

HOUSE BILL ANALYSIS

HB 1213

Title: An act relating to breast-feeding.

Brief Description: Protecting the act of breast-feeding.

Sponsors: Representatives Costa, McDonald, Radcliff, Mason, Lantz, Lambert, Kenney, Cody, Dickerson, Scott, Regala, Kastama, Constantine, Sheahan, Blalock, Hatfield, Kessler, Tokuda, Veloria, Backlund, O'Brien, Conway, Chopp, Sheldon, Anderson, Murray, Morris, Ogden, Cooper, Mastin and Butler.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Trudes Hutcheson (786-7384).

Background: Washington's law against discrimination, codified in RCW 49.60, prohibits discrimination against a person in a variety of circumstances based on the person's race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical disability. The law also prohibits discrimination against a person in certain circumstances based on other factors. For example, employers are generally prohibited from discriminating against a person because the person is HIV positive. Discriminatory acts are considered unfair practices.—

In particular, it is an unfair practice for a person to commit an act which directly or indirectly results in any distinction, restriction, or discrimination against a person in any place of public resort, accommodation, assemblage, or amusement because of the person's race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical disability.

The term any place of public resort, accommodation, assemblage, or amusement—includes:

- places kept for the entertainment, housing, or lodging of transient guests;
- places kept for the benefit, use, or accommodation of those seeking health, recreation, or rest;
- places where public amusement, entertainment, sports or recreation of any kind is offered with or without charge;
- places kept for the sale of goods, services, or personal property;
- public transportation terminals and stations;

- places where the public gathers, congregates, or assembles for amusement, recreation, or public purposes;
- public halls;
- public elevators;
- public washrooms of buildings and structures occupied by two or more tenants;
- any public library or educational institution or schools of special instruction;
- nursery schools, day-care centers, or children's camps.

The term expressly excludes any institute, club, or place of accommodation which is distinctly private and any educational facility operated or maintained by a bona fide religious or sectarian institution.

Any person claiming to be aggrieved by an unfair practice may either: (a) file a civil action in court to enjoin further violations of RCW 49.60 and recover damages; or (b) file a complaint with the Human Rights Commission.

If a person files a complaint with the Human Rights Commission, the commission will investigate and determine whether there is reasonable cause to believe an unfair practice has been committed. If the commission finds that there is reasonable cause to believe an unfair practice has been or is being committed, the commission will attempt to eliminate the unfair practice by conference, conciliation, and persuasion.— If the commission cannot eliminate the unfair practice by these means, the complaint is brought before an administrative law judge.

If the administrative law judge determines that the person committed an unfair practice, the administrative law judge may order the person to stop committing the unfair practice and may award damages to the aggrieved person up to a certain amount. The parties may appeal the administrative law judge's order.

A person is guilty of indecent exposure if the person intentionally makes any open and obscene exposure of himself or herself knowing that such conduct is likely to cause reasonable affront or alarm. Indecent exposure can be either a misdemeanor, gross misdemeanor, or class C felony, depending upon various factors.

Several states have specifically excluded the act of breast-feeding from their indecent exposure statutes. Some states, such as New York and Nevada, have also enacted laws stating that a woman may breast-feed in any public or private location where the woman is otherwise authorized to be.

Summary of Bill: The Legislature finds and declares that breast milk may be healthier for babies than formula milk. The Legislature also finds and declares that some women might not choose to breast-feed their babies because they are embarrassed or afraid of social ostracism or criminal prosecution. The Legislature encourages public acceptance of breast-feeding.

A woman may breast-feed a baby in any location, public or private, where she is otherwise authorized to be. It is an unfair practice for any person to discriminate against or refuse to admit or serve a woman in a place of public resort, accommodation, assemblage, or amusement because she is breast-feeding. A person who discriminates against a woman because she is breast-feeding may be subject to a civil penalty of up to \$1,000. These provisions are added to Washington's law against discrimination.

The act of breast-feeding is not indecent exposure, regardless of whether or not the nipple of the woman's breast is covered during or incidental to the breast-feeding.

Fiscal Note: Not requested.

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

Office of Program Research