

**SENATE BILL REPORT**

**SB 5474**

**AS PASSED SENATE, MARCH 15, 1993**

**Brief Description:** Revising laws relating to discrimination.

**SPONSORS:** Senators A. Smith, Pelz, Niemi, Spanel, Drew, Prince, Roach and Franklin; by request of Human Rights Commission

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** Do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Niemi, Rinehart, and Spanel.

**Staff:** Tom Fender (786-7414)

**Hearing Dates:** February 9, 1993; February 19, 1993

**HOUSE COMMITTEE ON JUDICIARY**

**BACKGROUND:**

The Human Rights Commission is the state agency charged with the administration of current law against discrimination based on race, creed, color, national origin, sex, marital status, age, or the presence of any sensory, mental or physical handicap in employment, credit and insurance transactions, public resorts, accommodations, amusements and real property transactions. This agency provides an administrative remedy as an alternative to civil court proceedings.

To ensure the functioning of this alternative process, it is the belief of the agency that the penalty imposed for humiliation and mental suffering must be sufficient to deter violations of the act. Accordingly, the maximum penalty of \$1,000 is believed to be insufficient.

Additionally, in response to a growing number of active workers who are over the age of 70, the federal government has removed that age as a ceiling for similar rights pursuant to federal law. Within that context, there is a belief that the state remedy should parallel that of the federal government.

Finally, it is believed that it is necessary to add the use of trained guide dogs for the sensory impaired as a protected class.

**SUMMARY:**

The definitions of discrimination are revised by deleting the term "handicap" and substituting "disability or the use of guide dogs by disabled persons." The maximum penalty for humiliation and mental suffering is increased from \$1,000 to

\$10,000 and the definition of age discrimination is revised by removing the maximum age.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

The definitions of physical disabilities need to be updated and guide dogs should be provided for. The increase in civil penalty will facilitate administrative resolution instead of protracted litigation over discrimination claims.

**TESTIMONY AGAINST:**

Consideration needs to be given to requiring exhaustion of administrative remedy before discrimination actions can be filed in superior court.

**TESTIFIED:** Merrit Long, WSARC (pro); Gina Simons, WA Women United (pro)

**HOUSE AMENDMENT(S):**

Newspapers and other advertising media are not "places of public resort, accommodation, assemblage, or amusement," when selling or publishing advertisements.

Current law is restored to provide that an order dismissing a complaint of discrimination may include an award of attorney's fees and costs if the administrative law judge concludes that the complaint is frivolous, unreasonable, "or groundless."

Certain conditions are explicitly excluded from the meaning of the phrase, "sensory, mental, or physical disability." Those exclusions match the exclusions from the scope of the term "disability" in the federal Americans with Disabilities Act.

The Consumer Protection Act applies to all violations of this chapter committed in trade or commerce except violations by an employer against an employee or a prospective employee, and except violations in real estate transactions which form the basis of a claim for relief under provisions in HB 1476 which is pending before the Legislature.