

(O-89-188)

ORDINANCE NUMBER O- 17271 (NEW SERIES)

ADOPTED ON MAR 20 1989

AN EMERGENCY ORDINANCE AMENDING ORDINANCE NO. O-17031 ADOPTED FEBRUARY 22, 1988 BY AMENDING SAN DIEGO MUNICIPAL CODE SECTIONS 52.9508, 52.9509, 52.9510, 52.9511, 52.9512 RELATING TO AIDS DISCRIMINATION.

WHEREAS, Ordinance No. 0-17031 adding Division 95 to Chapter V of the San Diego Municipal Code, known as AIDS ANTI-DISCRIMINATION ORDINANCE, was adopted on February 22, 1988, and

WHEREAS, the word "chapter" as it appears in certain sections should read "division", and

WHEREAS, this amendment constitutes an emergency necessary to protect the public safety and welfare, in that the effect of the erroneous use of the word "chapter" decriminalizes the entire Chapter V of the San Diego Municipal Code.

NOW, THEREFORE, BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter V, Article 2, Division 95, of the San Diego Municipal Code be and the same is hereby amended by amending sections 52.9508, 52.9509, 52.9510, 52.9511, 52.9512 to read as follows:

**SEC. 52.9508 ADVERTISING**

It shall be unlawful to make, print, publish, advertise or disseminate in any way

or cause to be made, printed, published, advertised or disseminated in any way, any notice, statement, sign, advertisement, application or contract which indicates an intent to engage in any practice made unlawful by this division.

**SEC. 52.9509 EXCEPTIONS**

(a) Nothing in this division shall be construed to prohibit any act specifically authorized by the laws of the United States, the State of California or the City of San Diego or any act required by the County Department of Health Services to protect the public health.

(b) Nothing in this division shall prohibit any act which is necessary to protect the health or safety of the general public. If a party to any action brought under this division asserts that an otherwise discriminatory practice is justified as necessary to protect the health or safety of the general public, that party shall have the burden of proving:

(1) That the discrimination is in fact a necessary result of a necessary course of conduct pursued to protect the health or safety of the general public; and

(2) That there exists no less discriminatory means of satisfying the necessary protection of the health or safety of the general public.

**SEC. 52.9510 LIABILITY AND DAMAGES**

Any person who violates any of the provisions of this division or who aids in the violation of any provisions of this division is liable for each and every such offense for damages up to a maximum of three (3) times the amount of actual damages, for punitive damages as may be determined by a jury or a court sitting without a jury and for costs, including reasonable attorney's fees, as may be determined by the court.

**SEC. 52.9511 ENFORCEMENT**

(a) Any aggrieved person may enforce the provisions of this division by means of a civil action.

(b) Any person who commits or proposes to commit, an act in violation of this division may be enjoined therefrom by a court of competent jurisdiction.

(c) An action for injunction under subdivision (b) may be brought by any aggrieved person or by any person or entity which will fairly and adequately represent the

interests of the protected individual or class.

(d) Nothing in this division shall preclude any aggrieved person from seeking any other remedy provided by law.

(e) An action arising under this division shall not be rendered moot because of the death or physical or mental incapacity of the person who was the subject of the claimed discrimination.

(f) Notwithstanding any provision of law, no criminal penalties shall attach for any violation of the provisions of this division.

**SEC. 52.9512 SEVERABILITY**

If any part or provision of this division or the application thereof to any person or circumstance is held invalid, the remainder of the division including the application of such part or provision to other persons or circumstances, shall not be effected thereby and shall continue in full force and effect. To this end, provisions of this division are severable.

Corrected  
03/21/89

Section 2. This ordinance shall be deemed to be an emergency and shall take effect and be in force immediately upon its adoption pursuant to Charter sections 16 and 17.

APPROVED: John W. Witt, City Attorney

By Mary Kay Jackson  
Mary Kay Jackson  
Deputy City Attorney

MKJ:jrl  
03/16/89  
Or.Dept:Atty  
o-89-188

Form=o.none

#1406

MAR 20 1989

Passed and adopted by the Council of The City of San Diego on.....  
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.  
By *Charles G. Abdelnour*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on  
**MAR 20 1989**, said ordinance being of the kind and character  
authorized for passage on its introduction by Section 16 of the Charter.

~~I FURTHER CERTIFY that the final reading of said ordinance was in full.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not  
less than a majority of the members elected to the Council, and that there was available for the consideration  
of each member of the Council and the public prior to the day of its passage a written or printed copy of said  
ordinance.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.  
By *Charles G. Abdelnour*, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

*O-17271*

Ordinance Number ..... Adopted **MAR 20 1989**



CERTIFICATE OF PUBLICATION

OFFICE OF THE CITY CLERK  
12TH FLOOR  
CITY ADMINISTRATION BLDG.  
SAN DIEGO, CA 92101

RECEIVED  
CITY CLERK'S OFFICE  
89 APR 11 PM 1:29  
SAN DIEGO, CALIF.

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING ORDINANCE NO. 0-17031 ADOPTED  
FEBRUARY 22, 1988 BY AMENDING SAN DIEGO MUNICIPAL CODE  
SECTIONS 52.9508, 52.9509, 52.9510, 52.9511, 52.9512  
RELATING TO AIDS DISCRIMINATION.

THOMAS D. KELLEHER

I, \_\_\_\_\_, am a citizen  
of the United States and a resident of the County aforesaid; I am over the  
age of eighteen years, and not a party to or interested in the above- entitled  
matter. I am the principal clerk of the San Diego Daily Transcript, a  
newspaper of general circulation, printed and published daily, except  
Saturdays and Sundays, in the City of San Diego, County of San Diego, and  
which newspaper has been adjudged a newspaper of general circulation by  
the Superior Court of the County of San Diego, State of California, under  
the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER 0-17271 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was  
published in said newspaper on the following date(s), to wit:

APRIL 3

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 3 day of APRIL, 1989.

(Signature)

2 1/2" x 2 x 28.33 = \$55.62

**ORDINANCE NUMBER 0-17271 (NEW SERIES)**  
AN ORDINANCE AMENDING ORDINANCE NO. 0-17031  
ADOPTED FEBRUARY 22, 1988 BY AMENDING SAN DIEGO  
MUNICIPAL CODE SECTIONS 52.9508, 52.9509, 52.9510,  
52.9511, 52.9512 RELATING TO AIDS DISCRIMINATION.  
This ordinance amends the San Diego Municipal Code by amend-  
ing sections 52.9508, 52.9509, relating to AIDS discrimination. This  
ordinance was originally adopted to prohibit discrimination against  
persons with AIDS, ARC or ARS in the areas of housing, employment,  
business establishments, testing and City facilities and services and  
provides for civil penalties for violations. This amendment corrects  
the erroneous original language so that provisions of the ordinance  
apply only to the division instead of the entire Chapter V of the Mu-  
nicipal Code.  
A complete copy of the Ordinance is available for inspection in the  
Office of the City Clerk of the City of San Diego, 2nd Floor, City Ad-  
ministration Building, 202 C Street, San Diego, CA 92101.  
Introduced, reading dispensed with and adopted by the City  
Council of The City of San Diego on MARCH 20, 1989  
AUTHENTICATED BY: MAUREEN O'CONNOR  
Mayor of The City of San Diego, California  
CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California  
By MAYDELL L. PONTECORVO Deputy  
Pub. April 3  
136831