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Harris, Lynn, Morrison, Romer, K. Williams

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 34

AN ACT TO AMEND TITLE 24 AND TITLE 28 OF THE DELAWARE CODE RELATING TO PUBLIC ACCOMMODATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 1501, Title 24 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1501. Exclusion of customers.

4 ~~No keeper of an inn, tavern, hotel or restaurant or other place of public entertainment or refreshment of travelers,~~
5 ~~guests or customers shall be obliged, by law, to furnish entertainment or refreshment to persons whose reception or~~
6 ~~entertainment by the proprietor would be offensive to the major part of the proprietor's customers and would injure~~
7 ~~business.~~

8 As used in this section, "customers" includes all who have occasion for entertainment or refreshment. [Repealed.]

9 Section 2. Amend § 902, Title 28 of the Delaware Code by making deletions as shown by strike through and
10 insertions as shown by underline as follows:

11 § 902. Exclusion of offensive patrons.

12 ~~The proprietor of a theatre or other public place of amusement is not obliged to receive into the proprietor's show,~~
13 ~~or admit into the place where the proprietor is pursuing the proprietor's occupation, any person whose presence there would~~
14 ~~be offensive to the major part of the proprietor's spectators or patrons and thereby injure the proprietor's business.~~

15 [Repealed.]

SYNOPSIS

On March 1, 1875, the federal Civil Rights Act was enacted. Following the end of the Civil War and the adoption of the Thirteenth and Fourteenth Amendments, the goal of the Civil Rights Act of 1875 was to guarantee Blacks equal treatment in places of public accommodation and on public transportation.

On March 25, 1875, the General Assembly enacted Chapter 194 of Volume 15 of the Laws of Delaware to permit places of public accommodation and public transportation to exclude individuals "whose presence there would be offensive to the major part of the proprietor's customers and thereby injure the proprietor's business". Newspaper reports from the time indicate that this law was specifically designed to "neutralize the effects of" the Civil Rights Act of 1875.

Almost 100 years later, in December 1963, the 122nd General Assembly enacted the Delaware Equal Accommodations Law, Chapter 45 of Title 6 of the Delaware Code, to prevent in places of public accommodations practices of discrimination against any person because of race, creed, color, or national origin. As part of this legislation, the 122nd General Assembly provided that “§ 1501 of Title 24, § 902 of Title 28, and § 703 of Title 26 of the Delaware Code of 1953, and all laws or parts of laws inconsistent with the provisions of this Act are hereby repealed insofar as such inconsistency does occur.” Despite the General Assembly’s intent, these provisions were not repealed at the time and, with the exception of § 703 of Title 26, which was repealed in 1974 with the rest of Chapter 7 of Title 26 as part of reorganization of Title 26, have continued to persist to this day.

This Act explicitly repeals § 1501 of Title 24 and § 902 of Title 28, fulfilling the intent of the 122nd General Assembly that § 1501 of Title 24 and § 902 of Title 28 be repealed as inconsistent with the purposes of the Delaware Equal Accommodations Law that General Assembly adopted. This Act also serves to repudiate the State’s past involvement in racial discrimination that occurred in reliance on and under color of laws adopted by this State.

Author: Senator Lockman