

HOUSE BILL REPORT

HB 2954

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to discrimination in commerce.

Brief Description: Prohibiting discrimination in franchise relations and other commerce.

Sponsor(s): Representative Heavey.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 7, 1992, DPS.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Fuhrman, Ranking Minority Member; Lisk, Assistant Ranking Minority Member; Franklin; Jones; R. King; O'Brien; Prentice; Vance; and Wilson.

Staff: Jim Kelley (786-7166).

Background: The Franchise Investment Protection Act provides no specific protection against discrimination on the basis of race, creed, color, national origin, alienage, sex, or disability.

The law against discrimination provides no specific protection for people making business transactions, except insurance, credit and real estate transactions. The law does protect the right to engage in commerce free from any discriminatory boycotts or blacklists required or imposed by a foreign government or foreign person.

Summary of Substitute Bill: It is unlawful, under the Franchise Investment Protection Act, to discriminate against a franchisee by refusing to sell or allow the sale of a franchise, or placing conditions on a franchise agreement on the basis of race, creed, color, national origin, alienage, residence, sex, or the presence of any sensory, mental, or physical handicap.

Until July 1, 1994, a person alleging discrimination under this act has a right of action to seek specific performance of the franchise agreement or monetary damages. If the basis of the suit is a refusal to sell or allow a sale, the measure of damages is at least 20 percent and no more than 100 percent of the fair market value of the franchise. A violation of a court order of specific performance may be punished by the court by holding the party in contempt of court.

The definition of "franchise" is amended to specifically include an agreement by which a major professional sports team is authorized to use the trademark, service mark, trade name, advertising, or other commercial symbol designating, owned by, or licensed by a national or international league or association of professional sports teams.

The law against discrimination is amended to protect the right to engage in commerce free from all discriminatory boycotts or blacklists, not just those required or imposed by a foreign government or foreign person. The definition of "national origin" includes alienage or residence.

Substitute Bill Compared to Original Bill: The substitute bill adds "residence" as an impermissible basis for discrimination under the franchise act. The rebuttable presumption of discrimination for a complainant who is a member of a protected class is stricken. The definition of "franchise" is amended to specifically include an agreement by which a major professional sports team is authorized to use the trademark, service mark, trade name, advertising, or other commercial symbol designating, owned by, or licensed by a national or international league or association of professional sports teams. The civil discrimination action authorized under the franchise act, providing a measure of monetary damages or specific performance, or both, expires on July 1, 1994.

The definition of "national origin" under the law against discrimination is expanded to include "alienage" or "residence."

A severability clause is added.

Fiscal Note: Requested February 1, 1992.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: (original bill) We have a great offer on the table for the Mariners. As long as there is no discrimination, major league baseball should not be able to

turn it down. This will provide a couple of avenues for legal challenge. The franchise industry, as a whole, can well afford not to be involved in discrimination.

Testimony Against: (original bill) If the object is to address major league baseball, we should not affect all franchises in Washington. The presumption in favor of the franchisee and the monetary damages are too much.

Witnesses: Duane Thompson and Jerry Farley, International Franchise Association (opposed); Roger St. Pierre, Uniglobe Travel N.W. (opposed); Mike Stevenson, Department of Licensing, Securities Division (in favor); and Ron Main and Jim Brewer, King County Council (in favor).