

2 **SB 5474 - H AMD 409 WITHDRAWN 4-17-93**

3 By Representative Appelwick and Others

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 49.60.010 and 1985 c 185 s 1 are each amended to read
8 as follows:

9 This chapter shall be known as the "law against discrimination".
10 It is an exercise of the police power of the state for the protection
11 of the public welfare, health, and peace of the people of this state,
12 and in fulfillment of the provisions of the Constitution of this state
13 concerning civil rights. The legislature hereby finds and declares
14 that practices of discrimination against any of its inhabitants because
15 of race, creed, color, national origin, sex, marital status, sexual
16 orientation, age, or the presence of any sensory, mental, or physical
17 (~~handicap~~) disability or the use of a trained guide dog or service
18 dog by a blind, deaf, or physically disabled person are a matter of
19 state concern, that such discrimination threatens not only the rights
20 and proper privileges of its inhabitants but menaces the institutions
21 and foundation of a free democratic state. A state agency is herein
22 created with powers with respect to elimination and prevention of
23 discrimination in employment, in credit and insurance transactions, in
24 places of public resort, accommodation, or amusement, and in real
25 property transactions because of race, creed, color, national origin,
26 sex, marital status, sexual orientation, age, or the presence of any
27 sensory, mental, or physical (~~handicap~~) disability or the use of a
28 trained guide dog or service dog by a blind, deaf, or physically
29 disabled person; and the commission established hereunder is hereby
30 given general jurisdiction and power for such purposes.

31 **Sec. 2.** RCW 49.60.020 and 1973 1st ex.s. c 214 s 2 are each
32 amended to read as follows:

33 The provisions of this chapter shall be construed liberally for the
34 accomplishment of the purposes thereof. Nothing contained in this
35 chapter shall be deemed to repeal any of the provisions of any other

1 law of this state relating to discrimination because of race, color,
2 creed, national origin, sex, marital status, sexual orientation, age,
3 or the presence of any sensory, mental, or physical ((handicap))
4 disability, other than a law which purports to require or permit doing
5 any act which is an unfair practice under this chapter. Nor shall
6 anything herein contained be construed to deny the right to any person
7 to institute any action or pursue any civil or criminal remedy based
8 upon an alleged violation of his or her civil rights.

9 **Sec. 3.** RCW 49.60.030 and 1984 c 32 s 2 are each amended to read
10 as follows:

11 (1) The right to be free from discrimination because of race,
12 creed, color, national origin, sex, sexual orientation, or the presence
13 of any sensory, mental, or physical ((handicap)) disability or the use
14 of a trained guide dog or service dog by a blind, deaf, or physically
15 disabled person is recognized as and declared to be a civil right.
16 This right shall include, but not be limited to:

17 (a) The right to obtain and hold employment without discrimination;

18 (b) The right to the full enjoyment of any of the accommodations,
19 advantages, facilities, or privileges of any place of public resort,
20 accommodation, assemblage, or amusement;

21 (c) The right to engage in real estate transactions without
22 discrimination;

23 (d) The right to engage in credit transactions without
24 discrimination;

25 (e) The right to engage in insurance transactions or transactions
26 with health maintenance organizations without discrimination:
27 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
28 48.44.220, or 48.46.370 does not constitute an unfair practice for the
29 purposes of this subparagraph; and

30 (f) The right to engage in commerce free from any discriminatory
31 boycotts or blacklists. Discriminatory boycotts or blacklists for
32 purposes of this section shall be defined as the formation or execution
33 of any express or implied agreement, understanding, policy or
34 contractual arrangement for economic benefit between any persons which
35 is not specifically authorized by the laws of the United States and
36 which is required or imposed, either directly or indirectly, overtly or
37 covertly, by a foreign government or foreign person in order to
38 restrict, condition, prohibit, or interfere with or in order to exclude

1 any person or persons from any business relationship on the basis of
2 race, color, creed, religion, sex, the presence of any sensory, mental,
3 or physical disability, or the use of a trained guide dog or service
4 dog by a blind, deaf, or physically disabled person, or national
5 origin, sexual orientation, or lawful business relationship: PROVIDED
6 HOWEVER, That nothing herein contained shall prohibit the use of
7 boycotts as authorized by law pertaining to labor disputes and unfair
8 labor practices.

9 (2) Any person deeming himself or herself injured by any act in
10 violation of this chapter shall have a civil action in a court of
11 competent jurisdiction to enjoin further violations, to recover the
12 actual damages sustained (~~((by him))~~), or both, together with the cost of
13 suit including a reasonable attorney's fees or any other remedy
14 authorized by this chapter or the United States Civil Rights Act of
15 1964 as amended; and

16 (3) (~~((Notwithstanding any other provisions of this chapter, any~~
17 ~~act))~~ Except for any unfair practice committed by an employer against
18 an employee or a prospective employee, or any unfair practice in a real
19 estate transaction which is the basis for relief specified in the
20 amendments to RCW 49.60.225 contained in section 9, chapter . . .
21 (House Bill No. 1476), Laws of 1993, any unfair practice prohibited by
22 this chapter ((related to sex discrimination or discriminatory boycotts
23 or blacklists)) which is committed in the course of trade or commerce
24 ((in the state of Washington)) as defined in the Consumer Protection
25 Act, chapter 19.86 RCW, ((shall be deemed an unfair practice within the
26 meaning of RCW 19.86.020 and 19.86.030 and subject to all the
27 provisions of chapter 19.86 RCW as now or hereafter amended)) is, for
28 the purpose of applying chapter 19.86 RCW, a matter affecting the
29 public interest, is not reasonable in relation to the development and
30 preservation of business, and is an unfair or deceptive act in trade or
31 commerce.

32 **Sec. 4.** RCW 49.60.040 and 1985 c 203 s 2 and 1985 c 185 s 2 are
33 each reenacted and amended to read as follows:

34 As used in this chapter:

35 "Person" includes one or more individuals, partnerships,
36 associations, organizations, corporations, cooperatives, legal
37 representatives, trustees and receivers, or any group of persons; it
38 includes any owner, lessee, proprietor, manager, agent, or employee,

1 whether one or more natural persons; and further includes any political
2 or civil subdivisions of the state and any agency or instrumentality of
3 the state or of any political or civil subdivision thereof;

4 "Commission" means the Washington state human rights commission;

5 "Employer" includes any person acting in the interest of an
6 employer, directly or indirectly, who employs eight or more persons,
7 and does not include any religious or sectarian organization not
8 organized for private profit;

9 "Employee" does not include any individual employed by his or her
10 parents, spouse, or child, or in the domestic service of any person;

11 "Labor organization" includes any organization which exists for the
12 purpose, in whole or in part, of dealing with employers concerning
13 grievances or terms or conditions of employment, or for other mutual
14 aid or protection in connection with employment;

15 "Employment agency" includes any person undertaking with or without
16 compensation to recruit, procure, refer, or place employees for an
17 employer;

18 "Marital status" means the legal status of being married, single,
19 separated, divorced, or widowed;

20 "National origin" includes "ancestry";

21 "Full enjoyment of" includes the right to purchase any service,
22 commodity, or article of personal property offered or sold on, or by,
23 any establishment to the public, and the admission of any person to
24 accommodations, advantages, facilities, or privileges of any place of
25 public resort, accommodation, assemblage, or amusement, without acts
26 directly or indirectly causing persons of any particular race, creed,
27 color, sex, national origin, sexual orientation, or with any sensory,
28 mental, or physical (~~handicap~~) disability, or the use of a trained
29 guide dog or service dog by a blind ((or)), deaf, or physically
30 disabled person ((using a trained dog guide)), to be treated as not
31 welcome, accepted, desired, or solicited;

32 "Any place of public resort, accommodation, assemblage, or
33 amusement" includes, but is not limited to, any place, licensed or
34 unlicensed, kept for gain, hire, or reward, or where charges are made
35 for admission, service, occupancy, or use of any property or
36 facilities, whether conducted for the entertainment, housing, or
37 lodging of transient guests, or for the benefit, use, or accommodation
38 of those seeking health, recreation, or rest, or for the burial or
39 other disposition of human remains, or for the sale of goods,

1 merchandise, services, or personal property, or for the rendering of
2 personal services, or for public conveyance or transportation on land,
3 water, or in the air, including the stations and terminals thereof and
4 the garaging of vehicles, or where food or beverages of any kind are
5 sold for consumption on the premises, or where public amusement,
6 entertainment, sports, or recreation of any kind is offered with or
7 without charge, or where medical service or care is made available, or
8 where the public gathers, congregates, or assembles for amusement,
9 recreation, or public purposes, or public halls, public elevators, and
10 public washrooms of buildings and structures occupied by two or more
11 tenants, or by the owner and one or more tenants, or any public library
12 or educational institution, or schools of special instruction, or
13 nursery schools, or day care centers or children's camps: PROVIDED,
14 That nothing contained in this definition shall be construed to include
15 or apply to any institute, bona fide club, or place of accommodation,
16 which is by its nature distinctly private, including fraternal
17 organizations, though where public use is permitted that use shall be
18 covered by this chapter; nor shall anything contained in this
19 definition apply to any educational facility, columbarium, crematory,
20 mausoleum, or cemetery operated or maintained by a bona fide religious
21 or sectarian institution; nor shall anything contained in this
22 definition apply to any newspaper or other advertising media when
23 selling or publishing advertisements;

24 "Real property" includes buildings, structures, real estate, lands,
25 tenements, leaseholds, interests in real estate cooperatives,
26 condominiums, and hereditaments, corporeal and incorporeal, or any
27 interest therein;

28 "Real estate transaction" includes the sale, exchange, purchase,
29 rental, or lease of real property;

30 "Sex" means gender((-));

31 "Sexual orientation" includes heterosexuality, homosexuality, and
32 bisexuality;

33 "Credit transaction" includes any open or closed end credit
34 transaction, whether in the nature of a loan, retail installment
35 transaction, credit card issue or charge, or otherwise, and whether for
36 personal or for business purposes, in which a service, finance, or
37 interest charge is imposed, or which provides for repayment in
38 scheduled payments, when such credit is extended in the regular course
39 of any trade or commerce, including but not limited to transactions by

1 banks, savings and loan associations or other financial lending
2 institutions of whatever nature, stock brokers, or by a merchant or
3 mercantile establishment which as part of its ordinary business permits
4 or provides that payment for purchases of property or service therefrom
5 may be deferred.

6 **Sec. 5.** RCW 49.60.120 and 1985 c 185 s 10 are each amended to read
7 as follows:

8 The commission shall have the functions, powers and duties:

9 (1) To appoint an executive (~~secretary~~) director and chief
10 examiner, and such investigators, examiners, clerks, and other
11 employees and agents as it may deem necessary, fix their compensation
12 within the limitations provided by law, and prescribe their duties.

13 (2) To obtain upon request and utilize the services of all
14 governmental departments and agencies.

15 (3) To adopt, promulgate, amend, and rescind suitable rules and
16 regulations to carry out the provisions of this chapter, and the
17 policies and practices of the commission in connection therewith.

18 (4) To receive, investigate, and pass upon complaints alleging
19 unfair practices as defined in this chapter.

20 (5) To issue such publications and such results of investigations
21 and research as in its judgment will tend to promote good will and
22 minimize or eliminate discrimination because of sex, race, creed,
23 color, national origin, marital status, sexual orientation, age, or the
24 presence of any sensory, mental, or physical (~~handicap~~) disability,
25 or the use of a trained guide dog or service dog by a blind, deaf, or
26 physically disabled person.

27 (6) To make such technical studies as are appropriate to effectuate
28 the purposes and policies of this chapter and to publish and distribute
29 the reports of such studies.

30 (7) To cooperate and act jointly or by division of labor with the
31 United States or other states, with other Washington state agencies,
32 commissions, and other government entities, and with political
33 subdivisions of the state of Washington and their respective human
34 rights agencies to carry out the purposes of this chapter. However,
35 the powers which may be exercised by the commission under this
36 subsection permit investigations and complaint dispositions only if the
37 investigations are designed to reveal, or the complaint deals only
38 with, allegations which, if proven, would constitute unfair practices

1 under this chapter. The commission may perform such services for these
2 agencies and be reimbursed therefor.

3 (8) To foster good relations between minority and majority
4 population groups of the state through seminars, conferences,
5 educational programs, and other intergroup relations activities.

6 **Sec. 6.** RCW 49.60.130 and 1985 c 185 s 11 are each amended to read
7 as follows:

8 The commission has power to create such advisory agencies and
9 conciliation councils, local, regional, or state-wide, as in its
10 judgment will aid in effectuating the purposes of this chapter. The
11 commission may empower them to study the problems of discrimination in
12 all or specific fields of human relationships or in specific instances
13 of discrimination because of sex, race, creed, color, national origin,
14 marital status, sexual orientation, age, or the presence of any
15 sensory, mental, or physical (~~handicap~~) disability or the use of a
16 trained guide dog or service dog by a blind, deaf, or physically
17 disabled person; to foster through community effort or otherwise good
18 will, cooperation, and conciliation among the groups and elements of
19 the population of the state, and to make recommendations to the
20 commission for the development of policies and procedures in general
21 and in specific instances, and for programs of formal and informal
22 education which the commission may recommend to the appropriate state
23 agency.

24 Such advisory agencies and conciliation councils shall be composed
25 of representative citizens, serving without pay, but with reimbursement
26 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as
27 now existing or hereafter amended, and the commission may make
28 provision for technical and clerical assistance to such agencies and
29 councils and for the expenses of such assistance. The commission may
30 use organizations specifically experienced in dealing with questions of
31 discrimination.

32 **Sec. 7.** RCW 49.60.174 and 1988 c 206 s 902 are each amended to
33 read as follows:

34 (1) For the purposes of determining whether an unfair practice
35 under this chapter has occurred, claims of discrimination based on
36 actual or perceived HIV infection shall be evaluated in the same manner
37 as other claims of discrimination based on sensory, mental, or physical

1 (~~handicap~~) disability; or the use of a trained guide dog or service
2 dog by a blind, deaf, or physically disabled person.

3 (2) Subsection (1) of this section shall not apply to transactions
4 with insurance entities, health service contractors, or health
5 maintenance organizations subject to RCW 49.60.030(1)(e) or 49.60.178
6 to prohibit fair discrimination on the basis of actual HIV infection
7 status when bona fide statistical differences in risk or exposure have
8 been substantiated.

9 (3) For the purposes of this chapter, "HIV" means the human
10 immunodeficiency virus, and includes all HIV and HIV-related viruses
11 which damage the cellular branch of the human immune system and leave
12 the infected person immunodeficient.

13 **Sec. 8.** RCW 49.60.175 and 1979 c 127 s 4 are each amended to read
14 as follows:

15 It shall be an unfair practice to use the sex, race, creed, color,
16 national origin, marital status, sexual orientation, or the presence of
17 any sensory, mental, or physical (~~handicap~~) disability of any person,
18 or the use of a trained guide dog or service dog by a blind, deaf, or
19 physically disabled person, concerning an application for credit in any
20 credit transaction to determine the credit worthiness of an applicant.

21 **Sec. 9.** RCW 49.60.176 and 1979 c 127 s 5 are each amended to read
22 as follows:

23 (1) It is an unfair practice for any person whether acting for
24 himself, herself, or another in connection with any credit transaction
25 because of race, creed, color, national origin, sex, marital status,
26 sexual orientation, or the presence of any sensory, mental, or physical
27 (~~handicap~~) disability or the use of a trained guide dog or service
28 dog by a blind, deaf, or physically disabled person:

29 (a) To deny credit to any person;

30 (b) To increase the charges or fees for or collateral required to
31 secure any credit extended to any person;

32 (c) To restrict the amount or use of credit extended or to impose
33 different terms or conditions with respect to the credit extended to
34 any person or any item or service related thereto;

35 (d) To attempt to do any of the unfair practices defined in this
36 section.

1 (2) Nothing in this section shall prohibit any party to a credit
2 transaction from considering the credit history of any individual
3 applicant.

4 (3) Further, nothing in this section shall prohibit any party to a
5 credit transaction from considering the application of the community
6 property law to the individual case or from taking reasonable action
7 thereon.

8 **Sec. 10.** RCW 49.60.178 and 1984 c 32 s 1 are each amended to read
9 as follows:

10 It is an unfair practice for any person whether acting for himself,
11 herself, or another in connection with an insurance transaction or
12 transaction with a health maintenance organization to cancel or fail or
13 refuse to issue or renew insurance or a health maintenance agreement to
14 any person because of sex, marital status, sexual orientation, race,
15 creed, color, national origin, or the presence of any sensory, mental,
16 or physical (~~handicap~~) disability or the use of a trained guide dog
17 or service dog by a blind, deaf, or physically disabled person:
18 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
19 48.44.220, or 48.46.370 does not constitute an unfair practice for the
20 purposes of this section. For the purposes of this section, "insurance
21 transaction" is defined in RCW 48.01.060, health maintenance agreement
22 is defined in RCW 48.46.020, and "health maintenance organization" is
23 defined in RCW 48.46.020.

24 The fact that such unfair practice may also be a violation of
25 chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an
26 action brought under this section.

27 The insurance commissioner, under RCW 48.30.300, and the human
28 rights commission, under chapter 49.60 RCW, shall have concurrent
29 jurisdiction under this section and shall enter into a working
30 agreement as to procedure to be followed in complaints under this
31 section.

32 **Sec. 11.** RCW 49.60.180 and 1985 c 185 s 16 are each amended to
33 read as follows:

34 It is an unfair practice for any employer:

35 (1) To refuse to hire any person because of age, sex, marital
36 status, sexual orientation, race, creed, color, national origin, or the
37 presence of any sensory, mental, or physical (~~handicap~~) disability or

1 the use of a trained guide dog or service dog by a blind, deaf, or
2 physically disabled person, unless based upon a bona fide occupational
3 qualification: PROVIDED, That the prohibition against discrimination
4 because of such (~~handicap~~) disability shall not apply if the
5 particular disability prevents the proper performance of the particular
6 worker involved: AND PROVIDED FURTHER, That this section shall not be
7 construed to require an employer to establish employment goals or
8 quotas based on sexual orientation or on any other basis.

9 (2) To discharge or bar any person from employment because of age,
10 sex, marital status, sexual orientation, race, creed, color, national
11 origin, or the presence of any sensory, mental, or physical
12 (~~handicap~~) disability or the use of a trained guide dog or service
13 dog by a blind, deaf, or physically disabled person.

14 (3) To discriminate against any person in compensation or in other
15 terms or conditions of employment because of age, sex, marital status,
16 sexual orientation, race, creed, color, national origin, or the
17 presence of any sensory, mental, or physical (~~handicap~~) disability or
18 the use of a trained guide dog or service dog by a blind, deaf, or
19 physically disabled person: PROVIDED, That it shall not be an unfair
20 practice for an employer to segregate washrooms or locker facilities on
21 the basis of sex, or to base other terms and conditions of employment
22 on the sex of employees where the commission by regulation or ruling in
23 a particular instance has found the employment practice to be
24 appropriate for the practical realization of equality of opportunity
25 between the sexes.

26 (4) To print, or circulate, or cause to be printed or circulated
27 any statement, advertisement, or publication, or to use any form of
28 application for employment, or to make any inquiry in connection with
29 prospective employment, which expresses any limitation, specification,
30 or discrimination as to age, sex, marital status, sexual orientation,
31 race, creed, color, national origin, or the presence of any sensory,
32 mental, or physical (~~handicap~~) disability or the use of a trained
33 guide dog or service dog by a blind, deaf, or physically disabled
34 person, or any intent to make any such limitation, specification, or
35 discrimination, unless based upon a bona fide occupational
36 qualification: PROVIDED, Nothing contained herein shall prohibit
37 advertising in a foreign language.

1 **Sec. 12.** RCW 49.60.190 and 1985 c 185 s 17 are each amended to
2 read as follows:

3 It is an unfair practice for any labor union or labor organization:

4 (1) To deny membership and full membership rights and privileges to
5 any person because of age, sex, marital status, sexual orientation,
6 race, creed, color, national origin, or the presence of any sensory,
7 mental, or physical (~~handicap~~) disability or the use of a trained
8 guide dog or service dog by a blind, deaf, or physically disabled
9 person.

10 (2) To expel from membership any person because of age, sex,
11 marital status, sexual orientation, race, creed, color, national
12 origin, or the presence of any sensory, mental, or physical
13 (~~handicap~~) disability or the use of a trained guide dog or service
14 dog by a blind, deaf, or physically disabled person.

15 (3) To discriminate against any member, employer, employee, or
16 other person to whom a duty of representation is owed because of age,
17 sex, marital status, sexual orientation, race, creed, color, national
18 origin, or the presence of any sensory, mental, or physical
19 (~~handicap~~) disability or the use of a trained guide dog or service
20 dog by a blind, deaf, or physically disabled person.

21 **Sec. 13.** RCW 49.60.200 and 1973 1st ex.s. c 214 s 9 are each
22 amended to read as follows:

23 It is an unfair practice for any employment agency to fail or
24 refuse to classify properly or refer for employment, or otherwise to
25 discriminate against, an individual because of age, sex, marital
26 status, or sexual orientation, race, creed, color, national origin, or
27 the presence of any sensory, mental, or physical (~~handicap~~)
28 disability or the use of a trained guide dog or service dog by a blind,
29 deaf, or physically disabled person, or to print or circulate, or cause
30 to be printed or circulated any statement, advertisement, or
31 publication, or to use any form of application for employment, or to
32 make any inquiry in connection with prospective employment, which
33 expresses any limitation, specification or discrimination as to age,
34 sex, race, creed, color, (~~or~~) national origin, or sexual orientation,
35 or the presence of any sensory, mental, or physical (~~handicap~~)
36 disability or the use of a trained guide dog or service dog by a blind,
37 deaf, or physically disabled person, or any intent to make any such
38 limitation, specification, or discrimination, unless based upon a bona

1 fide occupational qualification: PROVIDED, Nothing contained herein
2 shall prohibit advertising in a foreign language.

3 **Sec. 14.** RCW 49.60.205 and 1985 c 185 s 28 are each amended to
4 read as follows:

5 No person shall be considered to have committed an unfair practice
6 on the basis of age discrimination unless the practice (~~(discriminates~~
7 ~~against a person between the age of forty and seventy years and~~))
8 violates RCW 49.44.090. It is a defense to any complaint of an unfair
9 practice of age discrimination that the practice does not violate RCW
10 49.44.090.

11 **Sec. 15.** RCW 49.60.215 and 1985 c 203 s 1 and 1985 c 90 s 6 are
12 each reenacted and amended to read as follows:

13 It shall be an unfair practice for any person or (~~(his)~~) the
14 person's agent or employee to commit an act which directly or
15 indirectly results in any distinction, restriction, or discrimination,
16 or the requiring of any person to pay a larger sum than the uniform
17 rates charged other persons, or the refusing or withholding from any
18 person the admission, patronage, custom, presence, frequenting,
19 dwelling, staying, or lodging in any place of public resort,
20 accommodation, assemblage, or amusement, except for conditions and
21 limitations established by law and applicable to all persons,
22 regardless of race, creed, color, national origin, sexual orientation,
23 sex, the presence of any sensory, mental, or physical (~~(handicap)~~)
24 disability, or the use of a trained (~~(dog)~~) guide dog or service dog by
25 a blind, deaf, or physically disabled person: PROVIDED, That this
26 section shall not be construed to require structural changes,
27 modifications, or additions to make any place accessible to a
28 (~~(handicapped)~~) disabled person except as otherwise required by law:
29 PROVIDED, That behavior or actions constituting a risk to property or
30 other persons can be grounds for refusal and shall not constitute an
31 unfair practice.

32 **Sec. 16.** RCW 49.60.222 and 1989 c 61 s 1 are each amended to read
33 as follows:

34 It is an unfair practice for any person, whether acting for
35 himself, herself, or another, because of sex, marital status, sexual
36 orientation, race, creed, color, national origin, the presence of any

1 sensory, mental, or physical (~~handicap~~) disability, or the use of a
2 trained guide dog or service dog by a blind, deaf, or physically
3 disabled person:

4 (1) To refuse to engage in a real estate transaction with a person;

5 (2) To discriminate against a person in the terms, conditions, or
6 privileges of a real estate transaction or in the furnishing of
7 facilities or services in connection therewith;

8 (3) To refuse to receive or to fail to transmit a bona fide offer
9 to engage in a real estate transaction from a person;

10 (4) To refuse to negotiate for a real estate transaction with a
11 person;

12 (5) To represent to a person that real property is not available
13 for inspection, sale, rental, or lease when in fact it is so available,
14 or to fail to bring a property listing to his or her attention, or to
15 refuse to permit (~~him~~) the person to inspect real property;

16 (6) To print, circulate, post, or mail, or cause to be so published
17 a statement, advertisement, or sign, or to use a form of application
18 for a real estate transaction, or to make a record or inquiry in
19 connection with a prospective real estate transaction, which indicates,
20 directly or indirectly, an intent to make a limitation, specification,
21 or discrimination with respect thereto;

22 (7) To offer, solicit, accept, use, or retain a listing of real
23 property with the understanding that a person may be discriminated
24 against in a real estate transaction or in the furnishing of facilities
25 or services in connection therewith;

26 (8) To expel a person from occupancy of real property;

27 (9) To discriminate in the course of negotiating, executing, or
28 financing a real estate transaction whether by mortgage, deed of trust,
29 contract, or other instrument imposing a lien or other security in real
30 property, or in negotiating or executing any item or service related
31 thereto including issuance of title insurance, mortgage insurance, loan
32 guarantee, or other aspect of the transaction. Nothing in this section
33 shall limit the effect of RCW 49.60.176 relating to unfair practices in
34 credit transactions; or

35 (10) To attempt to do any of the unfair practices defined in this
36 section.

37 Notwithstanding any other provision of law, it shall not be an
38 unfair practice or a denial of civil rights for any public or private
39 educational institution to separate the sexes or give preference to or

1 limit use of dormitories, residence halls, or other student housing to
2 persons of one sex or to make distinctions on the basis of marital or
3 family status.

4 This section shall not be construed to require structural changes,
5 modifications, or additions to make facilities accessible to a
6 (~~handicapped~~) disabled person except as otherwise required by law.
7 Nothing in this section affects the rights and responsibilities of
8 landlords and tenants pursuant to chapter 59.18 RCW.

9 **Sec. 17.** RCW 49.60.223 and 1979 c 127 s 9 are each amended to read
10 as follows:

11 It is an unfair practice for any person, for profit, to induce or
12 attempt to induce any person to sell or rent any real property by
13 representations regarding the entry or prospective entry into the
14 neighborhood of a person or persons of a particular race, creed, color,
15 sex, national origin, sexual orientation, or with any sensory, mental,
16 or physical (~~handicap~~) disability or the use of a trained guide dog
17 or service dog by a blind, deaf, or physically disabled person.

18 **Sec. 18.** RCW 49.60.224 and 1979 c 127 s 10 are each amended to
19 read as follows:

20 (1) Every provision in a written instrument relating to real
21 property which purports to forbid or restrict the conveyance,
22 encumbrance, occupancy, or lease thereof to individuals of a specified
23 race, creed, color, sex, national origin, sexual orientation, or with
24 any sensory, mental, or physical (~~handicap~~) disability or the use of
25 a trained guide dog or service dog by a blind, deaf, or physically
26 disabled person, and every condition, restriction, or prohibition,
27 including a right of entry or possibility of reverter, which directly
28 or indirectly limits the use or occupancy of real property on the basis
29 of race, creed, color, sex, national origin, (~~or~~) sexual orientation,
30 the presence of any sensory, mental, or physical (~~handicap~~)
31 disability or the use of a trained guide dog or service dog by a blind,
32 deaf, or physically disabled person is void.

33 (2) It is an unfair practice to insert in a written instrument
34 relating to real property a provision that is void under this section
35 or to honor or attempt to honor such a provision in the chain of title.

1 **Sec. 19.** RCW 49.60.225 and 1985 c 185 s 19 are each amended to
2 read as follows:

3 When a determination has been made under RCW 49.60.250 that an
4 unfair practice involving real property has been committed, the
5 commission may, in addition to other relief authorized by RCW
6 49.60.250, award the complainant up to one thousand dollars for loss of
7 the right secured by RCW 49.60.010, 49.60.030, 49.60.040, and 49.60.222
8 through 49.60.226, as now or hereafter amended, to be free from
9 discrimination in real property transactions because of sex, marital
10 status, race, creed, color, national origin, sexual orientation, or the
11 presence of any sensory, mental, or physical (~~handicap~~) disability or
12 the use of a trained guide dog or service dog by a blind, deaf, or
13 physically disabled person. Enforcement of the order and appeal
14 therefrom by the complainant or respondent shall be made as provided in
15 RCW 49.60.260 and 49.60.270.

16 **Sec. 20.** RCW 49.60.230 and 1985 c 185 s 21 are each amended to
17 read as follows:

18 (1) Who may file a complaint:

19 (~~(1)~~) (a) Any person claiming to be aggrieved by an alleged
20 unfair practice may, personally or by his or her attorney, make, sign,
21 and file with the commission a complaint in writing under oath or by
22 declaration. The complaint shall state the name (~~and address~~) of the
23 person alleged to have committed the unfair practice and the
24 particulars thereof, and contain such other information as may be
25 required by the commission.

26 (~~(2)~~) (b) Whenever it has reason to believe that any person has
27 been engaged or is engaging in an unfair practice, the commission may
28 issue a complaint.

29 (~~(3)~~) (c) Any employer or principal whose employees, or agents,
30 or any of them, refuse or threaten to refuse to comply with the
31 provisions of this chapter may file with the commission a written
32 complaint under oath or by declaration asking for assistance by
33 conciliation or other remedial action.

34 (2) Any complaint filed pursuant to this section must be so filed
35 within six months after the alleged act of discrimination.

36 **Sec. 21.** RCW 49.60.240 and 1985 c 185 s 22 are each amended to
37 read as follows:

1 After the filing of any complaint, the chairperson of the
2 commission shall refer it to the appropriate section of the
3 commission's staff for prompt investigation and ascertainment of the
4 facts alleged in the complaint. The investigation shall be limited to
5 the alleged facts contained in the complaint. The results of the
6 investigation shall be reduced to written findings of fact, and a
7 finding shall be made that there is or that there is not reasonable
8 cause for believing that an unfair practice has been or is being
9 committed. A copy of said findings shall be ((furnished)) provided to
10 the complainant and to the person named in such complaint, hereinafter
11 referred to as the respondent.

12 If the finding is made that there is reasonable cause for believing
13 that an unfair practice has been or is being committed, the
14 commission's staff shall immediately endeavor to eliminate the unfair
15 practice by conference, conciliation and persuasion.

16 If an agreement is reached for the elimination of such unfair
17 practice as a result of such conference, conciliation and persuasion,
18 the agreement shall be reduced to writing and signed by the respondent,
19 and an order shall be entered by the commission setting forth the terms
20 of said agreement. No order shall be entered by the commission at this
21 stage of the proceedings except upon such written agreement.

22 If no such agreement can be reached, a finding to that effect shall
23 be made and reduced to writing, with a copy thereof ((furnished))
24 provided to the complainant and the respondent.

25 **Sec. 22.** RCW 49.60.250 and 1992 c 118 s 5 are each amended to read
26 as follows:

27 (1) In case of failure to reach an agreement for the elimination of
28 such unfair practice, and upon the entry of findings to that effect,
29 the entire file, including the complaint and any and all findings made,
30 shall be certified to the chairperson of the commission. The
31 chairperson of the commission shall thereupon request the appointment
32 of an administrative law judge under Title 34 RCW to hear the complaint
33 and shall cause to be issued and served in the name of the commission
34 a written notice, together with a copy of the complaint, as the same
35 may have been amended, requiring the respondent to answer the charges
36 of the complaint at a hearing before the administrative law judge, at
37 a time and place to be specified in such notice.

1 (2) The place of any such hearing may be the office of the
2 commission or another place designated by it. The case in support of
3 the complaint shall be presented at the hearing by counsel for the
4 commission: PROVIDED, That the complainant may retain independent
5 counsel and submit testimony and be fully heard. No member or employee
6 of the commission who previously made the investigation or caused the
7 notice to be issued shall participate in the hearing except as a
8 witness, nor shall the member or employee participate in the
9 deliberations of the administrative law judge in such case. Any
10 endeavors or negotiations for conciliation shall not be received in
11 evidence.

12 (3) The respondent shall file a written answer to the complaint and
13 appear at the hearing in person or otherwise, with or without counsel,
14 and submit testimony and be fully heard. The respondent has the right
15 to cross-examine the complainant.

16 (4) The administrative law judge conducting any hearing may permit
17 reasonable amendment to any complaint or answer. Testimony taken at
18 the hearing shall be under oath and recorded.

19 (5) If, upon all the evidence, the administrative law judge finds
20 that the respondent has engaged in any unfair practice, the
21 administrative law judge shall state findings of fact and shall issue
22 and file with the commission and cause to be served on such respondent
23 an order requiring such respondent to cease and desist from such unfair
24 practice and to take such affirmative action, including, (but not
25 limited to) hiring, reinstatement or upgrading of employees, with or
26 without back pay, an admission or restoration to full membership rights
27 in any respondent organization, or to take such other action as, in the
28 judgment of the administrative law judge, will effectuate the purposes
29 of this chapter, including action that could be ordered by a court,
30 except that damages for humiliation and mental suffering shall not
31 exceed ((one)) ten thousand dollars, and including a requirement for
32 report of the matter on compliance.

33 (6) If a determination is made that retaliatory action, as defined
34 in RCW 42.40.050, has been taken against a whistleblower, as defined in
35 RCW 42.40.020, the administrative law judge may, in addition to any
36 other remedy, impose a civil penalty upon the retaliator of up to three
37 thousand dollars and issue an order to the state employer to suspend
38 the retaliator for up to thirty days without pay. At a minimum, the
39 administrative law judge shall require that a letter of reprimand be

1 placed in the retaliator's personnel file. All penalties recovered
2 shall be paid into the state treasury and credited to the general fund.

3 (7) The final order of the administrative law judge shall include
4 a notice to the parties of the right to obtain judicial review of the
5 order by appeal in accordance with the provisions of RCW 34.05.510
6 through 34.05.598, and that such appeal must be served and filed within
7 thirty days after the service of the order on the parties.

8 (8) If, upon all the evidence, the administrative law judge finds
9 that the respondent has not engaged in any alleged unfair practice, the
10 administrative law judge shall state findings of fact and shall
11 similarly issue and file an order dismissing the complaint.

12 (9) An order dismissing a complaint may include an award of
13 reasonable attorneys' fees in favor of the respondent if the
14 administrative law judge concludes that the complaint was frivolous,
15 unreasonable, or groundless.

16 (10) The commission shall establish rules of practice to govern,
17 expedite, and effectuate the foregoing procedure.

18 **Sec. 23.** RCW 49.44.090 and 1985 c 185 s 30 are each amended to
19 read as follows:

20 It shall be an unfair practice:

21 (1) For an employer or licensing agency, because an individual is
22 (~~between the ages of~~) forty ((and seventy)) years of age or older, to
23 refuse to hire or employ or license or to bar or to terminate from
24 employment such individual, or to discriminate against such individual
25 in promotion, compensation or in terms, conditions or privileges of
26 employment: PROVIDED, That employers or licensing agencies may
27 establish reasonable minimum and/or maximum age limits with respect to
28 candidates for positions of employment, which positions are of such a
29 nature as to require extraordinary physical effort, endurance,
30 condition or training, subject to the approval of the executive
31 (~~secretary~~) director of the Washington state human rights commission
32 or the director of labor and industries through the division of
33 industrial relations.

34 (2) For any employer, licensing agency or employment agency to
35 print or circulate or cause to be printed or circulated any statement,
36 advertisement, or publication, or to use any form of application for
37 employment or to make any inquiry in connection with prospective
38 employment, which expresses any limitation, specification or

1 discrimination respecting individuals (~~((between the ages of))~~) forty
2 (~~((and seventy))~~) years of age or older: PROVIDED, That nothing herein
3 shall forbid a requirement of disclosure of birth date upon any form of
4 application for employment or by the production of a birth certificate
5 or other sufficient evidence of the applicant's true age after an
6 employee is hired.

7 Nothing contained in this section or in RCW 49.60.180 as to age
8 shall be construed to prevent the termination of the employment of any
9 person who is physically unable to perform his or her duties or to
10 affect the retirement policy or system of any employer where such
11 policy or system is not merely a subterfuge to evade the purposes of
12 this section; nor shall anything in this section or in RCW 49.60.180 be
13 deemed to preclude the varying of insurance coverages according to an
14 employee's age; nor shall this section be construed as applying to any
15 state, county, or city law enforcement agencies, or as superseding any
16 law fixing or authorizing the establishment of reasonable minimum or
17 maximum age limits with respect to candidates for certain positions in
18 public employment which are of such a nature as to require
19 extraordinary physical effort, or which for other reasons warrant
20 consideration of age factors.

21 **Sec. 24.** RCW 70.124.060 and 1981 c 174 s 5 are each amended to
22 read as follows:

23 (1) A person other than a person alleged to have committed the
24 abuse or neglect participating in good faith in the making of a report
25 pursuant to this chapter, or testifying as to alleged patient abuse or
26 neglect in a judicial proceeding, shall in so doing be immune from any
27 liability, civil or criminal, arising out of such reporting or
28 testifying under any law of this state or its political subdivisions,
29 and if such person is an employee of a nursing home or state hospital
30 it shall be an unfair practice under chapter 49.60 RCW for the employer
31 to (~~((dismiss said))~~) discharge, expel, or otherwise discriminate against
32 the employee for such reporting activity.

33 (2) Conduct conforming with the reporting requirements of this
34 chapter shall not be deemed a violation of the confidential
35 communication privilege of RCW 5.60.060 (3) or (4) or 18.83.110.
36 Nothing in this chapter shall be construed as to supersede or abridge
37 remedies provided in chapter 4.92 RCW.

1 NEW SECTION. **Sec. 25.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected."

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