



# National Coalition For Men (NCFM)

Since 1977

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March 18, 2011

Mr. Frank Yohannan, President & CEO  
Ms. Jeannie Pruitt-Retamoso, Festival Director  
([jeannie@seaotterclasic.com](mailto:jeannie@seaotterclasic.com))  
Sea Otter Classic, Inc.  
215 West Franklin Street, Suite 214  
Monterey, CA 93940

Re: Sea Otter Classic and California's Civil Rights Laws

Dear Mr. Yohannan and Ms. Pruitt-Retamoso:

I am the president of The National Coalition For Men ("NCFM"). NCFM is a nonprofit educational organization that raises awareness about how sex discrimination adversely affects men and boys. It is the oldest and largest men's rights organization in the United States, with members throughout every state and in several countries. You can learn more about NCFM by visiting our website at [www.ncfm.org](http://www.ncfm.org).

I am writing because of the subject "Ladies Day" promotion being hosted by Sea Otter Classic on April 17, 2011, which, your website brazenly touts as follows:

Ladies Day, Sunday, April 17

Women play an increasingly prominent role in racing, and there is much more to address about females and cycling! From the toughest mountain bikers to cycle chic fashionistas, from tiny tots on trikes to long-touring elders of the cycling tribe, females add a special dimension to the world of cycling. And Sea Otter will address and celebrate the unique desires, requirements, and contributions of female cyclists.

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Tasmania  
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Wisconsin  
Wayne Sikes  
Washington D.C.

What's up? Special activities for women and girls only, including a recreational/demo ride, panel discussion, clinics, and an opportunity to chill with other women over wine and chocolate. But the activities are not just geared to adult women; Little Bellas will be present, and these youngest cyclists can be counted on to demonstrate the sheer joy of being on a bicycle.

What else? Whether you're a Monterey County visitor or a local resident, if you're a female, Sea Otter is rolling out a special red carpet for you on April 17. Sunday means a free Festival Pass for all women and girls, providing them entry to the Sea Otter Expo and other Festival areas at no charge.

I am puzzled and disappointed you would sponsor a sex-based promotion such as a Ladies Day that excludes males solely because of their sex, just as any women's equal rights organization, the general public, or any equal rights organization would be appalled if Sea Otter Classic sponsored a "Men's Day," "Caucasians' Day," or "Heterosexuals' Day" promotion that excluded certain groups solely based on a personal characteristic protected by California's Unruh Civil Rights Act and/or Gender Tax Repeal Act of 1995. Not only are men and boys excluded from the "Special activities for women and girls only, including a recreational/demo ride, panel discussions, clinics, and opportunity to chill with other [people] over wine and cheese," but men and boys are also denied the free Festival Pass you are providing only to females, which entitles females to free admission to the Expo and other Festival areas.

I cannot imagine any California business hosting a "Men's Day," trumpeting the following:

### Men's Day, Sunday, April 17

Men play an increasingly prominent role in racing, and there is much more to address about males and cycling! From the toughest mountain bikers to cycle chic fashionistas, from tiny tots on trikes to long-touring elders of the cycling tribe, males add a special dimension to the world of cycling. And Sea Otter will address and celebrate the unique desires, requirements, and contributions of male cyclists.

What's up? Special activities for men and boys only, including a recreational/demo ride, panel discussion, clinics, and an opportunity to chill with other men over wine and chocolate. But the activities are not just geared to adult men; Little Beaus will be present, and these youngest cyclists can be counted on to demonstrate the sheer joy of being on a bicycle.

What else? Whether you're a Monterey County visitor or a local resident, if you're a male, Sea Otter is rolling out a special red carpet for you on April 17. Sunday means a free Festival Pass for all men and boys, providing them entry to the Sea Otter Expo and other Festival areas at no charge.

Yet Sea Otter Classic is proud to advertise and to host a females-only Ladies Day.

Sex-based promotions such as Ladies' Day, Ladies' Night, or Men's Day promotions violate many California anti-discrimination laws, including Civil Code sections 51 (codification of the Unruh Civil Rights Act), 51.5, and 51.6 (codification of the Gender Tax Repeal Act of 1995). Civil Code section 52 provides the remedies for violations of Civil Code sections 51, 51.5, and 51.6, in pertinent part as follows:

Whoever denies, aids or incites a denial, or makes any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than four thousand dollars (\$4,000), and any attorneys' fees that may be determined by the court in addition thereto....

The California Supreme Court, in two unanimous opinions, ruled Ladies' Day and Ladies' Night promotions violate California law. *Angelucci v. Century Supper Club, LP* (2007) 41 Cal.4<sup>th</sup> 160 (men do not have to assert their right to equal treatment at a Ladies' Night to have standing for an Unruh Act or Gender Tax Repeal Act claim); *Koire v. Metro Car Wash* (1985) 40 Cal.3d 24 (Ladies' Day and Ladies' Night promotions violate the Unruh Act). In March of 2008, the California Attorney General issued the attached Gambling Establishment Advisory to California card rooms in response to the proliferation of ladies-only poker tournaments across the state. This advisory can also be found at <http://ag.ca.gov/gambling/pdfs/NUM8LOT.pdf>. Note that then-Attorney General/now-Governor Jerry Brown opined that merely advertising a ladies-only poker tournament, even if men were allowed to play, violated the Unruh Act.

Furthermore, in February, the California Department of Fair Employment & Housing, charged with stopping discrimination in places of public accommodation, published the attached Unruh Act brochure specifically targeting Ladies' Day and Ladies' Night promotions. This brochure can also be found at <http://www.dfeh.ca.gov/dfeh/publications/PublicationDocs/UnruhActBrochure.pdf>.

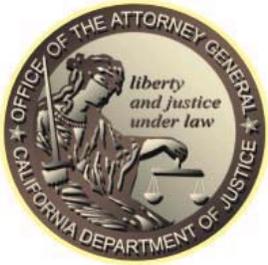
Accordingly, NCFM asks that the Sea Otter Classic be modified to ensure compliance with California's anti-discrimination laws. That is, please ensure that men and boys and women and girls are all treated equally.

I look forward to your earliest response regarding the Ladies' Day you have planned for the Sea Otter Classic, an event that prohibits men and boys from enjoying equal advantages, facilities, privileges, or services. I hope you find this information both informative and useful.

Respectfully,

A handwritten signature in black ink, reading "Harry A. Crouch". The signature is written in a cursive style with a long horizontal flourish at the end.

Harry A. Crouch  
President, NCFM



# BUREAU OF GAMBLING CONTROL

EDMUND G. BROWN JR.  
Attorney General

Mathew J. Campoy  
Acting Bureau Chief

NUMBER 8

GAMBLING ESTABLISHMENT ADVISORY

January 18, 2008

## “LADIES ONLY TOURNAMENTS”

It has come to the attention of the Bureau of Gambling Control that some gambling establishments conduct “ladies only” poker tournaments that exclude men from participating, or admit them on different terms from those accorded to women. It is the Bureau’s view that such tournaments may violate California’s anti-discrimination laws.

Under the Unruh Civil Rights Act (Civil Code sections 51 and 51.5), businesses may not discriminate in admittance, prices, or services offered to customers based on the customers’ sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. “Ladies only” tournaments or any other promotional events that fail to admit men and women to advertised activities on an equal basis regardless of sex are unlawful. It may also be unlawful under the Unruh Act to advertise tournaments as “ladies only” even if men are in fact admitted.

The Bureau will approve only those events that include the following features: the event will be open to all customers, the promotional gifts will be given equally to all event participants, the fees and prices will be the same for all event participants, any discounts will not be based on gender or another personal characteristic protected by the Unruh Act, and the event’s promotional materials do not advertise gender-based discounts or imply a gender-based entrance policy or any other unlawful discriminatory practice.

Gambling establishments should take notice that pursuant to Business and Professions Code section 125.6, violations of the Unruh Act are cause for discipline under the Gambling Control Act.

*For more information regarding this advisory, contact the California Department of Justice, Bureau of Gambling Control at (916) 263-3408.*

Complaints must be filed within one year from the last act of discrimination. The DFEH will conduct an impartial investigation.

The Department is not an advocate for either the person complaining or the person complained against. The Department represents the state. The DFEH will, if possible, try to assist both parties to resolve the complaint. If a voluntary settlement cannot be reached, and there is sufficient evidence to establish a violation of the law, the Department may issue an accusation and litigate the case before the Fair Employment and Housing Commission or in civil court. This law provides for a variety of remedies that may include the following:

- Out-of-pocket expenses.
- Cease and desist orders.
- Damages for emotional distress.
- Statutory damages of three times the amount of actual damages, or a minimum of \$4,000 for each offense.

For more information, contact the DFEH  
Toll Free (800) 884-1684  
Sacramento area and out-of-state (916) 227-0551  
Videophone for the Deaf (916) 226-5285  
E-mail [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)  
Web site [www.dfeh.ca.gov](http://www.dfeh.ca.gov)

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<http://www.facebook.com/#!/pages/Department-of-Fair-Employment-and-Housing/183801915445>  
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Twitter <http://twitter.com/DFEH>

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State of California  
**DEPARTMENT OF  
FAIR EMPLOYMENT & HOUSING**



## References

1. California Civil Code section 51.
2. *Rotary Club of Duarte v. Board of Directors* (1987) 178 Cal.App.3d 1035. A non-profit club was a business establishment under the Unruh Act because it offered its members substantial "commercial advantages and business benefits." Membership in these kinds of organizations is a privilege or advantage under the Unruh Act. Thus, termination of membership based on sex is prohibited.
3. *Warfield v. Peninsula Golf & Country Club* (1995) 10 Cal.4th 594. By offering the public access to its facilities, the County Club became a business establishment under the Unruh Act and could not exclude women.

4. *Ibister v. Boys' Club of Santa Cruz* (1985) 40 Cal.3d 72. A non-profit activities center for boys was a place of public accommodation, and excluding an entire class of patrons, such as women, was illegal.
5. *Angelucci v. Century Supper Club* (2007) 41 Cal.4th 160. It was a violation of the Unruh Act for a night club to charge its male patrons a higher price for admission. The patrons need not affirmatively request nondiscriminatory treatment, but rather, are entitled to it. The Unruh Act imposes a compulsory duty upon business establishments to serve all persons without arbitrary discrimination.
6. *Koire v. Metro Car Wash* (1985) 40 Cal.3d 24. The Unruh Act broadly condemns any business establishment's policy of gender-based price discounts.

## Unruh Civil Rights Act

All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

## Protections Under the Law Against Sex Discrimination

The Unruh Civil Rights Act (Civ. Code, § 51), originally enacted in 1959, was designed to protect the rights of Californians from arbitrary discrimination and to guarantee their rights to full and equal access to all public accommodations regardless of sex.

Discrimination by business establishments on the basis of sex is against the law. It is unlawful for any business that is open to the general public to discriminate against a patron based on any of the following classifications: sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. The Unruh Act protection is not limited to these classifications. It is an Unruh Act violation for a business to offer special treatment, whether preferential or detrimental, to one class of patrons regardless of the business' motives for doing so.

## Businesses that are Governed by the Unruh Civil Rights Act

The list below includes examples of businesses that are covered by the Unruh Act. This list is non-exhaustive, and may include any place of public accommodation regardless of whether the entity is a traditional business or non-profit entity.

- **Bars and Nightclubs.**
- **Restaurants.**
- **Hotels and Motels.**
- **Retail Shops.**
- **Golf Courses.**
- **Fitness Clubs or Gyms.**
- **Theaters.**
- **Hospitals.**
- **Barber Shops and Beauty Salons.**
- **Non-Profit Organizations (open to the public).**
- **Public Agencies.**
- **Housing Accommodations.**

## Filing a Complaint

The Department of Fair Employment and Housing (DFEH or Department) is charged with the task of upholding the Unruh Act, and ensuring that its laws and principles are not violated. If you believe you are a victim of unlawful discrimination, do not hesitate to call the DFEH and file a complaint following these steps:

- Contact the DFEH by calling the toll free number at (800) 884-1684 to schedule an appointment.
- "Be prepared to present specific facts about the alleged harassment of discrimination.
- "Provide any copies you may have of documents that support the charges in the complaint.
- Keep records and documents about the complaint, such as receipts, stubs, bills, applications, flyers, witness contact information, and other materials.

## Examples of Sex-Based Discrimination Under the Unruh Violations

The following are examples of potential violations of the Unruh Act. The list is not meant to be exhaustive, and there is other conduct that may violate the Act.

- Providing free admission, discounts, or promotional gifts to only one sex.
- Charging men and women different prices for comparable services, such as clothing alterations, haircuts, dry cleaning, or drinks at a restaurant or bar.

- Maintaining "women only" or "men only" exercise areas of a fitness club or gym and excluding or deterring the opposite sex from those areas.
- Establishing a "women only" or "men only" business establishment which would otherwise be completely open to the public.
- Excluding one sex from a business premises during certain times.
- Posting signs or adopting policies for "women recommended" or "men preferred."
- Requiring members of one sex to submit to searches to gain admittance to a business.

establishment while providing admittance to members of the other sex without the same level or degree of search.

- Promoting a business with "ladies night" discounts on admission and services.
- Denying access to a business, such as a nightclub to a particular sex, or giving preference to one sex over the other.

