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**SENATE BILL 5799**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senators T. Sheldon and Hochstatter

Read first time 02/09/1999. Referred to Committee on Commerce, Trade, Housing & Financial Institutions.

1 AN ACT Relating to housing discrimination; amending RCW 49.60.240;  
2 and reenacting and amending RCW 49.60.222 and 49.60.230.

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

4 **Sec. 1.** RCW 49.60.222 and 1997 c 400 s 3 and 1997 c 271 s 14 are  
5 each reenacted and amended to read as follows:

6 (1) It is an unfair practice for any person, whether acting for  
7 himself, herself, or another, because of sex, marital status, race,  
8 creed, color, national origin, families with children status, the  
9 presence of any sensory, mental, or physical disability, or the use of  
10 a trained dog guide or service animal by a disabled person:

11 (a) To refuse to engage in a real estate transaction with a person;

12 (b) To discriminate against a person in the terms, conditions, or  
13 privileges of a real estate transaction or in the furnishing of  
14 facilities or services in connection therewith;

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

17 (d) To refuse to negotiate for a real estate transaction with a  
18 person;

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

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

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

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

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

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

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

31 (2) For the purposes of this chapter discrimination based on the  
32 presence of any sensory, mental, or physical disability or the use of  
33 a trained dog guide or service animal by a blind, deaf, or physically  
34 disabled person includes:

35 (a) A refusal to permit, at the expense of the disabled person,  
36 reasonable modifications of existing premises occupied or to be  
37 occupied by such person if such modifications may be necessary to  
38 afford such person full enjoyment of the dwelling, except that, in the  
39 case of a rental, the landlord may, where it is reasonable to do so,

1 condition permission for a modification on the renter agreeing to  
2 restore the interior of the dwelling to the condition that existed  
3 before the modification, reasonable wear and tear excepted;

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

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

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

30 (3) Notwithstanding any other provision of this chapter, it shall  
31 not be an unfair practice or a denial of civil rights for any public or  
32 private educational institution to separate the sexes or give  
33 preference to or limit use of dormitories, residence halls, or other  
34 student housing to persons of one sex or to make distinctions on the  
35 basis of marital or families with children status.

36 (4) Except pursuant to subsection (2)(a) of this section, this  
37 section shall not be construed to require structural changes,  
38 modifications, or additions to make facilities accessible to a disabled  
39 person except as otherwise required by law. Nothing in this section

1 affects the rights, responsibilities, and remedies of landlords and  
2 tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to  
3 post and enforce reasonable rules of conduct and safety for all tenants  
4 and their guests, provided that chapters 59.18 and 59.20 RCW are only  
5 affected to the extent they are inconsistent with the nondiscrimination  
6 requirements of this chapter. Nothing in this section limits the  
7 applicability of any reasonable federal, state, or local restrictions  
8 regarding the maximum number of occupants permitted to occupy a  
9 dwelling.

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

17 (6) Nothing in this chapter prohibiting discrimination based on  
18 families with children status applies to housing for older persons as  
19 defined by the federal fair housing amendments act of 1988, 42 U.S.C.  
20 Sec. 3607(b)(1) through (3), as amended by the housing for older  
21 persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.  
22 Nothing in this chapter authorizes requirements for housing for older  
23 persons different than the requirements in the federal fair housing  
24 amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as  
25 amended by the housing for older persons act of 1995, P.L. 104-76, as  
26 enacted on December 28, 1995.

27 (7) Notwithstanding any other provision of this chapter, it is not  
28 an unfair practice for any person to consistently apply a written  
29 credit policy, if the written policy does not on its face violate any  
30 provision of this section.

31 **Sec. 2.** RCW 49.60.230 and 1993 c 510 s 21 and 1993 c 69 s 11 are  
32 each reenacted and amended to read as follows:

33 (1) Who may file a complaint:

34 (a) Any person claiming to be aggrieved by an alleged unfair  
35 practice may, personally or by his or her attorney, make, sign, and  
36 file with the commission a complaint in writing under oath or by  
37 declaration. The complaint shall state the name of the person alleged

1 to have committed the unfair practice and the particulars thereof, and  
2 contain such other information as may be required by the commission.

3 (b) Whenever it has reason to believe that any person has been  
4 engaged or is engaging in an unfair practice, the commission may issue  
5 a complaint.

6 (c) Any employer or principal whose employees, or agents, or any of  
7 them, refuse or threaten to refuse to comply with the provisions of  
8 this chapter may file with the commission a written complaint under  
9 oath or by declaration asking for assistance by conciliation or other  
10 remedial action.

11 (2) Any complaint filed pursuant to this section must be so filed  
12 within six months after the alleged act of discrimination except that  
13 complaints alleging an unfair practice in a real estate transaction  
14 pursuant to RCW 49.60.222 through 49.60.225 must be so filed within one  
15 year after the alleged unfair practice in a real estate transaction has  
16 occurred or terminated.

17 (3) Each allegation of discrimination in a complaint shall be  
18 simple, concise, direct, and stated with particularity. If an  
19 allegation is so vague or ambiguous that a party cannot reasonably  
20 frame a response, or if more particularity in that allegation will  
21 further the efficient and economical disposition of the allegation, the  
22 responding party may request a more definite statement before  
23 responding to the complaint.

24 (4) Before bringing a complaint under this section, the complainant  
25 must file an application for tenancy. The complainant may not bring a  
26 complaint if an application for tenancy has not been filed, unless the  
27 complainant was prevented from filing the application due to the  
28 alleged act of discrimination.

29 **Sec. 3.** RCW 49.60.240 and 1995 c 259 s 5 are each amended to read  
30 as follows:

31 (1) After the filing of any complaint, the chairperson of the  
32 commission shall refer it to the appropriate section of the  
33 commission's staff for prompt investigation and ascertainment of the  
34 facts alleged in the complaint. The investigation shall be limited to  
35 the alleged facts contained in the complaint. The results of the  
36 investigation shall be reduced to written findings of fact, and a  
37 finding shall be made that there is or that there is not reasonable  
38 cause for believing that an unfair practice has been or is being

1 committed. A copy of said findings shall be provided to the  
2 complainant and to the person named in such complaint, hereinafter  
3 referred to as the respondent.

4 (2) If the finding is made that there is reasonable cause for  
5 believing that an unfair practice has been or is being committed, the  
6 commission's staff shall immediately endeavor to eliminate the unfair  
7 practice by conference, conciliation, and persuasion.

8 (3)(a) If an agreement is reached for the elimination of such  
9 unfair practice as a result of such conference, conciliation, and  
10 persuasion, the agreement shall be reduced to writing and signed by the  
11 respondent, and an order shall be entered by the commission setting  
12 forth the terms of said agreement. No order shall be entered by the  
13 commission at this stage of the proceedings except upon such written  
14 agreement, except that during the period beginning with the filing of  
15 complaints alleging an unfair practice with respect to real estate  
16 transactions pursuant to RCW 49.60.222 through 49.60.225, and ending  
17 with the filing of a finding of reasonable cause or a dismissal by the  
18 commission, the commission staff shall, to the extent feasible, engage  
19 in conciliation with respect to such complaint. Any conciliation  
20 agreement arising out of conciliation efforts by the commission shall  
21 be an agreement between the respondent and the complainant and shall be  
22 subject to the approval of the commission. Each conciliation agreement  
23 shall be made public unless the complainant and respondent otherwise  
24 agree and the commission determines that disclosure is not required to  
25 further the purposes of this chapter.

26 (b) If no such agreement can be reached, a finding to that effect  
27 shall be made and reduced to writing, with a copy thereof provided to  
28 the complainant and the respondent.

29 (4) The commission may adopt rules, including procedural time  
30 requirements, for processing complaints alleging an unfair practice  
31 with respect to real estate transactions pursuant to RCW 49.60.222  
32 through 49.60.225 and which may be consistent with the federal fair  
33 housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.), but which  
34 in no case shall exceed or be more restrictive than the requirements or  
35 standards of such act.

36 (5) When a complaint is filed under RCW 49.60.230, a respondent may  
37 elect to have the claims asserted in that complaint decided in a civil  
38 action in superior court. This election must be made within thirty  
39 days of service on the person making the election. The person making

1 the election shall give notice of doing so to the commission and to all  
2 other complainants and respondents to whom the complaint relates.

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