileges offered to the general public by such places of public accommodation, resort or amusement.

A place of public accommodation, resort or amusement within the meaning hereof shall be defined as and shall be deemed to include any place, whether licensed or unlicensed, which is open to and accepts or solicits the patronage of the general public and, without limiting the generality of this definition, whether or not it be (1) an inn, tavern, hotel, shelter, roadhouse, motel, trailer camp or resort for transient or permanent guests or patrons seeking housing or lodging, food, drink, entertainment, health, recreation or rest; (2) a carrier, conveyance or elevator for the transportation of persons, whether operated on land, water or in the air, and the stations, terminals and facilities appurtenant thereto; (3) a gas station, garage, retail store or establishment, including those dispensing personal services; (4) a restaurant, bar or eating place, where food, beverages, confections or their derivatives are sold for consumption on or off the premises; (5) a rest room, barber shop, beauty parlor, bathhouse, seashore facilities or swimming pool, except such rest room, bathhouse or seashore facility as may be segregated on the basis of sex; (6) a boardwalk or other public highway; (7) an auditorium, theatre, music hall, meeting place or hall, including the common halls of buildings; (8) a place of public amusement, recreation, sport, exercise or entertainment; (9) a public library, museum or planetarium; or (10) a hospital, dispensary or clinic operating for profit; provided, however, that with regard to the prohibition on sex discrimination, this section shall not apply to a place of exercise for the exclusive use of persons of the same sex which is a bona fide fitness facility established for the sole purpose of promoting and maintaining physical and mental health through physical exercise and instruction, if such facility does not receive funds from a government source, nor to any corporation or entity authorized, created or chartered by federal law for the express purpose of promoting the health, social, educational vocational, and character development of a single sex; provided, further, that with regard to the prohibition of sex discrimination, those establishments which rent rooms on a temporary or permanent basis for the exclusive use of persons of the same sex shall not be considered places of public accommodation and shall not apply to any other part of such an establishment.

**Illinois Compiled Statutes**  
**Human Rights**  
**Illinois Human Rights Act**  
**775 ILCS 5/**

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(775 ILCS 5/)

ARTICLE 5. PUBLIC ACCOMMODATIONS

(775 ILCS 5/5-101)

Sec. 5-101. Definitions) The following definitions are applicable strictly in the context of this Article:

(A) Place of Public Accommodation. (1) "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.

(2) By way of example, but not of limitation, "place of public accommodation" includes facilities of the following types: inns, restaurants, eating houses, hotels, soda fountains, soft drink parlors, taverns, roadhouses, barber shops, department stores, clothing stores, hat stores, shoe stores, bathrooms, restrooms, theatres, skating rinks, public golf courses, public golf driving ranges, concerts, cafes, bicycle rinks, elevators, ice cream parlors or rooms, railroads, omnibuses, busses, stages, airplanes, street cars, boats, funeral hearses, crematories, cemeteries, and public conveyances on land, water, or air, public swimming pools and other places of public accommodation and amusement.

(B) Operator. "Operator" means any owner, lessee, proprietor, manager, superintendent, agent, or occupant of a place of public accommodation or an employee of any such person or persons.

(C) Public Official. "Public official" means any officer or employee of the state or any agency thereof, including state political subdivisions, municipal corporations, park districts, forest preserve districts, educational institutions and schools.

(Source: P.A. 81-1267.)

(775 ILCS 5/5-102)

Sec. 5-102. Civil Rights Violations: Public Accommodations. It is a civil rights violation for any person on the basis of unlawful discrimination to:

(A) Enjoyment of Facilities. Deny or refuse to another the full and equal enjoyment of the facilities and services of any public place of accommodation;

(B) Written Communications. Directly or indirectly, as the operator of a place of public accommodation, publish, circulate, display or mail any written communication, except a private communication sent in response to a specific inquiry, which the operator knows is to the effect that any of the facilities of the place of public accommodation will be denied to any person or that any person is unwelcome,



objectionable or unacceptable because of unlawful discrimination;

(C) Public Officials. Deny or refuse to another, as a public official, the full and equal enjoyment of the accommodations, advantage, facilities or privileges of the official's office or services or of any property under the official's care because of unlawful discrimination.

(Source: P.A. 81-1216.)

(775 ILCS 5/5-103)

Sec. 5-103. Exemption. Nothing in this Article shall apply to:

(A) Private Club. 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.

(B) Facilities Distinctly Private. Any facility, as to discrimination based on sex, which is distinctly private in nature such as restrooms, shower rooms, bath houses, health clubs and other similar facilities for which the Department, in its rules and regulations, may grant exemptions based on bona fide considerations of public policy.

(C) Inn, Hotel, Rooming House. Any facility, as to discrimination based on sex, which restricts the rental of rooms to individuals of one sex.

(Source: P.A. 85-567.)

[ TOP ]

In the early nineties, Charles Swayne of LaCrosse approached the Wisconsin Equal Rights Division to inquire about the possibility of establishing a women's only fitness center. He was told that Wisconsin's public accommodation law, which is the anti-discrimination law, would not allow for separate gender facilities. A few years later a Texas based fitness center, called Curves for Women, began establishing facilities throughout Wisconsin - 173 fitness center businesses to be exact.

Am 90.17  
Am 970

Curves had already begun business operations in Wisconsin when the Division of Equal Rights informed Curves that operating as a woman's only fitness center is not allowed in Wisconsin because the public accommodation law does not provide a gender specific exception for fitness centers.

machines calibrated for Rowstone

New Jersey, Tennessee, Illinois, and Massachusetts are four other states whose public accommodation law did not provide for gender exclusive fitness centers. These states have passed legislation amending their public accommodation law so that men and women are allowed to exercise their freedom of choice to exercise in privacy with people of the same gender. Michigan is currently working on legislation to amend their statutes. In addition, the federal public accommodation law does not prohibit gender specific fitness centers.

In order for Curves businesses to continue to operate in Wisconsin, an exception to the public accommodation law is necessary. Without an exception, Curves or any fitness center cannot even designate separate workout times specifically for men or women.

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Precise in its application

Legislation to allow the exception for fitness centers, Senate Bill 24, has been overwhelmingly approved on bipartisan votes – 7-2 in the Senate Health Committee; 23-8 on the Senate floor; and 9-1 in the Assembly Small Business Committee. Senate Bill 24 is now available for scheduling for debate on the Assembly floor.

65-31

The purpose of Senate Bill 24 is to allow fitness centers to legally operate with the purpose of allowing women or men privacy and the ability to exercise freely without the influence of the other gender, or to simply allow for separate “workout” times. Senate Bill 24 would allow men and women the freedom of choice to exercise in gender specific facilities – if they so choose to.

During the public hearings, the committees heard from younger adults, older adults, and those with disabilities, all saying that if they are not able to exercise in a gender specific atmosphere, they will no longer continue to exercise. Many women attribute the support of other women working toward weight loss, muscle strengthening, flexibility training, and restorative exercise as the key to their realizing their wellness goals. In today’s society of wellness promotion and disease management, we should be helping to promote exercise, not curtailing it.

While some may feel this legislation is frivolous and will promote future discrimination, I clearly and firmly disagree. This bill allows existing businesses to continue operating in Wisconsin with their intended purpose. Most importantly, this bill promotes health and wellness – two elements that are essential towards containing skyrocketing health costs.

My self = the  
overwhelming  
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of legislators  
as is  
demonstrated  
by their  
votes

obesity – various health clubs  
- definite specific env. mt.  
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Pub A Law

April 17, 2003

Representative  
, State Capitol  
Madison, WI 53702

Dear :

We are writing to ask for your (continued) support of Senate Bill 24. Senate Bill 24 provides an exception to the public accommodation law for the purpose of fitness centers. The bill passed the Senate Health, Children, Families, Aging and Long Term Care Committee on a vote of 7-2; the full Senate on a 23-8 vote; and the Assembly Small Business Committee on a vote of 9-1.

The purpose of Senate Bill 24 is to allow fitness centers to legally operate with the purpose of allowing women or men privacy and the ability to exercise freely without the influence of the gender, or to simply allow for separate "workout" times. During the hearing, the committee heard from younger adults, older adults, and those with disabilities, all saying that if they are not able to exercise in a gender specific atmosphere, they will no longer continue to exercise. In today's society of wellness promotion, we should be helping to promote exercise, not curtailing it.

This exception has been enacted in New Jersey, Tennessee, Illinois and Massachusetts. In addition, there are ten other states whose public accommodation law does not prohibit gender specific fitness centers.

*For co-sponsors and those who voted yes in cmtte* - Thank you for your previous support of Senate Bill 24.

*For all other representatives* - Please join us in supporting Senate Bill 24.

65-31 Assembly

Sincerely,

CAROL ROESSLER  
State Senator  
18<sup>th</sup> Senate District

GLENN GROTHMAN  
State Representative  
58<sup>th</sup> Senate District



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# Roessler

THANK YOU!

DARYL GESSLER

Mike Beidel

Denise Beidel

Christina Beidel

Beth Staman

Christina Roessler

from the Curves  
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Thank You

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**Christina Beidel**  
Vice President

# Roessler

Tanya Stroik - Chetek, WI  
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Bloomer, WI

Thank you

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Please see **RALLY, 10A**

eight workers and tourists in  
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Please see **MIDWEST, 13A**

■ Editorial: 14A

■ Editorial: 14A

# Single-sex fitness clubs win Assembly OK; bill goes to Doyle

## Opponents say measure opens door to discrimination; backers say women want privacy

By **DENNIS CHAPMAN**  
dchapman@journalsentinel.com

**Madison** — Single-sex fitness centers would be allowed under legislation passed by the state Assembly and sent to Gov. Jim Doyle Tuesday over the objections of opponents who warned it could be a step backward for women's rights.

Lawmakers voted 65-31 for the measure, which was sparked by a discrimination lawsuit filed by a La Crosse fitness center owner against Curves for Women, a women-only fitness center that has more than 200 locations in Wisconsin.

Roger Schmidt, general counsel for Curves International in Waco, Texas, said the bill would provide a measure of comfort to women who want to exercise in

privacy and among people of their own gender.

"It opens a whole new world to people who want to get exercise without being intimidated," said Schmidt. "This is America. Why shouldn't we be able to choose?"

Doyle spokesman Dan Leistikow said the Democratic governor "is considering the legislation, but has not made a decision" on whether to sign the bill.

State Rep. Terese Berceau (D-Madison) argued that the measure could undermine hard-fought efforts to obtain equal rights for women.

"I want us to be careful, because separate was not equal in the past," Berceau said. "If we say Curves can discriminate, is it really going to be a big deal? Is it really going to roll back the clock? I hope not."

La Crosse fitness center operator Charlie Swayne has filed legal claims against

Please see **MEASURE, 9A**

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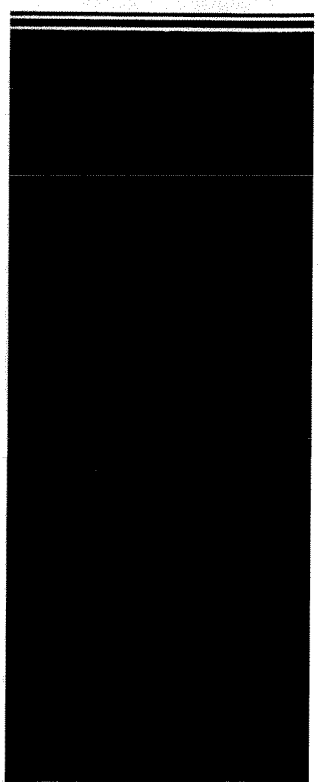
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# Senate passes 'Curves bill'

The bill would let fitness centers discriminate based on gender.

By Tom Sheehan

State government reporter

Dismissing civil rights arguments made by some Democrats, the Republican-controlled state Senate on Tuesday passed a bill that would let fitness centers discriminate based on gender.

Senate Bill 24, known as the "Curves bill," would create an exemption to a state law that prohibits discrimination in places of public accommodation. The bill passed 23-8, with just Democrats opposed.

The bill was introduced by

Sen. Carol Roessler, R-Oshkosh, at the prompting of owners of Curves fitness centers, which cater to women. The chain faces more than 170 sex-bias complaints in Wisconsin filed by a La Crosse man who says he wanted to open similar facilities but was told by state officials that the effort would violate anti-discrimination laws.

The bill will promote health by accommodating men or women who would feel more comfortable exercising in a single-sex environment, Roessler said. The bill originally would have applied to for-profit fitness centers, but the bill was amended Tuesday to include nonprofit centers.

Democrats argued the bill, which must be approved by the

Assembly and governor, would erode civil rights and lead to discrimination based on race, religion and sexual orientation.

"If we allow men to be discriminated against, we are going to allow women to be discriminated against, and that's a huge step backward," said Sen. Judy Robson, D-Beloit.

Robson, who belongs to a Curves center, said civil rights shouldn't be jeopardized just because some women feel uncomfortable.

People will eventually use the law to create exclusive clubs beyond just fitness centers, said Senate Majority Leader Jon Erpenbach, D-Middleton. He predicted the Legislature would have to bring up legislation to counter the effects of the bill.

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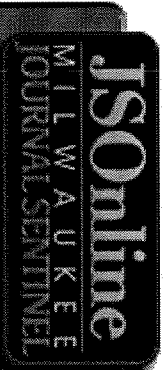
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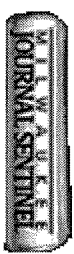
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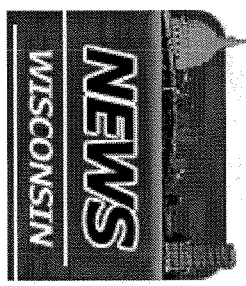
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Last Updated: March 18, 2003

# Bill would allow women-only clubs But some call it a setback for civil rights

By RICHARD P. JONES  
rjones@journal sentinel.com

**Madison** - Amid warnings it would hurt - not help - women, the state Senate passed a bill Tuesday that would allow fitness centers to serve women only.

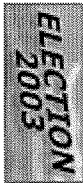
The measure - prompted by a discrimination lawsuit filed by a La Crosse man against Curves, a women-only fitness center - would allow such facilities to cater exclusively to either sex.

As introduced, the bill applied only to for-profit health clubs, but the Senate added an amendment to include non-profit fitness centers. The bill was approved on a 23-8 vote and sent to the Assembly.

State Sen. Carol Roessler (R-Oshkosh), the sponsor, said her bill simply allowed women to exercise in privacy with other women if

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they choose. But Sens. Tim Carpenter (D-Milwaukee) and Judith Biros Robson (D-Beloit) termed it a setback for civil rights, especially the women's movement.

Curves International Inc., based in Waco, Texas, opened its first fitness center in 1995 to help women diet and exercise. Since then, it has grown to more than 5,000 franchises worldwide.

However, for two years now, Charles Swayne, who operates his own fitness center in La Crosse, has been waging a legal battle against Curves. He filed claims against 173 Curves centers in the state, alleging that they violate state laws against discrimination. His lawsuit prompted Roessler's bill.

Identifying herself as a Curves member, Robson said the bill was misguided.

"I don't think state law should be changed to sanction women's only and men's only clubs," Robson said. She said it would undermine hard-fought victories of women, who won the right to compete, for example, in the Boston Marathon.

Added Carpenter: "It's wrong. This bill promotes discrimination."

But Roessler said women had a right to exercise with other women and do so in privacy, without men being present, if they choose.

"The bill provides for a freedom of choice," she said.

In other action Tuesday, the Senate passed a bill making it a sex offense to enter someone's yard without consent and peer into the individual's window for sexual gratification.

Sent to the Assembly, the bill would set a maximum penalty of nine months in jail and a \$10,000 fine.

On a party-line 18-13 vote, the GOP-run Senate also passed a

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constitutional amendment that would require a two-thirds vote of the Legislature for any increase in state income taxes or the sales tax.

Amending the constitution requires the approval of the Legislature in two consecutive sessions and then ratification by the voters. If approved twice by the Legislature, an amendment goes directly to the voters, bypassing the governor's desk.

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A version of this story appeared in the Milwaukee Journal Sentinel on March 19, 2003.

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**VIEWS**

Posted Mar. 27, 2003

# Editorial: Senate's 'Curves bill' a fluffy assault on equity

Last week, the state Senate turned back the clock on gender equity, and a woman led the charge.

The so-called "Curves bill" allows fitness centers to offer their services exclusively to one sex or the other. It is an exemption to Wisconsin's law that says it is illegal to deny anyone the use of public accommodations because of their sex, race, color, creed, disability, sexual orientation, national origin or ancestry.

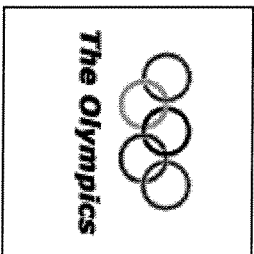
State Sen. Carol Roessler, R-Oshkosh, introduced the bill at the urging of a Curves fitness centers franchisee. Curves caters to female clients, and is the target of a competitor's sexual discrimination lawsuit. Roessler belongs to Curves.

This is her muscular argument for the legislation:

"The bill provides for freedom of choice ... for women to choose, if they choose to exercise, with their peers, with other women."

"What I like about it is you can come as you are, and feel

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like you are at a ladies luncheon that would be just for the girls."

"(Women) can come as they are, without feeling they have to dress up and wear makeup."

In other words, they want to be comfortable. As were men in the state Legislature before the likes of Roessler came along, and at the Citadel before Shannon Faulkner spoiled things.

What Roessler and the Senate have done, so frivolously, is to chip away at the anti-discrimination statute — at the guarantee of equal access — by resurrecting the tenet that it is acceptable to turn someone who is different away to ensure a group's comfort.

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OPINION

Posted Apr. 01, 2003

## Editorial: Frivolous lawsuit must not prompt frivolous law

A bill introduced in the state Legislature by Oshkosh's Sen. Carol Roessler shows how frivolous lawsuits can lead to frivolous laws.

Roessler has authored a bill that would exempt women's fitness clubs from the state anti-discrimination laws which prohibits discrimination in places of public accommodation based on sex, race, color, creed, disability, sexual orientation, national origin or ancestry.

The genesis of the proposed law comes from a suit filed by La Crosse fitness center owner Charles Swayne against the 173 Wisconsin franchises of "Curves" for what he says are violations of the state's anti-discrimination laws.

Roessler, who also is a member of Curves, has entered dangerous territory. This legislation harkens back to "separate but equal" public facilities and is bad. Further it rarely is good public policy to author a law to protect a specific business or industry from lawsuits.

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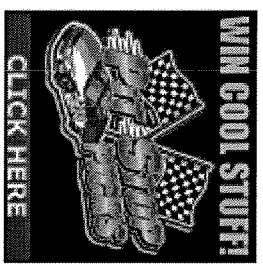
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Through all of the arguments in this issue, perhaps the most interesting one is that Curves doesn't prevent men from joining. They may join. It's just that the company caters so strongly to women that no men – not even Swayne – have joined.

This, of course, unloads a lot of the pressure that Swayne has created. Without outright discrimination against men, it patently is difficult to argue otherwise.



It is ironic that women's groups are pressuring Augusta National Golf Course to accept women members but there still is a sentiment in Wisconsin that women's health clubs deserve special exemption from anti-discrimination laws. Can you imagine what would happen if the dowdy members of Augusta asked for a law to exempt the club from discrimination laws?

*S. Swayne Curves*

Regardless, there are two simple steps to avert frivolous legislation to solve frivolous lawsuits that wastes court time and legislative time.

First, Curves can go out and sign up male members to prove it does not discriminate. The lawsuit could be dismissed without long, protracted litigation.

*Disproport in primary*

Second, Roesler needs to withdraw her bill. Her legislation threatens to push back years of public progress. Its passage will re-open the way for real discrimination.

**The Final Thought:** Claims against the 173 Curves franchises in Wisconsin are a bad use of court time and legislative time. A bill by Sen. Carol Roesler to protect Curves heralds the way to reverse years of American social justice. Both should be dismissed.

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## COAST TO COAST

### A national briefing of people, issues and events around the country

Sunday, March 23, 2003; Page A02

#### In Houston, One Man's Meat Is Another Man's Smog

Packed with oil refineries and choked with traffic, Houston has long figured among the country's most polluted places. Now, the nation's fourth-largest city may have identified the X-factor that keeps it such a smoggy spot: barbecue.

Just weeks after the city hosted one of the world's largest barbecue contests, Rice University researchers have revealed that microscopic bits of fatty acids released by grilled meat contribute to Houston's haze. In a study to be published next month, a team of scientists analyzed the city's air and found particles that are let loose when grease sizzles on hot coals -- de rigueur in any self-respecting Texas barbecue.

That means tender brisket and melting ribs may not only raise cholesterol. The particles can lodge in the lungs, causing heart and respiratory problems, said Matthew Fraser, an environmental engineer who led the study. He acknowledged, though, that gasoline fumes and wood smoke are more harmful to health.

Sandy Babcock, treasurer of the Texas Gulf Coast Barbecue Cookery Association, conceded that steakhouses and big barbecue restaurants could bear some guilt. But she scoffed at the

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notion that weekend chefs were major polluters.

"If every backyard barbecuer were to fire up their pits at the same time, it might be a problem," she said. "But that's not going to happen."

-- **Karin Brulliard**

### **Single-Sex Health Clubs in Wis.? ACLU Is Pumped for a Challenge**

A bill that would allow health clubs in Wisconsin to offer single-sex exercise activities or memberships has raised the ire of the American Civil Liberties Union of Wisconsin. It contends the measure would be a severe setback to the civil rights movement because it would exempt fitness centers from state laws that prohibit discrimination in public accommodations such as businesses and restaurants.

Although the measure was well-intended, opponents say it would pave the way for discrimination at other public institutions.

Proponents have a different view of the bill, known as the "Curves bill," because it was requested by a chain of fitness centers by the same name that market to women. The concept is also being challenged by a former health club operator in the state who wanted to market to women in the 1990s but was told by state officials that it wasn't allowed under state law.

Sen. Carol Roessler, a Republican from Oshkosh who sponsored the bill, told the Capitol Journal that the measure is tailored narrowly enough to prevent discrimination elsewhere while allowing men and women to exercise in private.

Democrat Tim Carpenter, a senator from Milwaukee, doesn't want to take the risk of potential discrimination in other categories, including race and religion. And, he argued, not many men are trying to attend these facilities anyway because they cater only to women.

"This is like using a sledgehammer to kill a mosquito," he told the newspaper.

The measure passed the Wisconsin Senate by a 23-to-8 margin, and now goes to the state Assembly for consideration.

-- **Robert E. Pierre**

### **From Penny Stocks to Politics, Teen Aims High in N.J. Town**

For Jonathan Lebed, 18, being a teenager has had its share of highs and lows.

The lows include becoming the youngest person at age 15 to be charged with stock manipulation, the \$285,000 he had to pay the government for talking up penny stocks on his home computer and the threats from his father to disconnect his computer phone line. The highs were the \$500,000 he kept from negotiations with the SEC, the media attention and his newly declared candidacy for Township Council in Cedar Grove, N.J.

"Everybody else in politics, they're boring. They're the same," he said. "If I don't get involved now, Cedar Grove may start heading downhill."

Frustrated by the lack of after-school activities in his hometown, Lebed began attending Cedar Grove's town meetings when he was 14 to lobby for a youth center. Soon, Lebed was hooked on state and county budget minutiae.

"I thought from day one that I could do a better job than anybody else up there," he said.

If he is elected, Lebed's plans include financing a community center and suspending police raises through the fiscal crisis. Lebed also wants to replace Cedar Grove's strip of banks and hair salons with more restaurants and shops to resemble the prosperous downtown in nearby Montclair.

### **-- Christine Haughey**

#### **In California Redwood Forest, Conflict at the Canopy Level**

The timber company wants to turn the old redwoods into backyard decks. The protesters want to save them, and so 18 tree sitters climbed up into the canopies hundreds of feet above the forest floor in a hoary grove near Eureka in Northern California.

Some of the tree-sitters have been in the branches (living on platforms held together with slings) for almost a year. But the standoff took a turn last week when the Pacific Lumber company hired its own tree climbers to bring down the activists. At last count, five sitters have been removed and arrested. But hours after the arrests, two of the trees they were sitting in were reoccupied by others.

The lumberjacks describe the tree sitters as out-of-town zealots who engage in dangerous and illegal trespass on timber company land. So far, they've managed to cut down one tree.

"This is not about protecting the environment," said PALCO President and CEO Robert Manne said in a statement. "This is part of radical political agenda based on lawlessness and the desire to destroy our way of life."

As a handcuffed Jeny Card was taken to a sheriff's patrol car, the 25-year-old activist who goes by the name of "Remedy" in the forests, told an Associated Press reporter, "It's time to stop cutting ancient trees."

-- **William Booth**

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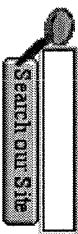


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**VIEWS**

Posted Mar. 27, 2003

## Editorial: Senate's 'Curves bill' a fluffy assault on equity

Last week, the state Senate turned back the clock on gender equity, and a woman led the charge.

The so-called "Curves bill" allows fitness centers to offer their services exclusively to one sex or the other. It is an exemption to Wisconsin's law that says it is illegal to deny anyone the use of public accommodations because of their sex, race, color, creed, disability, sexual orientation, national origin or ancestry.

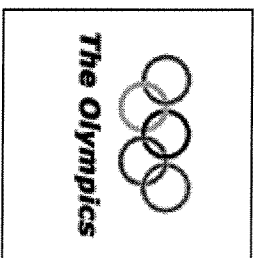
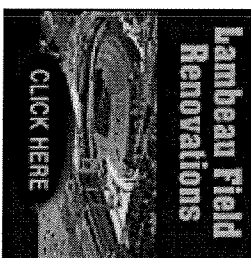
State Sen. Carol Roessler, R-Oshkosh, introduced the bill at the urging of a Curves fitness centers franchisee. Curves caters to female clients, and is the target of a competitor's sexual discrimination lawsuit. Roessler belongs to Curves.

This is her muscular argument for the legislation:

"The bill provides for freedom of choice ... for women to choose, if they choose to exercise, with their peers, with other women."

"What I like about it is you can come as you are, and feel

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like you are at a ladies luncheon that would be just for the girls."

"(Women) can come as they are, without feeling they have to dress up and wear makeup."

In other words, they want to be comfortable. As were men in the state Legislature before the likes of Roessler came along, and at the Citadel before Shannon Faulkner spoiled things.

What Roessler and the Senate have done, so frivolously, is to chip away at the anti-discrimination statute — at the guarantee of equal access — by resurrecting the tenet that it is acceptable to turn someone who is different away to ensure a group's comfort.

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