

2003 DRAFTING REQUEST

Bill

Received: **11/07/2002**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Roger Breske (608) 266-2509**

By/Representing: **Vaughn Vance**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Discrimination**

Extra Copies:

Submit via cmail: **YES**

Requester's email: **Sen.Breske@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Discrimination based on sex by fitness centers; exception to public accommodations law

Instructions:

Provide exception to public accommodations law that would permit fitness centers to discriminate based on sex, e.g., all-female aerobics classes.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 11/08/2002	chanaman 11/18/2002					State
/1			rschluet 11/18/2002		amentkow 11/18/2002	mbarman 12/10/2002	State

Handwritten notes:
 - A circle around 'Jacketed' in the header row.
 - A circle around 'mbarman 12/10/2002' in the table.
 - An arrow pointing from 'State' to 'Jacketed'.
 - An arrow pointing from 'State' to 'mbarman 12/10/2002'.
 - A large circle around the text: "sent to Senator Roessler per Gmm".

FE Sent For:

<END>

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11/18/2002 02:38:29 PM

Page 2

LRB-0631

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FE Sent For:



 11-18-02

ROGER BRESKE
STATE SENATOR

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P.O. Box 7882
Madison, WI 53707-7882
(608) 266-2509
Legislative Hotline:
1 (800) 362-9696



Home Address:
8800 Hwy. 29
Eland, WI 54427
(715) 454-6575

11/7/02

Gordon:

As per our discussion, I am enclosing some background information on the "Cures" legislation related to Wis.'s public accommodations law.

I appreciate your assistance. As always, please give me a call if you have questions or concerns.

Thanks again!

Daughn.

HS Hale, Skemp, Hanson, Skemp & Sleik

Attorneys & Counselors at Law

Quincy H. Hale
(1919-1987)
Thomas H. Skemp
(1936-1977)
Ernest O. Hanson
Robert C. Skemp
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Paralegals
Mariane R. Myhre
Andrea L. Parr
Tammy S. Bollman
Melissa J. Nelson
Melissa L. Pepin

October 16, 2002

Ms. Marjorie Senfleben
Wisconsin Curves Association
3611 Menasha Avenue
Manitowoc, WI 54220

RE: Wisconsin Curves Association Tax-Exempt Status

Dear Marjorie:

I am writing to provide the Association with some thoughts prior to your October 22nd board meeting in regards to possible language to propose as an amendment to the current Wisconsin Public Accommodations and Amusements Law (WPAAL).

The current WPAAL contains certain exceptions to its coverage under the WPAAL, such as single sex shelters serving victims of domestic abuse and also allowing to have separate treatment for persons based on sex with regard to public toilets, showers, saunas, and dressing rooms.

Two possible ways to draft this would be as follows:

"With regard to the prohibition on discrimination based on sex the Wisconsin Public Accommodations and Amusements Law shall not apply to a place of exercise for the exclusive use of persons of the same sex which is a bonafide fitness facility established for the purpose of promoting and maintaining physical and mental health through physical exercise and insurance if such facility does not receive funds from a government source."

This suggestion is almost verbatim from the Massachusetts legislation which passed in 1998. Enclosed is a copy of the exact language of the Massachusetts statute.

Another suggestion would be to follow the Illinois law which reads:

"Any facility, as to discrimination based on sex, which is distinctly private in nature such as restrooms, shower rooms, bath houses, health clubs, and

Page 2
October 16, 2002

other similar facilities for which the Department may grant exemptions based on bonafide consideration of public policy.”

The Illinois law is broader than the Massachusetts, as it exempts all health clubs and does not specifically mention the need for the club to be involved with exercise, though it is implied in the law.

I believe it would be beneficial for the Association to discuss these two language suggestions, as the Illinois is broader than the Massachusetts version and there may be some value to draft this legislation fairly narrowly so as to limit any complaints against the passage of this type of legislation. However, I believe either method would be acceptable if that is what the Board feels would be the appropriate direction it should go. I would recommend that you discuss this fully with Jolene Plautz to get her thoughts on this as to the ability to pass either of these amendments to the WPAAL.

Once the Board makes a determination as to how broad it wishes to have the exemption drafted, I will prepare draft forms for the Board to review prior to approaching the legislature regarding such change.

Very truly yours,

HALE, SKEMP, HANSON, SKEMP & SLEIK



By: Thomas J. Kieffer
TJK/tln

cc: Ms. Jolene Plautz

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.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0631/P

GMMO:.....

emb

general
the use of

1 AN ACT ...; relating to: providing an exception to the law prohibiting
2 discrimination in public places of accommodation to permit a fitness center
3 whose facilities and services are intended for the exclusive use of persons of the
4 same sex to provide those facilities and services exclusively to persons of that
5 sex.

Analysis by the Legislative Reference Bureau

Under current law, no person may deny to another the full and equal enjoyment of any public place of accommodation because of sex, race, color, creed, disability, sexual orientation, national origin, or ancestry. Current law, however, does not prohibit separate public toilets, showers, saunas, or dressing rooms for person of different sexes and does not prohibit a domestic abuse services organization from providing separate facilities, care, treatment, or services for persons of different sexes.

This bill permits a fitness center, which is defined under current law as an establishment that, for profit, provides as its primary purpose services or facilities that are purported to assist patrons in physical exercise, in weight control, or in figure development, whose services or facilities are intended for the exclusive use of persons of the same sex to provide the use of those services or facilities exclusively to persons of that sex, to deny the use of those services or facilities to persons of the opposite sex, and to communicate that the use of those services or facilities will be provided exclusively to persons of the same sex and will be denied to persons of the opposite sex.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 106.52 (3) (e) of the statutes is created to read:

2 106.52 (3) (e) Nothing in this section prohibits a fitness center, as defined in
3 s. 100.177 (1) (c), whose services or facilities are intended for the exclusive use of
4 persons of the same sex from providing the use of those services or facilities
5 exclusively to persons of that sex, from denying the use of those services or facilities
6 to persons of the opposite sex, or from directly or indirectly publishing, circulating,
7 displaying, or mailing any written communication to the effect that the use of those
8 services or facilities will be provided exclusively to persons of the same sex and will
9 be denied to persons of the opposite sex.

10

(END)

Sarah

-0631

4

Roessler

Jacket for Senator

Per
GMM

12-10-2002

Mentkowski, Annie

From: Mentkowski, Annie
Sent: Tuesday, February 04, 2003 2:06 PM
To: Sen.Roessler
Subject: LRB-0631

Sorry for the confusion and delay



03-0631/1

Annie