

**Laws Prohibiting Discrimination Based
On Sexual Orientation And Gender
Identity**

By IREM Legislative Staff

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Institute of Real Estate Management
430 N. Michigan Avenue
Chicago, IL 60611
(800) 837-0706

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Overview

Federal laws do not prohibit discrimination based on a person's sexual orientation in housing or employment. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, and national origin. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and handicap. However, an increasing number of states have laws prohibiting discrimination based on sexual orientation in employment, housing, and access to public accommodations.

Twenty states and Washington, D.C. have anti-discrimination laws prohibiting discrimination against individuals based on their sexual orientation or gender identity. Wisconsin was the first state to enact an anti-discrimination law in 1982. In the last five years, seven states have enacted similar laws. Most recently, Iowa and Oregon enacted anti-discrimination laws. The Iowa Civil Rights Act was amended on May 25, 2007, when the Governor signed S.F. 427 into law making it illegal to discriminate in employment, public accommodation, credit, housing, and education based on a person's sexual orientation or gender identity. Meanwhile the Governor of Oregon signed legislation into law on May 9, 2007, that bans discrimination based on sexual orientation. The law, effective January 1, 2008, bans discrimination against gays, lesbians, and transgendered people in employment, housing, and access to public accommodations.

Studies show that gay, lesbian, and bisexual adults prefer to live in cities or states that prohibit discrimination based on sexual orientation. According to Lambda Legal, 49.97% of American gay, lesbian, and bisexual adults reside in states that have laws prohibiting discrimination based on sexual orientation or gender identity in employment, housing, and public accommodations. That percentage does not include the number of gay, lesbian, and bisexual adults that live in cities that have ordinances prohibiting sexual orientation discrimination.

States that prohibit against discrimination based on sexual orientation do not necessarily prohibit discrimination based on gender identity. Sexual orientation and gender identity are not the same. Sexual orientation, previously referred to as sexual preference, is defined as the direction of one's sexual interest toward members of the same, opposite, or both sexes, especially a direction seen to be dictated by physiologic rather than sociologic forces. While transgender is "an umbrella term that describes anyone expressing characteristics that don't correspond with those traditionally ascribed to the person's sex or presumed sex, as well as transsexual people and cross-dressers," according to the Human Rights Campaign. This memo states which states prohibit discrimination against both groups and which states only prohibit discrimination against sexual orientation.

Commercial real estate professionals are encouraged to review the state laws and local ordinances of the areas in which they practice.

Chart of State Laws

STATE	SEXUAL ORIENTATION DISCRIMINATION PROHIBITED	GENDER IDENTITY DISCRIMINATION PROHIBITED
Alabama	No	No
Alaska	No. However, discrimination in state employment is prohibited.	No
Arizona	No	No
Arkansas	No	No
California	Yes	Yes
Colorado	Yes (August 3, 2007)	Yes (August 3, 2007)
Connecticut	Yes	Yes
Delaware	No, but state employees are protected.	No
Florida	No	No
Georgia	No	No
Hawaii	Yes	Yes
Idaho	No	No
Illinois	Yes	Yes
Indiana	No, but state employees are protected.	No, but state employees are protected.
Iowa	Yes	Yes
Kansas	No	No
Kentucky	No	No
Louisiana	No, but public employees are protected.	No
Maine	Yes	Yes
Maryland	Yes	No
Massachusetts	Yes	Yes
Michigan	No	No
Minnesota	Yes	Yes
Mississippi	No	No
Missouri	No	No
Montana	No, but public employees are protected.	No
Nebraska	No	No
Nevada	Yes	No
New Hampshire	Yes	No
New Jersey	Yes	Yes
New Mexico	Yes	Yes
New York	Yes	No
North Carolina	No	No
North Dakota	No	No
Ohio	No	No
Oklahoma	No	No

STATE	SEXUAL ORIENTATION DISCRIMINATION PROHIBITED	GENDER IDENTITY DISCRIMINATION PROHIBITED
Oregon	Yes (January 1, 2008)	Yes (January 1, 2008)
Pennsylvania	No, but state employees are protected.	No, but state employees are protected.
Rhode Island	Yes	Yes
South Carolina	No	No
South Dakota	No	No
Tennessee	No	No
Texas	No	No
Utah	No	No
Vermont	Yes	Yes
Virginia	No	No
Washington (state)	Yes	Yes
West Virginia	No	No
Wisconsin	Yes	No
Wyoming	No	No
Washington, D.C.	Yes	Yes

See the State laws section below for information on existing state laws.

State Laws

States that prohibit discrimination on the basis of sexual orientation and gender identity in employment and housing are included below.

Alaska

Alaska does not have a state law prohibiting discrimination based on sexual orientation. However, in 2002 the governor of Alaska signed an order prohibiting sexual orientation discrimination in state employment.

California

California law prohibits discrimination based on sexual orientation in housing, public and private employment, and public accommodation. In regards to gender identity, California law prohibits discrimination based on gender identity, appearance, and behavior in the areas of employment and housing. Employees are permitted by law to dress consistently with their gender identity.

Colorado

Colorado recently enacted a law prohibiting discrimination in employment based on sexual orientation and gender identity. The law will go into effect on August 3, 2007.

Connecticut

Connecticut state law prohibits discrimination based on sexual orientation in housing, private and public employment, and public accommodation. The Connecticut Commission on Human Rights and Opportunities ruled that transgender individuals can pursue anti-discrimination claims under the category of sex discrimination.

Delaware

A Delaware executive order protects state employees from sexual orientation discrimination.

Hawaii

Hawaii law prohibits discrimination based on sexual orientation in employment, public accommodation, and housing. State law also prohibits against gender identity in public accommodation and housing.

Illinois

Illinois law prohibits discrimination based on sexual orientation in employment, real-estate transactions, access to financial credit, and public accommodation. Illinois also prohibits discrimination on the basis of gender identity. The Illinois Human Rights Commission ruled that transsexual individuals are included in the state's disability discrimination law.

Indiana

A Governor's policy statement released in 2004 protects state employees from discrimination based on sexual orientation and gender identity and expression.

Iowa

Iowa recently enacted a law prohibiting discrimination in employment, public accommodations, housing, education, and credit practices based on sexual orientation and gender identity. The law went into effect on July 1, 2007.

Louisiana

An executive order prohibits discrimination against public employees based on sexual orientation.

Maine

The Maine Human Rights Act prohibits discrimination in employment, housing, credit, public accommodation, and education opportunity based on sexual orientation and gender identity.

Maryland

Maryland state law prohibits discrimination based on sexual orientation in public accommodation, housing, and public and private employment.

Massachusetts

Massachusetts explicitly prohibits discrimination based on sexual orientation in public accommodation, housing, public and private employment, education, and credit and union practices.

In regards to gender identity, several courts and the Massachusetts Commission Against Discrimination have ruled that they can pursue an anti-discrimination claim under the category of sex or disability discrimination.

Minnesota

Minnesota law prohibits discrimination based on sexual orientation, including transgender individuals, in employment, housing, public accommodation, public service, education, credit, and business.

Montana

Montana state law prohibits sexual orientation discrimination in public employment.

New Hampshire

New Hampshire law prohibits discrimination based on sexual orientation in public accommodation, housing, and private and public employment.

Nevada

Nevada law prohibits discrimination in employment based on sexual orientation.

New Jersey

New Jersey law prohibits discrimination based on sexual orientation and gender identity in private and public employment, public accommodation, housing and credit, and public works contracts.

New Mexico

New Mexico state law prohibits discrimination based on sexual orientation and gender identity in employment, housing, credit, public accommodation, and union membership. In addition, sexual orientation discrimination in public employment is prohibited by executive order.

New York

New York law prohibits discrimination on the basis of sexual orientation in public and private employment, public accommodations, housing, education and credit. In regards to gender identity, courts have ruled that transsexual individuals can pursue anti-discrimination claims under the category of sex.

Oregon

Oregon recently enacted a law prohibiting discrimination in employment, housing, public accommodation, public education, and foster parenting based on sexual orientation and gender identity. The law is effective January 1, 2008.

Pennsylvania

An executive order is in place that protects state employees from discrimination based on sexual orientation and gender identity and expression.

Rhode Island

Rhode Island law prohibits discrimination based on sexual orientation and gender identity in employment, credit, housing, and public accommodation.

Vermont

The Vermont Human Rights Law prohibits discrimination based on sexual orientation in employment, public accommodation, education, housing, credit, and insurance and union practices. The state law was amended to prohibit discrimination based on gender identity and that change went into effect on July 1, 2007.

Washington

Washington law prohibits discrimination based on sexual orientation and gender identity in the areas of employment, real property transactions, credit and insurance and public accommodations.

Wisconsin

Wisconsin law prohibits discrimination based on sexual orientation in employment, housing, public education, credit and public accommodations.

Washington, D.C.

Washington, D.C. law prohibits discrimination based on sexual orientation and gender identity and expression in the areas of employment, schools, housing, and public accommodations.

Resources

IREM public policy resources:

IREM Legislative Staff

Call IREM Legislative Staff at (800) 837-0706, extension 6021, with questions on related state and federal laws.

IREM State Legislative Database

The IREM State Legislative Database is a member exclusive service. Search legislative proposals in your state. Access through:

<http://www.irem.org/sechome.cfm?sec=publicpolicy>

Civil rights groups:

Human Rights Campaign

www.hrc.org

Lambda Legal

www.lambdalegal.org/

Federal government:

U.S. Equal Employment Opportunity Commission

<http://www.eeoc.gov/>

U.S. Fair Housing and Equal Opportunity

<http://www.hud.gov/offices/fheo/FHLaws/>