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SENATE BILL 5080

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senators L. Smith, Bauer, Snyder, Sutherland and Amondson.

Read first time January 18, 1991. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to age discrimination; and amending RCW 49.44.090  
2 and 49.60.205.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 49.44.090 and 1985 c 185 s 30 are each amended to read  
5 as follows:

6            It shall be an unfair practice:

7            (1) For an employer or licensing agency, because an individual is  
8 (~~between the ages~~) over the age of forty (~~and seventy~~), to refuse  
9 to hire or employ or license or to bar or to terminate from employment  
10 such individual, or to discriminate against such individual in  
11 promotion, compensation or in terms, conditions or privileges of  
12 employment: PROVIDED, That employers or licensing agencies may  
13 establish reasonable minimum and/or maximum age limits with respect to  
14 candidates for positions of employment, which positions are of such a  
15 nature as to require extraordinary physical effort, endurance,

1 condition or training, subject to the approval of the executive  
2 secretary of the Washington state human rights commission or the  
3 director of labor and industries through the division of industrial  
4 relations.

5 (2) For any employer, licensing agency or employment agency to  
6 print or circulate or cause to be printed or circulated any statement,  
7 advertisement, or publication, or to use any form of application for  
8 employment or to make any inquiry in connection with prospective  
9 employment, which expresses any limitation, specification or  
10 discrimination respecting individuals (~~((between the ages))~~) over the age  
11 of forty (~~((and seventy))~~): PROVIDED, That nothing herein shall forbid  
12 a requirement of disclosure of birth date upon any form of application  
13 for employment or by the production of a birth certificate or other  
14 sufficient evidence of the applicant's true age.

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

1       **Sec. 2.** RCW 49.60.205 and 1985 c 185 s 28 are each amended to read  
2 as follows:

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