

2 SHB 1491 - S COMM AMD

3 By Committee on Human Service & Corrections

4 ADOPTED 4/9/97

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

7 "Sec. 1. RCW 49.60.010 and 1995 c 259 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, families with children, sex,
16 marital status, age, or the presence of any sensory, mental, or
17 physical disability or the use of a trained dog guide ((~~dog~~)) or
18 service ((~~dog~~)) animal by a disabled person are a matter of state
19 concern, that such discrimination threatens not only the rights and
20 proper privileges of its inhabitants but menaces the institutions and
21 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 families with children, sex, marital status, age, or the presence of
27 any sensory, mental, or physical disability or the use of a trained dog
28 guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person; and the
29 commission established hereunder is hereby given general jurisdiction
30 and power for such purposes.

31 **Sec. 2.** RCW 49.60.030 and 1995 c 135 s 3 are each amended to read
32 as follows:

33 (1) The right to be free from discrimination because of race,
34 creed, color, national origin, sex, or the presence of any sensory,
35 mental, or physical disability or the use of a trained dog guide

1 ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person is recognized as
2 and declared to be a civil right. This right shall include, but not be
3 limited to:

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

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

8 (c) The right to engage in real estate transactions without
9 discrimination, including discrimination against families with
10 children;

11 (d) The right to engage in credit transactions without
12 discrimination;

13 (e) The right to engage in insurance transactions or transactions
14 with health maintenance organizations without discrimination:
15 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
16 48.44.220, or 48.46.370 does not constitute an unfair practice for the
17 purposes of this subparagraph; and

18 (f) The right to engage in commerce free from any discriminatory
19 boycotts or blacklists. Discriminatory boycotts or blacklists for
20 purposes of this section shall be defined as the formation or execution
21 of any express or implied agreement, understanding, policy or
22 contractual arrangement for economic benefit between any persons which
23 is not specifically authorized by the laws of the United States and
24 which is required or imposed, either directly or indirectly, overtly or
25 covertly, by a foreign government or foreign person in order to
26 restrict, condition, prohibit, or interfere with or in order to exclude
27 any person or persons from any business relationship on the basis of
28 race, color, creed, religion, sex, the presence of any sensory, mental,
29 or physical disability, or the use of a trained dog guide ((~~dog~~)) or
30 service ((~~dog~~)) animal by a disabled person, or national origin or
31 lawful business relationship: PROVIDED HOWEVER, That nothing herein
32 contained shall prohibit the use of boycotts as authorized by law
33 pertaining to labor disputes and unfair labor practices.

34 (2) Any person deeming himself or herself injured by any act in
35 violation of this chapter shall have a civil action in a court of
36 competent jurisdiction to enjoin further violations, or to recover the
37 actual damages sustained by the person, or both, together with the cost
38 of suit including reasonable attorneys' fees or any other appropriate
39 remedy authorized by this chapter or the United States Civil Rights Act

1 of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988
2 (42 U.S.C. Sec. 3601 et seq.).

3 (3) Except for any unfair practice committed by an employer against
4 an employee or a prospective employee, or any unfair practice in a real
5 estate transaction which is the basis for relief specified in the
6 amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any
7 unfair practice prohibited by this chapter which is committed in the
8 course of trade or commerce as defined in the Consumer Protection Act,
9 chapter 19.86 RCW, is, for the purpose of applying that chapter, a
10 matter affecting the public interest, is not reasonable in relation to
11 the development and preservation of business, and is an unfair or
12 deceptive act in trade or commerce.

13 **Sec. 3.** RCW 49.60.040 and 1995 c 259 s 2 are each amended to read
14 as follows:

15 As used in this chapter:

16 (1) "Person" includes one or more individuals, partnerships,
17 associations, organizations, corporations, cooperatives, legal
18 representatives, trustees and receivers, or any group of persons; it
19 includes any owner, lessee, proprietor, manager, agent, or employee,
20 whether one or more natural persons; and further includes any political
21 or civil subdivisions of the state and any agency or instrumentality of
22 the state or of any political or civil subdivision thereof;

23 (2) "Commission" means the Washington state human rights
24 commission;

25 (3) "Employer" includes any person acting in the interest of an
26 employer, directly or indirectly, who employs eight or more persons,
27 and does not include any religious or sectarian organization not
28 organized for private profit;

29 (4) "Employee" does not include any individual employed by his or
30 her parents, spouse, or child, or in the domestic service of any
31 person;

32 (5) "Labor organization" includes any organization which exists for
33 the purpose, in whole or in part, of dealing with employers concerning
34 grievances or terms or conditions of employment, or for other mutual
35 aid or protection in connection with employment;

36 (6) "Employment agency" includes any person undertaking with or
37 without compensation to recruit, procure, refer, or place employees
38 for an employer;

1 (7) "Marital status" means the legal status of being married,
2 single, separated, divorced, or widowed;

3 (8) "National origin" includes "ancestry";

4 (9) "Full enjoyment of" includes the right to purchase any service,
5 commodity, or article of personal property offered or sold on, or by,
6 any establishment to the public, and the admission of any person to
7 accommodations, advantages, facilities, or privileges of any place of
8 public resort, accommodation, assemblage, or amusement, without acts
9 directly or indirectly causing persons of any particular race, creed,
10 color, sex, national origin, or with any sensory, mental, or physical
11 disability, or the use of a trained dog guide ((~~dog~~)) or service
12 ((~~dog~~)) animal by a disabled person, to be treated as not welcome,
13 accepted, desired, or solicited;

14 (10) "Any place of public resort, accommodation, assemblage, or
15 amusement" includes, but is not limited to, any place, licensed or
16 unlicensed, kept for gain, hire, or reward, or where charges are made
17 for admission, service, occupancy, or use of any property or
18 facilities, whether conducted for the entertainment, housing, or
19 lodging of transient guests, or for the benefit, use, or accommodation
20 of those seeking health, recreation, or rest, or for the burial or
21 other disposition of human remains, or for the sale of goods,
22 merchandise, services, or personal property, or for the rendering of
23 personal services, or for public conveyance or transportation on land,
24 water, or in the air, including the stations and terminals thereof and
25 the garaging of vehicles, or where food or beverages of any kind are
26 sold for consumption on the premises, or where public amusement,
27 entertainment, sports, or recreation of any kind is offered with or
28 without charge, or where medical service or care is made available, or
29 where the public gathers, congregates, or assembles for amusement,
30 recreation, or public purposes, or public halls, public elevators, and
31 public washrooms of buildings and structures occupied by two or more
32 tenants, or by the owner and one or more tenants, or any public library
33 or educational institution, or schools of special instruction, or
34 nursery schools, or day care centers or children's camps: PROVIDED,
35 That nothing contained in this definition shall be construed to include
36 or apply to any institute, bona fide club, or place of accommodation,
37 which is by its nature distinctly private, including fraternal
38 organizations, though where public use is permitted that use shall be
39 covered by this chapter; nor shall anything contained in this

1 definition apply to any educational facility, columbarium, crematory,
2 mausoleum, or cemetery operated or maintained by a bona fide religious
3 or sectarian institution;

4 (11) "Real property" includes buildings, structures, dwellings,
5 real estate, lands, tenements, leaseholds, interests in real estate
6 cooperatives, condominiums, and hereditaments, corporeal and
7 incorporeal, or any interest therein;

8 (12) "Real estate transaction" includes the sale, appraisal,
9 brokering, exchange, purchase, rental, or lease of real property,
10 transacting or applying for a real estate loan, or the provision of
11 brokerage services;

12 (13) "Dwelling" means any building, structure, or portion thereof
13 that is occupied as, or designed or intended for occupancy as, a
14 residence by one or more families, and any vacant land that is offered
15 for sale or lease for the construction or location thereon of any such
16 building, structure, or portion thereof;

17 (14) "Sex" means gender;

18 (15) "Aggrieved person" means any person who: (a) Claims to have
19 been injured by an unfair practice in a real estate transaction; or (b)
20 believes that he or she will be injured by an unfair practice in a real
21 estate transaction that is about to occur;

22 (16) "Complainant" means the person who files a complaint in a real
23 estate transaction;

24 (17) "Respondent" means any person accused in a complaint or
25 amended complaint of an unfair practice in a real estate transaction;

26 (18) "Credit transaction" includes any open or closed end credit
27 transaction, whether in the nature of a loan, retail installment
28 transaction, credit card issue or charge, or otherwise, and whether for
29 personal or for business purposes, in which a service, finance, or
30 interest charge is imposed, or which provides for repayment in
31 scheduled payments, when such credit is extended in the regular course
32 of any trade or commerce, including but not limited to transactions by
33 banks, savings and loan associations or other financial lending
34 institutions of whatever nature, stock brokers, or by a merchant or
35 mercantile establishment which as part of its ordinary business permits
36 or provides that payment for purchases of property or service therefrom
37 may be deferred;

38 (19) "Families with children status" means one or more individuals
39 who have not attained the age of eighteen years being domiciled with a

1 parent or another person having legal custody of such individual or
2 individuals, or with the designee of such parent or other person having
3 such legal custody, with the written permission of such parent or other
4 person. Families with children status also applies to any person who
5 is pregnant or is in the process of securing legal custody of any
6 individual who has not attained the age of eighteen years;

7 (20) "Covered multifamily dwelling" means: (a) Buildings
8 consisting of four or more dwelling units if such buildings have one or
9 more elevators; and (b) ground floor dwelling units in other buildings
10 consisting of four or more dwelling units;

11 (21) "Premises" means the interior or exterior spaces, parts,
12 components, or elements of a building, including individual dwelling
13 units and the public and common use areas of a building;

14 (22) "Dog guide" means a dog that is trained for the purpose of
15 guiding blind persons or a dog that is trained for the purpose of
16 assisting hearing impaired persons;

17 (23) "Service animal" means an animal that is trained for the
18 purpose of assisting or accommodating a disabled person's sensory,
19 mental, or physical disability.

20 **Sec. 4.** RCW 49.60.120 and 1993 c 510 s 6 and 1993 c 69 s 4 are
21 each reenacted and amended to read as follows:

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

23 (1) To appoint an executive director and chief examiner, and such
24 investigators, examiners, clerks, and other employees and agents as it
25 may deem necessary, fix their compensation within the limitations
26 provided by law, and prescribe their duties.

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

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

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

34 (5) To issue such publications and such results of investigations
35 and research as in its judgment will tend to promote good will and
36 minimize or eliminate discrimination because of sex, race, creed,
37 color, national origin, marital status, age, or the presence of any

1 sensory, mental, or physical disability, or the use of a trained dog
2 guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person.

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

6 (7) To cooperate and act jointly or by division of labor with the
7 United States or other states, with other Washington state agencies,
8 commissions, and other government entities, and with political
9 subdivisions of the state of Washington and their respective human
10 rights agencies to carry out the purposes of this chapter. However,
11 the powers which may be exercised by the commission under this
12 subsection permit investigations and complaint dispositions only if the
13 investigations are designed to reveal, or the complaint deals only
14 with, allegations which, if proven, would constitute unfair practices
15 under this chapter. The commission may perform such services for these
16 agencies and be reimbursed therefor.

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

20 **Sec. 5.** RCW 49.60.130 and 1993 c 510 s 7 are each amended to read
21 as follows:

22 The commission has power to create such advisory agencies and
23 conciliation councils, local, regional, or state-wide, as in its
24 judgment will aid in effectuating the purposes of this chapter. The
25 commission may empower them to study the problems of discrimination in
26 all or specific fields of human relationships or in specific instances
27 of discrimination because of sex, race, creed, color, national origin,
28 marital status, age, or the presence of any sensory, mental, or
29 physical disability or the use of a trained dog guide ((~~dog~~)) or
30 service ((~~dog~~)) animal by a disabled person; to foster through
31 community effort or otherwise good will, cooperation, and conciliation
32 among the groups and elements of the population of the state, and to
33 make recommendations to the commission for the development of policies
34 and procedures in general and in specific instances, and for programs
35 of formal and informal education which the commission may recommend to
36 the appropriate state agency.

37 Such advisory agencies and conciliation councils shall be composed
38 of representative citizens, serving without pay, but with reimbursement

1 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as
2 now existing or hereafter amended, and the commission may make
3 provision for technical and clerical assistance to such agencies and
4 councils and for the expenses of such assistance. The commission may
5 use organizations specifically experienced in dealing with questions of
6 discrimination.

7 **Sec. 6.** RCW 49.60.174 and 1993 c 510 s 8 are each amended to read
8 as follows:

9 (1) For the purposes of determining whether an unfair practice
10 under this chapter has occurred, claims of discrimination based on
11 actual or perceived HIV infection shall be evaluated in the same manner
12 as other claims of discrimination based on sensory, mental, or physical
13 disability; or the use of a trained dog guide ((~~dog~~)) or service
14 ((~~dog~~)) animal by a disabled person.

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

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

25 **Sec. 7.** RCW 49.60.175 and 1993 c 510 s 9 are each amended to read
26 as follows:

27 It shall be an unfair practice to use the sex, race, creed, color,
28 national origin, marital status, or the presence of any sensory,
29 mental, or physical disability of any person, or the use of a trained
30 dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person,
31 concerning an application for credit in any credit transaction to
32 determine the credit worthiness of an applicant.

33 **Sec. 8.** RCW 49.60.176 and 1993 c 510 s 10 are each amended to read
34 as follows:

35 (1) It is an unfair practice for any person whether acting for
36 himself, herself, or another in connection with any credit transaction

1 because of race, creed, color, national origin, sex, marital status, or
2 the presence of any sensory, mental, or physical disability or the use
3 of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled
4 person:

5 (a) To deny credit to any person;

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

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

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

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

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

20 **Sec. 9.** RCW 49.60.178 and 1993 c 510 s 11 are each amended to read
21 as follows:

22 It is an unfair practice for any person whether acting for himself,
23 herself, or another in connection with an insurance transaction or
24 transaction with a health maintenance organization to cancel or fail or
25 refuse to issue or renew insurance or a health maintenance agreement to
26 any person because of sex, marital status, race, creed, color, national
27 origin, or the presence of any sensory, mental, or physical disability
28 or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by
29 a disabled person: PROVIDED, That a practice which is not unlawful
30 under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an
31 unfair practice for the purposes of this section. For the purposes of
32 this section, "insurance transaction" is defined in RCW 48.01.060,
33 health maintenance agreement is defined in RCW 48.46.020, and "health
34 maintenance organization" is defined in RCW 48.46.020.

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

1 The insurance commissioner, under RCW 48.30.300, and the human
2 rights commission, under chapter 49.60 RCW, shall have concurrent
3 jurisdiction under this section and shall enter into a working
4 agreement as to procedure to be followed in complaints under this
5 section.

6 **Sec. 10.** RCW 49.60.180 and 1993 c 510 s 12 are each amended to
7 read as follows:

8 It is an unfair practice for any employer:

9 (1) To refuse to hire any person because of age, sex, marital
10 status, race, creed, color, national origin, or the presence of any
11 sensory, mental, or physical disability or the use of a trained dog
12 guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person, unless
13 based upon a bona fide occupational qualification: PROVIDED, That the
14 prohibition against discrimination because of such disability shall not
15 apply if the particular disability prevents the proper performance of
16 the particular worker involved.

17 (2) To discharge or bar any person from employment because of age,
18 sex, marital status, race, creed, color, national origin, or the
19 presence of any sensory, mental, or physical disability or the use of
20 a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled
21 person.

22 (3) To discriminate against any person in compensation or in other
23 terms or conditions of employment because of age, sex, marital status,
24 race, creed, color, national origin, or the presence of any sensory,
25 mental, or physical disability or the use of a trained dog guide
26 ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person: PROVIDED, That
27 it shall not be an unfair practice for an employer to segregate
28 washrooms or locker facilities on the basis of sex, or to base other
29 terms and conditions of employment on the sex of employees where the
30 commission by regulation or ruling in a particular instance has found
31 the employment practice to be appropriate for the practical realization
32 of equality of opportunity between the sexes.

33 (4) To print, or circulate, or cause to be printed or circulated
34 any statement, advertisement, or publication, or to use any form of
35 application for employment, or to make any inquiry in connection with
36 prospective employment, which expresses any limitation, specification,
37 or discrimination as to age, sex, marital status, race, creed, color,
38 national origin, or the presence of any sensory, mental, or physical

1 disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~))
2 animal by a disabled person, or any intent to make any such limitation,
3 specification, or discrimination, unless based upon a bona fide
4 occupational qualification: PROVIDED, Nothing contained herein shall
5 prohibit advertising in a foreign language.

6 **Sec. 11.** RCW 49.60.190 and 1993 c 510 s 13 are each amended to
7 read as follows:

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

9 (1) To deny membership and full membership rights and privileges to
10 any person because of age, sex, marital status, race, creed, color,
11 national origin, or the presence of any sensory, mental, or physical
12 disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~))
13 animal by a disabled person.

14 (2) To expel from membership any person because of age, sex,
15 marital status, race, creed, color, national origin, or the presence of
16 any sensory, mental, or physical disability or the use of a trained dog
17 guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person.

18 (3) To discriminate against any member, employer, employee, or
19 other person to whom a duty of representation is owed because of age,
20 sex, marital status, race, creed, color, national origin, or the
21 presence of any sensory, mental, or physical disability or the use of
22 a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled
23 person.

24 **Sec. 12.** RCW 49.60.200 and 1993 c 510 s 14 are each amended to
25 read as follows:

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

1 use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a
2 disabled person, or any intent to make any such limitation,
3 specification, or discrimination, unless based upon a bona fide
4 occupational qualification: PROVIDED, Nothing contained herein shall
5 prohibit advertising in a foreign language.

6 **Sec. 13.** RCW 49.60.215 and 1993 c 510 s 16 are each amended to
7 read as follows:

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

25 **Sec. 14.** RCW 49.60.222 and 1995 c 259 s 3 are each amended to read
26 as follows:

27 (1) It is an unfair practice for any person, whether acting for
28 himself, herself, or another, because of sex, marital status, race,
29 creed, color, national origin, families with children status, the
30 presence of any sensory, mental, or physical disability, or the use of
31 a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled
32 person:

- 33 (a) To refuse to engage in a real estate transaction with a person;
34 (b) To discriminate against a person in the terms, conditions, or
35 privileges of a real estate transaction or in the furnishing of
36 facilities or services in connection therewith;

1 (c) To refuse to receive or to fail to transmit a bona fide offer
2 to engage in a real estate transaction from a person;

3 (d) To refuse to negotiate for a real estate transaction with a
4 person;

5 (e) To represent to a person that real property is not available
6 for inspection, sale, rental, or lease when in fact it is so available,
7 or to fail to bring a property listing to his or her attention, or to
8 refuse to permit the person to inspect real property;

9 (f) To discriminate in the sale or rental, or to otherwise make
10 unavailable or deny a dwelling, to any person; or to a person residing
11 in or intending to reside in that dwelling after it is sold, rented, or
12 made available; or to any person associated with the person buying or
13 renting;

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

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

24 (i) To expel a person from occupancy of real property;

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

33 (k) To attempt to do any of the unfair practices defined in this
34 section.

35 (2) For the purposes of this chapter discrimination based on the
36 presence of any sensory, mental, or physical disability or the use of
37 a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a blind, deaf,
38 or physically disabled person includes:

1 (a) A refusal to permit, at the expense of the disabled person,
2 reasonable modifications of existing premises occupied or to be
3 occupied by such person if such modifications may be necessary to
4 afford such person full enjoyment of the dwelling, except that, in the
5 case of a rental, the landlord may, where it is reasonable to do so,
6 condition permission for a modification on the renter agreeing to
7 restore the interior of the dwelling to the condition that existed
8 before the modification, reasonable wear and tear excepted;

9 (b) To refuse to make reasonable accommodation in rules, policies,
10 practices, or services when such accommodations may be necessary to
11 afford a person with the presence of any sensory, mental, or physical
12 disability and/or the use of a trained dog guide ((~~dog~~)) or service
13 ((~~dog~~)) animal by a blind, deaf, or physically disabled person equal
14 opportunity to use and enjoy a dwelling; or

15 (c) To fail to design and construct covered multifamily dwellings
16 and premises in conformance with the federal fair housing amendments
17 act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws
18 or regulations pertaining to access by persons with any sensory,
19 mental, or physical disability or use of a trained dog guide ((~~dog~~)) or
20 service ((~~dog~~)) animal. Whenever the requirements of applicable laws
21 or regulations differ, the requirements which require greater
22 accessibility for persons with any sensory, mental, or physical
23 disability shall govern.

24 Nothing in (a) or (b) of this subsection shall apply to: (i) A
25 single-family house rented or leased by the owner if the owner does not
26 own or have an interest in the proceeds of the rental or lease of more
27 than three such single-family houses at one time, the rental or lease
28 occurred without the use of a real estate broker or salesperson, as
29 defined in RCW 18.85.010, and the rental or lease occurred without the
30 publication, posting, or mailing of any advertisement, sign, or
31 statement in violation of subsection (1)(g) of this section; or (ii)
32 rooms or units in dwellings containing living quarters occupied or
33 intended to be occupied by no more than four families living
34 independently of each other if the owner maintains and occupies one of
35 the rooms or units as his or her residence.

36 (3) Notwithstanding any other provision of this chapter, it shall
37 not be an unfair practice or a denial of civil rights for any public or
38 private educational institution to separate the sexes or give
39 preference to or limit use of dormitories, residence halls, or other

1 student housing to persons of one sex or to make distinctions on the
2 basis of marital or families with children status.

3 (4) Except pursuant to subsection (2)(a) of this section, this
4 section shall not be construed to require structural changes,
5 modifications, or additions to make facilities accessible to a disabled
6 person except as otherwise required by law. Nothing in this section
7 affects the rights, responsibilities, and remedies of landlords and
8 tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to
9 post and enforce reasonable rules of conduct and safety for all tenants
10 and their guests, provided that chapters 59.18 and 59.20 RCW are only
11 affected to the extent they are inconsistent with the nondiscrimination
12 requirements of this chapter. Nothing in this section limits the
13 applicability of any reasonable federal, state, or local restrictions
14 regarding the maximum number of occupants permitted to occupy a
15 dwelling.

16 (5) Notwithstanding any other provision of this chapter, it shall
17 not be an unfair practice for any public establishment providing for
18 accommodations offered for the full enjoyment of transient guests as
19 defined by RCW 9.91.010(1)(c) to make distinctions on the basis of
20 families with children status. Nothing in this section shall limit the
21 effect of RCW 49.60.215 relating to unfair practices in places of
22 public accommodation.

23 (6) Nothing in this chapter prohibiting discrimination based on
24 families with children status applies to housing for older persons as
25 defined by the federal fair housing amendments act of 1988, 42 U.S.C.
26 Sec. 3607(b)(1) through (3). Nothing in this chapter authorizes
27 requirements for housing for older persons different than the
28 requirements in the federal fair housing amendments act of 1988, 42
29 U.S.C. Sec 3607(b)(1) through (3).

30 **Sec. 15.** RCW 49.60.223 and 1993 c 510 s 18 and 1993 c 69 s 6 are
31 each reenacted and amended to read as follows:

32 It is an unfair practice for any person, for profit, to induce or
33 attempt to induce any person to sell or rent any real property by
34 representations regarding the entry or prospective entry into the
35 neighborhood of a person or persons of a particular race, creed, color,
36 sex, national origin, families with children status, or with any
37 sensory, mental, or physical disability and/or the use of a trained dog

1 guide ((~~dog~~)) or service ((~~dog~~)) animal by a blind, deaf, or physically
2 disabled person.

3 **Sec. 16.** RCW 49.60.224 and 1993 c 69 s 8 are each amended to read
4 as follows:

5 (1) Every provision in a written instrument relating to real
6 property which purports to forbid or restrict the conveyance,
7 encumbrance, occupancy, or lease thereof to individuals of a specified
8 race, creed, color, sex, national origin, families with children
9 status, or with any sensory, mental, or physical disability or the use
10 of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a blind,
11 deaf, or physically disabled person, and every condition, restriction,
12 or prohibition, including a right of entry or possibility of reverter,
13 which directly or indirectly limits the use or occupancy of real
14 property on the basis of race, creed, color, sex, national origin,
15 families with children status, or the presence of any sensory, mental,
16 or physical disability or the use of a trained dog guide ((~~dog~~)) or
17 service ((~~dog~~)) animal by a blind, deaf, or physically disabled person
18 is void.

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

22 **Sec. 17.** RCW 49.60.225 and 1995 c 259 s 4 are each amended to read
23 as follows:

24 (1) When a reasonable cause determination has been made under RCW
25 49.60.240 that an unfair practice in a real estate transaction has been
26 committed and a finding has been made that the respondent has engaged
27 in any unfair practice under RCW 49.60.250, the administrative law
28 judge shall promptly issue an order for such relief suffered by the
29 aggrieved person as may be appropriate, which may include actual
30 damages as provided by the federal fair housing amendments act of 1988
31 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable
32 relief. Such order may, to further the public interest, assess a civil
33 penalty against the respondent:

34 (a) In an amount up to ten thousand dollars if the respondent has
35 not been determined to have committed any prior unfair practice in a
36 real estate transaction;

1 (b) In an amount up to twenty-five thousand dollars if the
2 respondent has been determined to have committed one other unfair
3 practice in a real estate transaction during the five-year period
4 ending on the date of the filing of this charge; or

5 (c) In an amount up to fifty thousand dollars if the respondent has
6 been determined to have committed two or more unfair practices in a
7 real estate transaction during the seven-year period ending on the date
8 of the filing of this charge, for loss of the right secured by RCW
9 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as
10 now or hereafter amended, to be free from discrimination in real
11 property transactions because of sex, marital status, race, creed,
12 color, national origin, families with children status, or the presence
13 of any sensory, mental, or physical disability or the use of a trained
14 dog guide ((dog)) or service ((dog)) animal by a blind, deaf, or
15 physically disabled person. Enforcement of the order and appeal
16 therefrom by the complainant or respondent may be made as provided in
17 RCW 49.60.260 and 49.60.270. If acts constituting the unfair practice
18 in a real estate transaction that is the object of the charge are
19 determined to have been committed by the same natural person who has
20 been previously determined to have committed acts constituting an
21 unfair practice in a real estate transaction, then the civil penalty of
22 up to fifty thousand dollars may be imposed without regard to the
23 period of time within which any subsequent unfair practice in a real
24 estate transaction occurred. All civil penalties assessed under this
25 section shall be paid into the state treasury and credited to the
26 general fund.

27 (2) Such order shall not affect any contract, sale, conveyance,
28 encumbrance, or lease consummated before the issuance of an order that
29 involves a bona fide purchaser, encumbrancer, or tenant who does not
30 have actual notice of the charge filed under this chapter.

31 (3) Notwithstanding any other provision of this chapter, persons
32 awarded damages under this section may not receive additional damages
33 pursuant to RCW 49.60.250.

34 **Sec. 18.** RCW 70.84.020 and 1980 c 109 s 2 are each amended to read
35 as follows:

36 For the purpose of this chapter, the term "dog guide ((dog))"
37 ~~((shall mean a dog which is in working harness and))~~ means a dog that
38 is trained ((or approved by an accredited school engaged in training

1 ~~dogs~~) for the purpose of guiding blind persons or a dog (~~(which is)~~)
2 trained (~~(or approved by an accredited school engaged in training~~
3 ~~dogs)~~) for the purpose of assisting hearing impaired persons.

4 **Sec. 19.** RCW 70.84.021 and 1985 c 90 s 1 are each amended to read
5 as follows:

6 For the purpose of this chapter, "service (~~(dog)~~) animal" means ((a
7 ~~dog~~) an animal that is trained (~~(or approved by an accredited school,~~
8 ~~or state institution of higher education, engaged in training dogs)~~)
9 for the purposes of assisting or accommodating a (~~(physically)~~)
10 disabled (~~(person related to the)~~) person's sensory, mental, or
11 physical disability.

12 **Sec. 20.** RCW 70.84.040 and 1985 c 90 s 3 are each amended to read
13 as follows:

14 The driver of a vehicle approaching a totally or partially blind
15 pedestrian who is carrying a cane predominantly white in color (with or
16 without a red tip), a totally or partially blind or hearing impaired
17 pedestrian using a dog guide (~~(dog)~~), or an otherwise physically
18 disabled person using a service (~~(dog)~~) animal shall take all necessary
19 precautions to avoid injury to such pedestrian. Any driver who fails
20 to take such precaution shall be liable in damages for any injury
21 caused such pedestrian. It shall be unlawful for the operator of any
22 vehicle to drive into or upon any crosswalk while there is on such
23 crosswalk, such pedestrian, crossing or attempting to cross the
24 roadway, if such pedestrian (~~(indicates his intention to cross or of~~
25 ~~continuing on, with a timely warning by holding up or waving)~~) is using
26 a white cane, using a dog guide (~~(dog)~~), or using a service (~~(dog)~~)
27 animal. The failure of any such pedestrian so to signal shall not
28 deprive him of the right of way accorded him by other laws.

29 **Sec. 21.** RCW 70.84.050 and 1980 c 109 s 5 are each amended to read
30 as follows:

31 A totally or partially blind pedestrian not carrying a white cane
32 or a totally or partially blind or hearing impaired pedestrian not
33 using a dog guide (~~(dog)~~) in any of the places, accommodations, or
34 conveyances listed in RCW 70.84.010, shall have all of the rights and
35 privileges conferred by law on other persons.

1 **Sec. 22.** RCW 70.84.060 and 1985 c 90 s 4 are each amended to read
2 as follows:

3 It shall be unlawful for any pedestrian who is not totally or
4 partially blind to use a white cane or any pedestrian who is not
5 totally or partially blind or is not hearing impaired to use a dog
6 guide ((~~dog~~)) or any pedestrian who is not otherwise physically
7 disabled to use a service ((~~dog~~)) animal in any of the places,
8 accommodations, or conveyances listed in RCW 70.84.010 for the purpose
9 of securing the rights and privileges accorded by the chapter to
10 totally or partially blind, hearing impaired, or otherwise physically
11 disabled people.

12 **Sec. 23.** RCW 70.84.100 and 1988 c 89 s 1 are each amended to read
13 as follows:

14 (1) A person who negligently or maliciously kills or injures a dog
15 guide or service ((~~dog~~)) animal is liable for a penalty of one thousand
16 dollars, to be paid to the user of the ((~~dog~~)) animal. The penalty
17 shall be in addition to and not in lieu of any other remedies or
18 penalties, civil or criminal, provided by law.

19 (2) A user or owner of a dog guide or service animal, whose animal
20 is negligently or maliciously injured or killed, is entitled to recover
21 reasonable attorneys' fees and costs incurred in pursuing any civil
22 remedy.

23 (3) The commission has no duty to investigate any negligent or
24 malicious acts referred to under this section.

25 **Sec. 24.** RCW 70.84.120 and 1989 c 41 s 1 are each amended to read
26 as follows:

27 A county, city, or town shall honor a request by a blind person or
28 hearing impaired person not to be charged a fee to license his or her
29 dog guide ((~~dog~~)), or a request by a physically disabled person not to
30 be charged a fee to license his or her service ((~~dog~~)) animal.

31 NEW SECTION. **Sec. 25.** The Washington state human rights
32 commission shall adopt rules implementing this act no later than March
33 1, 1998.

34 NEW SECTION. **Sec. 26.** The following acts or parts of acts are
35 each repealed:

1 (1) RCW 70.84.030 and 1985 c 90 s 2, 1980 c 109 s 3, & 1969 c 141
2 s 3; and

3 (2) RCW 70.84.110 and 1988 c 89 s 2.

4 NEW SECTION. **Sec. 27.** RCW 70.84.090, 70.84.100, and 70.84.120 are
5 each recodified as new sections in chapter 49.60 RCW."

6 **SHB 1491** - S COMM AMD

7 By Committee on Human Services & Corrections

8 ADOPTED 4/9/97

9 On page 1, line 1 of the title, after "animals;" strike the
10 remainder of the title and insert "amending RCW 49.60.010, 49.60.030,
11 49.60.040, 49.60.130, 49.60.174, 49.60.175, 49.60.176, 49.60.178,
12 49.60.180, 49.60.190, 49.60.200, 49.60.215, 49.60.222, 49.60.224,
13 49.60.225, 70.84.020, 70.84.021, 70.84.040, 70.84.050, 70.84.060,
14 70.84.100, and 70.84.120; reenacting and amending RCW 49.60.120 and
15 49.60.223; adding new sections to chapter 49.60 RCW; creating a new
16 section; recodifying RCW 70.84.090, 70.84.100, and 70.84.120; and
17 repealing RCW 70.84.030 and 70.84.110."

--- END ---