



MAY 10 2003

JIM DOYLE
GOVERNOR
STATE OF WISCONSIN

May 5, 2003

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

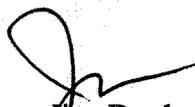
Dear Senator *Carol* Roessler:

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



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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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

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/

[[HOME](#)] [[CHAPTERS](#)] [[PUBLIC ACTS](#)] [[SEARCH](#)] [[BOTTOM](#)]

(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 90.7
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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.

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Roessler s

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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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.

CS-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.

Myself = the
majority
of legislators
who
disagree
with
this
bill

obesity – various health clubs
- defend specific env. int.
- Goals
promote safe secure

Pub A Law

April ²¹ 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
18th Senate District

GLENN GROTHMAN
State Representative
58th Senate District

WSJ 3-19-03

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.

- Women ^{workout} facility (608) 241-1208

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MN & MI - ~~pending~~

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Roessler

THANK YOU!

DARYL GESSLER
Mike Beidel
Denise Beidel
Christina Beidel
Beth Samson
Christina Gessler

from the Curves
Association ☺

Roessler

Tanya Stroik - Chetek, WI
Lizelake, WI
Bloomer, WI

Thank you

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B2
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B6

LOCAL

Wednesday, April 30, 2003 ★

Wisconsin State Journal

City

Assembly passes 'Curves bill,' to dismay of some

The bill, named after a chain of fitness centers, would allow fitness centers to discriminate.

By Tom Sheehan
State government reporter

The Republican-controlled Assembly on Tuesday passed "the Curves bill," which would allow fitness centers to legally discriminate based on gender.

But Gov. Jim Doyle hasn't decided yet if he'll veto it, Doyle spokesman Dan Leistikow said. The Assembly voted 65-31 in

favor of Senate Bill 24 over the objections of some Democrats who said it's a setback for equal rights and ripe for abuse. The bill, named after a chain of fitness centers that market to women, passed the Senate earlier this year, meaning Doyle has about 10 days to decide what he'll do, Leistikow said.

Some women may feel uncomfortable working out around men, but the bill isn't worth the risk and could backfire against women, said Rep. Terese Berceau, D-Madison.

"You have to decide what is being lost to make you feel more comfortable," Berceau said. The bill could lead to discrimination

against women, which was prevalent in the past, Berceau said.

Curves owners face 173 sex-bias complaints filed with the state's Equal Rights Division by a La Crosse man, who says the Waco, Texas-based firm is biased against men. An administrative law judge has ruled in Charles Swayne's favor in two of those cases, which have been appealed, said Thomas Kieffer, an attorney representing Curves owners. The remaining 171 cases are effectively on hold until the two pending cases, involving Curves in Onalaska and Holmen, are resolved, Kieffer said.

If the governor signs the bill, it's

unclear what effect the legislation would have on the pending cases, Kieffer said.

"We're in uncharted waters here," Kieffer said.

Sen. Carol Roessler, R-New Berlin, who introduced the bill at the prompting of Curves owners, has said the bill's narrow exemption to anti-discrimination laws for fitness centers would prevent abuse.

But an amendment to the bill is so loosely worded that it could be interpreted to allow golf clubs and other facilities to legally discriminate, said Rep. Wayne Wood, D-Janesville.

"If it leaves room for abuse, it will be abused," Wood said.



"You have to decide what is being lost to make you feel more comfortable."

REP. TERESE
BERCEAU
D-Madison



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Bill would allow women-only clubs

But some call it a setback for civil rights

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

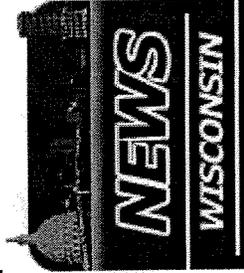
Last Updated: March 18, 2003

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.

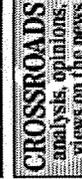
State Sen. Carol Roessler (R-Oshkosh), the sponsor, said her bill simply allowed women to exercise in privacy with other women if



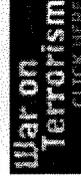
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they choose. But Sens. Tim Carpenter (D-Milwaukee) and Judith Biros Robson (D-Beloit) termed it a setback for civil rights, especially the women's movement.

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.

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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.

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

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Please see **RALLY, 10A**

■ Editorial: 14A

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which occurred at the en-
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d to be sworn in
today. ... approval of Abbas
as the Pa Amian Authority's
first prime minister clears the
way for the release of a new
peace initiative, known as the
"road map," sponsored by the

Please see **MIDEAST, 13A**

■ 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 CHAPTMAN**
dchaptman@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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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.

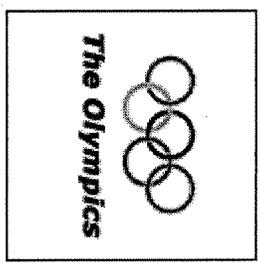
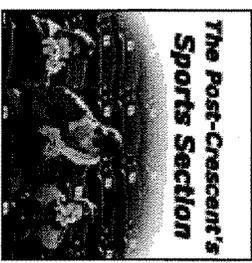
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"(Women) can come as they are, without feeling they have to dress up and wear makeup."

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.

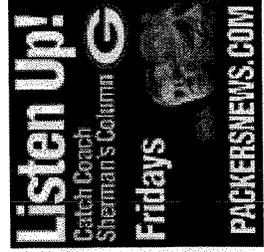
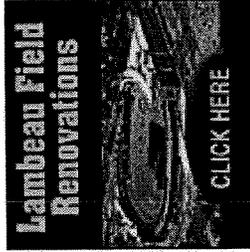
Roessler has authored a bill that would exempt women's fitness clubs from the state anti-discrimination laws which prohibits discrimination in places of public accommodation based on sex, race, color, creed, disability, sexual orientation, national origin or ancestry.

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.

Be Careful

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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?

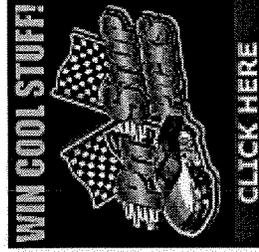
Regardless, there are two simple steps to avert frivolous legislation to solve frivolous lawsuits that wastes court time and legislative time.

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.

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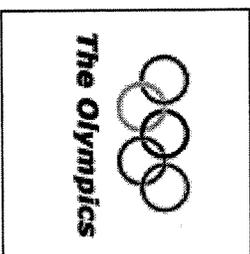
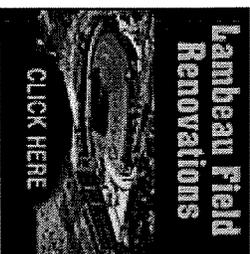
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In other words, they want to be comfortable. As were men in the state Legislature before the likes of Roessler came along, and at the Citadel before Shannon Faulkner spoiled things.

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March 17, 2003

Senator
, State Capitol
Madison, WI 53702

Dear Senator:

Thank you for co-sponsoring Senate Bill 24. Senate Bill 24, as amended by the Senate Committee on Health, Children, Families, Aging and Long Term Care, provides an exception to the public accommodation law for the purpose of fitness centers. The bill passed committee on a vote of 7-2.

During the executive session on Senate Bill 24, Senator Carpenter mentioned that he intends to introduce an amendment on the Senate floor. Should Senator Carpenter introduce his amendment, I ask for your support in voting to reject the amendment on the basis that it would not accomplish the purpose of the bill.

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 a disability, all saying that if they are not able to exercise in a gender exclusive atmosphere, they will no longer continue to exercise. In today's society of wellness promotion, we should be helping to promote exercise, not inhibiting it.

Senate Bill 24 would allow the freedom of choice to exercise in gender exclusive facilities. Senator Carpenter's amendment would not allow fitness centers to provide services exclusively for either men or women; and therefore, deprives individuals of that freedom of choice. This exception has also been enacted in Illinois and Massachusetts.

Again, thank you for your indicated support of Senate Bill 24.

Sincerely,

CAROL ROESSLER

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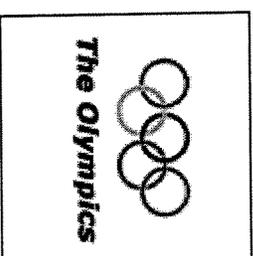
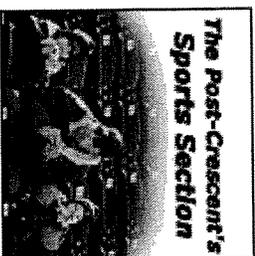
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Sent: Tuesday, April 01, 2003 10:03 AM
To: Jermstad, Sara
Cc: Asbjornson, Karen; Seaquist, Sara
Subject: Oshkosh Northwestern - Editorial Frivolous lawsuit must not prompt frivolous la

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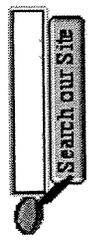


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Posted Apr. 01, 2003



Editorial: Frivolous lawsuit must not prompt frivolous law

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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

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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 Roessler to protect Curves heralds the way to reverse years of American social justice. Both should be dismissed.

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'Curves bill' passes in state Senate

BY TOM SHEEHAN, Lee Newspapers Madison Bureau, 3/19/03

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

Senate Bill 24, more commonly known as "the Curves bill," would create an exemption to a state law that prohibits discrimination in places of public accommodation. The bill passed by a 23-8 vote, 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 has centers in Racine, Burlington, Kenosha, Union Grove, Oak Creek, Salem, Wind Lake and Muskego. 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.

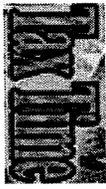
The bill will promote wellness by accommodating men or women who would feel more comfortable exercising in a single-sex environment, Roessler said. The bill originally would have applied to for-profit fitness centers, but Roessler successfully

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amended Tuesday to include non-profit fitness centers as well.

Democrats argued that the bill, which still must be approved by the Assembly and governor, would erode civil rights and lead eventually 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 said she belongs to a Curves franchise and enjoys the workout environment. But civil rights shouldn't be jeopardized just because some women feel uncomfortable, Robson said.

Racial discrimination in the South was justified by white people who didn't feel comfortable around black people, Democrats said.

Democrats offered an amendment that Robson said would have allowed Curves to market to women without undoing anti-discrimination laws, but the proposal was rejected.

The bill will likely lead to "18-hole fitness centers" for men, said Senate Majority Leader Jon Erpenbach, D-Middleton. He predicted the Legislature would eventually have to bring up new legislation to counter the effects of the bill.

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Response to Carpenter's Amendment to SB 24

- The amendment would allow fitness centers to ^{Pregnance} advertise and cater to one gender, but would **not** allow the facility to be gender exclusive.
- The amendment(s) offered by Senator Carpenter would not allow a fitness center to operate so as to ensure the reasonable privacy rights of females/males based on the physical differences between the sexes which is consistent with the already existing gender-based exemptions in the Public Accommodations Law, such as for dressing rooms, ~~toilet~~^{same}, showers and college dorm rooms.
- This amendment(s) would also still leave open to judicial interpretation whether advertising terms such as "Women's Fitness Center" or "Curves® for Women" would be allowed. It is possible that a party could argue that such terms are meant to "exclude" the other gender and not just intend to appeal primarily to one sex for use of the fitness center's services or facilities.
- The purpose of SB 24 is clearly set forth for all Wisconsinites that a fitness center can be operated for use by one gender if so offered by the operator of the fitness center. The original draft of SB 24 accomplishes that goal.