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HOUSE BILL 3191

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State of Washington

58th Legislature

2004 Regular Session

By Representatives Boldt, Ahern, Schindler, Sump, McMorris, Pearson, Kristiansen and McMahan

Read first time 02/06/2004. Referred to Committee on State Government.

1 AN ACT Relating to prohibiting discrimination by government against  
2 private entities in contracting with public entities, receiving public  
3 funds, having access to public facilities, or participating in public  
4 programs; adding a new section to chapter 49.60 RCW; creating new  
5 sections; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** This act may be known and cited as the Boy  
8 Scouts Protection Act of 2001.

9 NEW SECTION. **Sec. 2.** The legislature recognizes that the Boy  
10 Scouts of America and other private organizations have constitutionally  
11 protected rights of freedom of speech and religion under both the  
12 United States Constitution and the Washington state Constitution.  
13 Implicit in the right to freely engage in these activities as protected  
14 by the federal and state constitutions is a corresponding right to  
15 associate with others in pursuit of a wide variety of political,  
16 religious, social, economic, educational, and cultural ends.

17 This right is crucial in preventing the majority from imposing its  
18 views on groups that prefer to express other, perhaps unpopular, ideas.

1 Thus, the protection of the right to expressive association is  
2 especially important in preserving political and cultural diversity and  
3 in shielding dissident expression from suppression by the majority.

4 Government actions that may unconstitutionally burden this freedom  
5 may take many forms, one of which is discrimination against private  
6 entities by government through the use of public policies designed to  
7 force such entities to accept memberships or associations they do not  
8 desire or, in the alternative, forfeit opportunities for obtaining  
9 various government benefits generally available to the public at large.  
10 Forcing private entities to accept certain memberships or associations  
11 in order to enjoy public benefits shared by others unduly impairs and  
12 impermissibly burdens the ability of such entities to express the  
13 views, and only those views, they intend to express. Thus, the freedom  
14 of association plainly presupposes a freedom not to associate.

15 The legislature finds, therefore, that private entities have a  
16 constitutionally protected right to establish their own particular  
17 values, standards, or criteria for determining membership or  
18 association and that government shall not discriminate against private  
19 entities as a result of policies such entities may adopt or pursue that  
20 qualify membership in or association with the entity based on the  
21 sexual preference or orientation of any person.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.60 RCW  
23 to read as follows:

24 The state of Washington, and its political subdivisions, including  
25 counties, cities, towns, school districts, and institutions of higher  
26 education, and any agency or officer thereof, shall not enact or  
27 enforce any policy that discriminates, directly or indirectly, against  
28 any private entity in contracting with public entities, receiving  
29 public funds, obtaining access to public facilities, participating in  
30 public programs, or receiving any other public benefit, privilege,  
31 advantage, opportunity, or entitlement based, in whole or in part, on  
32 any policy, purpose, or practice of the entity to exclude, limit, or  
33 qualify membership in or association with the entity because of the  
34 sexual preference or orientation of any person.

35 NEW SECTION. **Sec. 4.** The provisions of this act are to be

1 liberally construed to effectuate the policies and purposes of this  
2 act. In the event of conflict between this act and any other provision  
3 of state law, the provisions of this act shall govern.

4 NEW SECTION. **Sec. 5.** If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
9 preservation of the public peace, health, morals, or safety, or support  
10 of the state government and its existing public institutions, and takes  
11 effect immediately.

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