

SUBJECT: Equal access to public accommodation for motorcycle riders

COMMITTEE: Civil Practices — committee substitute recommended

VOTE: 7 ayes — Bosse, Clark, Dutton, Hope, Martinez Fischer, Smithee, Zbranek
2 nays — Janek, Nixon

WITNESSES: For — Sputnik, Motorcycle Rights Association Confederation of Clubs; S.A. Riggs, Gulf Coast Motorcycle Rights Association and Texas Motorcycle Rights Association
Against — None

DIGEST: CSHB 259 would prohibit denying a person access to a place of public accommodation because he or she operated a motorcycle, was a member of a motorcycle organization, or wore clothing that displayed the name of an organization or association. The bill would allow an exception if the person's clothing did not conform to a clearly stated uniform dress code in effect at the place of public accommodation. The dress code could not be designed to exclude a particular individual or group of individuals.

The owner or operator of a place of public accommodation could deny admission or refuse accommodation to someone whose conduct posed a risk to the health or safety of another person or another person's property.

A person denied equal access in violation of the bill's provisions could sue for injunctive relief, damages, or both. If the suit was for damages, the person denied access could recover any actual damages and up to \$5,000 in exemplary damages. A successful claimant also could recover reasonable attorney's fees and court costs.

The bill would define a place of public accommodation to include any business or other entity that offers to the general public food, shelter, recreation, amusement, or any other good, service, privilege, facility, or accommodation.

CSHB 259 would not apply to public or private higher education institutions and activities, nor to events at public or private middle schools, junior high schools, or high schools, nor to students attending those schools.

The bill would take effect September 1, 2001, and would apply only to causes of action that accrued on or after that date.

**SUPPORTERS
SAY:**

CSHB 259 is needed because motorcycle riders are one of the last groups that people believe it is acceptable to discriminate against. Because no federal or state law protects motorcyclists' access to public accommodations, discrimination against motorcyclists is prevalent at restaurants, hotels, motels, and parks. Like racial or ethnic discrimination, the attitudes held against motorcycle riders are based entirely on appearance.

This bill would insure motorcyclists' right and ability to travel across Texas. Riders need to be assured that they will not be rejected from public accommodations simply because of their appearance. The bill also would protect motorcyclists' freedom of association as guaranteed by the First Amendment.

On the other hand, CSHB 259 would ensure that the owners of public accommodations could restrict access to someone who actually posed a risk to other people or to property, and it would ensure that valid dress codes could be enforced in public places.

**OPPONENTS
SAY:**

Private businesses should have the right to refuse service as long as their refusal does not violate the federal Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, or national origin. CSHB 259's addition to state law would interfere with the rights of private business people to conduct their business as they see fit.

By creating a new protected class of individuals, the bill would open the door for similar requests by any number of groups who believe themselves wronged by society. In doing so, it would dilute the protection of the civil-rights laws for the people whom history has shown to need it most.

The provision that would prohibit the denial of access based on clothing bearing insignia is too broad. It could apply to anyone from Girl Scouts to

gang members. As a result, it could increase the likelihood of frivolous suits against business owners for denying access, requiring owners to prove that they knew that the people would pose a risk at the time access was denied to avoid liability.

NOTES:

The committee substitute added the exceptions for students at middle schools, junior high schools, and high schools and for activities or events at those schools.

A similar bill in the 76th Legislature, HB 2482 by G. Lewis, passed the House, but died in the Senate Economic Development Committee.