

# SENATE BILL REPORT

## ESB 5337

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As Passed Senate, March 17, 1999

**Title:** An act relating to actions for employment discrimination.

**Brief Description:** Broadening actions for employment discrimination.

**Sponsors:** Senators Kohl-Welles, Heavey, McCaslin, Costa and Thibaudeau.

**Brief History:**

**Committee Activity:** Judiciary: 1/29/99, 3/1/99 [DP].

Passed Senate, 3/17/99, 42-6.

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Haugen, McCaslin and Thibaudeau.

**Staff:** Lidia Mori (786-7755)

**Background:** Chapter 49.60 RCW declares that the right to be free from discrimination includes the right to obtain and hold employment, to the full enjoyment of public premises, and to engage in real estate, credit, insurance and commercial transactions free from discrimination. It also includes the right to engage in commerce free from any discriminatory boycotts or blacklists.

Chapter 49.60 RCW also grants a civil cause of action to any person deeming himself or herself injured due to discrimination because of race, creed, color, national origin, sex, marital status, age, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a disabled person. A recent Washington Supreme Court case narrowly interpreted this statute to preclude individuals working for employers who employ fewer than eight persons from maintaining civil actions for employment discrimination.

**Summary of Bill:** A task force is created to study and make recommendations regarding numerous issues pertinent to employment discrimination. The task force is composed of 10 members, two each from the Senate and House of Representatives, three representing Washington businesses, and three representing protected classes of workers. The task force must submit its study and recommendations to the Governor and the Legislature by November 15, 1999.

**Appropriation:** None.

**Fiscal Note:** Requested on January 27, 1999.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Maybe as many as 20 percent of Washington citizens leave their civil rights at the door when they go to work. The victim of discrimination should be able to choose whether the Human Rights Commission will provide the best remedy or going to court would provide the best result.

**Testimony Against:** This bill causes too great a burden for small businesses. They cannot afford to defend against discrimination lawsuits. Small business would prefer an administrative remedy as opposed to providing litigants access to the courts. Many small businesses do not have mediation, they cannot transfer an employee to another department when discrimination is discovered and they may not even have their own lawyers.

**Testified:** Senator Kohl-Welles (pro); Lonnie Johns-Brown, National Organization for Women (pro); Marilyn Endriss, Washington Employment Lawyers Assn. (pro); Gary Smith, Independent Business Assn. (con); Carolyn Logue, National Federation of Independent Business (con); Larry Shannon, WA State Trial Lawyers Assn. (pro); Mary Roberts, WA State Trial Lawyers Assn. (pro); Clif Finch, Assn. of WA. Business (con); Mary Ann McCabe (con); Margaret Barbier, Stoel Rives (con); Bill Sellars, The Arc of Washington State (pro); Ginnie DeForest, American Assn. of University Women (pro).