
SENATE BILL 5771

State of Washington

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By Senators Thibaudeau, Prentice, Kohl-Welles, Regala, Franklin, Jacobsen, Kline, Patterson, Constantine, Fraser, Costa, B. Sheldon and Shin; by request of Governor Locke

Read first time 02/01/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to the jurisdiction of the Washington human rights
2 commission; amending RCW 49.60.010, 49.60.020, 49.60.030, 49.60.040,
3 49.60.120, 49.60.130, 49.60.175, 49.60.176, 49.60.178, 49.60.180,
4 49.60.190, 49.60.200, 49.60.215, 49.60.223, 49.60.224, 49.60.225, and
5 48.30.300; and reenacting and amending RCW 49.60.222 and 49.60.250.

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

7 **Sec. 1.** RCW 49.60.010 and 1997 c 271 s 1 are each amended to read
8 as follows:

9 This chapter shall be known as the "law against
10 discrimination((^u))." It is an exercise of the police power of the
11 state for the protection of the public welfare, health, and peace of
12 the people of this state, and in fulfillment of the provisions of the
13 Constitution of this state concerning civil rights. The legislature
14 hereby finds and declares that practices of discrimination against any
15 of its inhabitants because of race, creed, color, national origin,
16 families with children, sex, marital status, sexual orientation, age,
17 or the presence of any sensory, mental, or physical disability or the
18 use of a trained dog guide or service animal by a disabled person are
19 a matter of state concern, that such discrimination threatens not only

1 the rights and proper privileges of its inhabitants but menaces the
2 institutions and foundation of a free democratic state. A state agency
3 is herein created with powers with respect to elimination and
4 prevention of discrimination in employment, in credit and insurance
5 transactions, in places of public resort, accommodation, or amusement,
6 and in real property transactions because of race, creed, color,
7 national origin, families with children, sex, marital status, sexual
8 orientation, age, or the presence of any sensory, mental, or physical
9 disability or the use of a trained dog guide or service animal by a
10 disabled person; and the commission established hereunder is hereby
11 given general jurisdiction and power for such purposes.

12 **Sec. 2.** RCW 49.60.020 and 1993 c 510 s 2 are each amended to read
13 as follows:

14 The provisions of this chapter shall be construed liberally for the
15 accomplishment of the purposes thereof. Nothing contained in this
16 chapter shall be deemed to repeal any of the provisions of any other
17 law of this state relating to discrimination because of race, color,
18 creed, national origin, sex, marital status, sexual orientation, age,
19 or the presence of any sensory, mental, or physical disability, other
20 than a law which purports to require or permit doing any act which is
21 an unfair practice under this chapter. Nor shall anything herein
22 contained be construed to deny the right to any person to institute any
23 action or pursue any civil or criminal remedy based upon an alleged
24 violation of his or her civil rights. This chapter shall not be
25 construed to endorse any specific belief, practice, behavior, or
26 orientation.

27 **Sec. 3.** RCW 49.60.030 and 1997 c 271 s 2 are each amended to read
28 as follows:

29 (1) The right to be free from discrimination because of race,
30 creed, color, national origin, sex, sexual orientation, or the presence
31 of any sensory, mental, or physical disability or the use of a trained
32 dog guide or service animal by a disabled person is recognized as and
33 declared to be a civil right. This right shall include, but not be
34 limited to:

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

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

4 (c) The right to engage in real estate transactions without
5 discrimination, including discrimination against families with
6 children;

7 (d) The right to engage in credit transactions without
8 discrimination;

9 (e) The right to engage in insurance transactions or transactions
10 with health maintenance organizations without discrimination:
11 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
12 48.44.220, or 48.46.370 does not constitute an unfair practice for the
13 purposes of this subparagraph; and

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

30 (2) Any person deeming himself or herself injured by any act in
31 violation of this chapter shall have a civil action in a court of
32 competent jurisdiction to enjoin further violations, or to recover the
33 actual damages sustained by the person, or both, together with the cost
34 of suit including reasonable attorneys' fees or any other appropriate
35 remedy authorized by this chapter or the United States Civil Rights Act
36 of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988
37 (42 U.S.C. Sec. 3601 et seq.).

38 (3) Except for any unfair practice committed by an employer against
39 an employee or a prospective employee, or any unfair practice in a real

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

9 **Sec. 4.** RCW 49.60.040 and 1997 c 271 s 3 are each amended to read
10 as follows:

11 As used in this chapter:

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

19 (2) "Commission" means the Washington state human rights
20 commission;

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

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

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

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

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

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

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

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

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

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

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

14 (14) "Sex" means gender;

15 (15) "Sexual orientation" means actual or perceived
16 heterosexuality, homosexuality, bisexuality, and gender expression or
17 identity;

18 (16) "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))~~ (17) "Complainant" means the person who files a complaint
23 in a real estate transaction;

24 ~~((17))~~ (18) "Respondent" means any person accused in a complaint
25 or amended complaint of an unfair practice in a real estate
26 transaction;

27 ~~((18))~~ (19) "Credit transaction" includes any open or closed end
28 credit transaction, whether in the nature of a loan, retail installment
29 transaction, credit card issue or charge, or otherwise, and whether for
30 personal or for business purposes, in which a service, finance, or
31 interest charge is imposed, or which provides for repayment in
32 scheduled payments, when such credit is extended in the regular course
33 of any trade or commerce, including but not limited to transactions by
34 banks, savings and loan associations or other financial lending
35 institutions of whatever nature, stock brokers, or by a merchant or
36 mercantile establishment which as part of its ordinary business permits
37 or provides that payment for purchases of property or service therefrom
38 may be deferred;

1 (~~(19)~~) (20) "Families with children status" means one or more
2 individuals who have not attained the age of eighteen years being
3 domiciled with a parent or another person having legal custody of such
4 individual or individuals, or with the designee of such parent or other
5 person having such legal custody, with the written permission of such
6 parent or other person. Families with children status also applies to
7 any person who is pregnant or is in the process of securing legal
8 custody of any individual who has not attained the age of eighteen
9 years;

10 (~~(20)~~) (21) "Covered multifamily dwelling" means: (a) Buildings
11 consisting of four or more dwelling units if such buildings have one or
12 more elevators; and (b) ground floor dwelling units in other buildings
13 consisting of four or more dwelling units;

14 (~~(21)~~) (22) "Premises" means the interior or exterior spaces,
15 parts, components, or elements of a building, including individual
16 dwelling units and the public and common use areas of a building;

17 (~~(22)~~) (23) "Dog guide" means a dog that is trained for the
18 purpose of guiding blind persons or a dog that is trained for the
19 purpose of assisting hearing impaired persons;

20 (~~(23)~~) (24) "Service animal" means an animal that is trained for
21 the purpose of assisting or accommodating a disabled person's sensory,
22 mental, or physical disability.

23 **Sec. 5.** RCW 49.60.120 and 1997 c 271 s 4 are each amended to read
24 as follows:

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

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

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

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

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

37 (5) To issue such publications and (~~such~~) results of
38 investigations and research as in its judgment will tend to promote

1 good will and minimize or eliminate discrimination because of sex,
2 sexual orientation, race, creed, color, national origin, marital
3 status, age, or the presence of any sensory, mental, or physical
4 disability, or the use of a trained dog guide or service animal by a
5 disabled person.

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

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

20 (8) To foster good relations between minority and majority
21 population groups of the state through seminars, conferences,
22 educational programs, and other intergroup relations activities. The
23 commission may charge fees to participants for such activities, however
24 such fees may not exceed an amount necessary to cover the costs of the
25 programs and materials offered.

26 **Sec. 6.** RCW 49.60.130 and 1997 c 271 s 5 are each amended to read
27 as follows:

28 The commission has power to create such advisory agencies and
29 conciliation councils, local, regional, or statewide, as in its
30 judgment will aid in effectuating the purposes of this chapter. The
31 commission may empower them to study the problems of discrimination in
32 all or specific fields of human relationships or in specific instances
33 of discrimination because of sex, race, creed, color, national origin,
34 marital status, sexual orientation, age, or the presence of any
35 sensory, mental, or physical disability or the use of a trained dog
36 guide or service animal by a disabled person; to foster through
37 community effort or otherwise good will, cooperation, and conciliation
38 among the groups and elements of the population of the state, and to

1 make recommendations to the commission for the development of policies
2 and procedures in general and in specific instances, and for programs
3 of formal and informal education which the commission may recommend to
4 the appropriate state agency.

5 Such advisory agencies and conciliation councils shall be composed
6 of representative citizens, serving without pay, but with reimbursement
7 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as
8 now existing or hereafter amended, and the commission may make
9 provision for technical and clerical assistance to such agencies and
10 councils and for the expenses of such assistance. The commission may
11 use organizations specifically experienced in dealing with questions of
12 discrimination.

13 **Sec. 7.** RCW 49.60.175 and 1997 c 271 s 7 are each amended to read
14 as follows:

15 It shall be an unfair practice to use the sex, race, creed, color,
16 national origin, marital status, sexual orientation, or the presence of
17 any sensory, mental, or physical disability of any person, or the use
18 of a trained dog guide or service animal by a disabled person,
19 concerning an application for credit in any credit transaction to
20 determine the credit worthiness of an applicant.

21 **Sec. 8.** RCW 49.60.176 and 1997 c 271 s 8 are each amended to read
22 as follows:

23 (1) It is an unfair practice for any person whether acting for
24 himself, herself, or another in connection with any credit transaction
25 because of race, creed, color, national origin, sex, marital status,
26 sexual orientation, or the presence of any sensory, mental, or physical
27 disability or the use of a trained dog guide or service animal by a
28 disabled person:

29 (a) To deny credit to any person;

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

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

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

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

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

8 **Sec. 9.** RCW 49.60.178 and 1997 c 271 s 9 are each amended to read
9 as follows:

10 It is an unfair practice for any person whether acting for himself,
11 herself, or another in connection with an insurance transaction or
12 transaction with a health maintenance organization to cancel or fail or
13 refuse to issue or renew insurance or a health maintenance agreement to
14 any person because of sex, marital status, sexual orientation, race,
15 creed, color, national origin, or the presence of any sensory, mental,
16 or physical disability or the use of a trained dog guide or service
17 animal by a disabled person: PROVIDED, That a practice which is not
18 unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not
19 constitute an unfair practice for the purposes of this section. For
20 the purposes of this section, "insurance transaction" is defined in RCW
21 48.01.060, health maintenance agreement is defined in RCW 48.46.020,
22 and "health maintenance organization" is defined in RCW 48.46.020.

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

26 The insurance commissioner, under RCW 48.30.300, and the human
27 rights commission, under chapter 49.60 RCW, shall have concurrent
28 jurisdiction under this section and shall enter into a working
29 agreement as to procedure to be followed in complaints under this
30 section.

31 **Sec. 10.** RCW 49.60.180 and 1997 c 271 s 10 are each amended to
32 read as follows:

33 (1) It is an unfair practice for any employer:

34 ((+1)) (a) To refuse to hire any person because of age, sex,
35 marital status, sexual orientation, race, creed, color, national
36 origin, or the presence of any sensory, mental, or physical disability
37 or the use of a trained dog guide or service animal by a disabled

1 person, unless based upon a bona fide occupational qualification:
2 PROVIDED, That the prohibition against discrimination because of such
3 disability shall not apply if the particular disability prevents the
4 proper performance of the particular worker involved.

5 ~~((2))~~ (b) To discharge or bar any person from employment because
6 of age, sex, marital status, sexual orientation, race, creed, color,
7 national origin, or the presence of any sensory, mental, or physical
8 disability or the use of a trained dog guide or service animal by a
9 disabled person.

10 ~~((3))~~ (c) To discriminate against any person in compensation or
11 in other terms or conditions of employment because of age, sex, marital
12 status, sexual orientation, race, creed, color, national origin, or the
13 presence of any sensory, mental, or physical disability or the use of
14 a trained dog guide or service animal by a disabled person: PROVIDED,
15 That it shall not be an unfair practice for an employer to segregate
16 washrooms or locker facilities on the basis of sex, or to base other
17 terms and conditions of employment on the sex of employees where the
18 commission by regulation or ruling in a particular instance has found
19 the employment practice to be appropriate for the practical realization
20 of equality of opportunity between the sexes.

21 ~~((4))~~ (d) To print, or circulate, or cause to be printed or
22 circulated any statement, advertisement, or publication, or to use any
23 form of application for employment, or to make any inquiry in
24 connection with prospective employment, which expresses any limitation,
25 specification, or discrimination as to age, sex, marital status, sexual
26 orientation, race, creed, color, national origin, or the presence of
27 any sensory, mental, or physical disability or the use of a trained dog
28 guide or service animal by a disabled person, or any intent to make any
29 such limitation, specification, or discrimination, unless based upon a
30 bona fide occupational qualification: PROVIDED, Nothing contained
31 herein shall prohibit advertising in a foreign language.

32 (2) This section shall not be construed to require an employer to
33 establish employment goals or quotas based on sexual orientation or on
34 any other basis.

35 **Sec. 11.** RCW 49.60.190 and 1997 c 271 s 11 are each amended to
36 read as follows:

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

1 (1) To deny membership and full membership rights and privileges to
2 any person because of age, sex, marital status, sexual orientation,
3 race, creed, color, national origin, or the presence of any sensory,
4 mental, or physical disability or the use of a trained dog guide or
5 service animal by a disabled person.

6 (2) To expel from membership any person because of age, sex,
7 marital status, sexual orientation, race, creed, color, national
8 origin, or the presence of any sensory, mental, or physical disability
9 or the use of a trained dog guide or service animal by a disabled
10 person.

11 (3) To discriminate against any member, employer, employee, or
12 other person to whom a duty of representation is owed because of age,
13 sex, marital status, sexual orientation, race, creed, color, national
14 origin, or the presence of any sensory, mental, or physical disability
15 or the use of a trained dog guide or service animal by a disabled
16 person.

17 **Sec. 12.** RCW 49.60.200 and 1997 c 271 s 12 are each amended to
18 read as follows:

19 It is an unfair practice for any employment agency to fail or
20 refuse to classify properly or refer for employment, or otherwise to
21 discriminate against, an individual because of age, sex, marital
22 status, sexual orientation, race, creed, color, national origin, or the
23 presence of any sensory, mental, or physical disability or the use of
24 a trained dog guide or service animal by a disabled person, or to print
25 or circulate, or cause to be printed or circulated any statement,
26 advertisement, or publication, or to use any form of application for
27 employment, or to make any inquiry in connection with prospective
28 employment, which expresses any limitation, specification or
29 discrimination as to age, sex, race, sexual orientation, creed, color,
30 or national origin, or the presence of any sensory, mental, or physical
31 disability or the use of a trained dog guide or service animal by a
32 disabled person, or any intent to make any such limitation,
33 specification, or discrimination, unless based upon a bona fide
34 occupational qualification: PROVIDED, Nothing contained herein shall
35 prohibit advertising in a foreign language.

36 **Sec. 13.** RCW 49.60.215 and 1997 c 271 s 13 are each amended to
37 read as follows:

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

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

20 (1) It is an unfair practice for any person, whether acting for
21 himself, herself, or another, because of sex, marital status, sexual
22 orientation, race, creed, color, national origin, families with
23 children status, the presence of any sensory, mental, or physical
24 disability, or the use of a trained dog guide or service animal by a
25 disabled person:

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

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

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

32 (d) To refuse to negotiate for a real estate transaction with a
33 person;

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

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

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

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

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

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

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

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

31 (a) A refusal to permit, at the expense of the disabled person,
32 reasonable modifications of existing premises occupied or to be
33 occupied by such person if such modifications may be necessary to
34 afford such person full enjoyment of the dwelling, except that, in the
35 case of a rental, the landlord may, where it is reasonable to do so,
36 condition permission for a modification on the renter agreeing to
37 restore the interior of the dwelling to the condition that existed
38 before the modification, reasonable wear and tear excepted;

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

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

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

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

33 (4) Except pursuant to subsection (2)(a) of this section, this
34 section shall not be construed to require structural changes,
35 modifications, or additions to make facilities accessible to a disabled
36 person except as otherwise required by law. Nothing in this section
37 affects the rights, responsibilities, and remedies of landlords and
38 tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to
39 post and enforce reasonable rules of conduct and safety for all tenants

1 and their guests, provided that chapters 59.18 and 59.20 RCW are only
2 affected to the extent they are inconsistent with the nondiscrimination
3 requirements of this chapter. Nothing in this section limits the
4 applicability of any reasonable federal, state, or local restrictions
5 regarding the maximum number of occupants permitted to occupy a
6 dwelling.

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

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

24 **Sec. 15.** RCW 49.60.223 and 1997 c 271 s 15 are each amended to
25 read as follows:

26 It is an unfair practice for any person, for profit, to induce or
27 attempt to induce any person to sell or rent any real property by
28 representations regarding the entry or prospective entry into the
29 neighborhood of a person or persons of a particular race, creed, color,
30 sex, national origin, sexual orientation, families with children
31 status, or with any sensory, mental, or physical disability and/or the
32 use of a trained dog guide or service animal by a blind, deaf, or
33 physically disabled person.

34 **Sec. 16.** RCW 49.60.224 and 1997 c 271 s 16 are each amended to
35 read as follows:

36 (1) Every provision in a written instrument relating to real
37 property which purports to forbid or restrict the conveyance,

1 encumbrance, occupancy, or lease thereof to individuals of a specified
2 race, creed, color, sex, national origin, sexual orientation, families
3 with children status, or with any sensory, mental, or physical
4 disability or the use of a trained dog guide or service animal by a
5 blind, deaf, or physically disabled person, and every condition,
6 restriction, or prohibition, including a right of entry or possibility
7 of reverter, which directly or indirectly limits the use or occupancy
8 of real property on the basis of race, creed, color, sex, national
9 origin, sexual orientation, families with children status, or the
10 presence of any sensory, mental, or physical disability or the use of
11 a trained dog guide or service animal by a blind, deaf, or physically
12 disabled person is void.

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

16 **Sec. 17.** RCW 49.60.225 and 1997 c 271 s 17 are each amended to
17 read as follows:

18 (1) When a reasonable cause determination has been made under RCW
19 49.60.240 that an unfair practice in a real estate transaction has been
20 committed and a finding has been made that the respondent has engaged
21 in any unfair practice under RCW 49.60.250, the administrative law
22 judge shall promptly issue an order for such relief suffered by the
23 aggrieved person as may be appropriate, which may include actual
24 damages as provided by the federal fair housing amendments act of 1988
25 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable
26 relief. Such order may, to further the public interest, assess a civil
27 penalty against the respondent:

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

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

35 (c) In an amount up to fifty thousand dollars if the respondent has
36 been determined to have committed two or more unfair practices in a
37 real estate transaction during the seven-year period ending on the date
38 of the filing of this charge, for loss of the right secured by RCW

1 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as
2 now or hereafter amended, to be free from discrimination in real
3 property transactions because of sex, marital status, race, creed,
4 color, national origin, sexual orientation, families with children
5 status, or the presence of any sensory, mental, or physical disability
6 or the use of a trained dog guide or service animal by a blind, deaf,
7 or physically disabled person. Enforcement of the order and appeal
8 therefrom by the complainant or respondent may be made as provided in
9 RCW 49.60.260 and 49.60.270. If acts constituting the unfair practice
10 in a real estate transaction that is the object of the charge are
11 determined to have been committed by the same natural person who has
12 been previously determined to have committed acts constituting an
13 unfair practice in a real estate transaction, then the civil penalty of
14 up to fifty thousand dollars may be imposed without regard to the
15 period of time within which any subsequent unfair practice in a real
16 estate transaction occurred. All civil penalties assessed under this
17 section shall be paid into the state treasury and credited to the
18 general fund.

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

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

26 **Sec. 18.** RCW 49.60.250 and 1993 c 510 s 23 and 1993 c 69 s 14 are
27 each reenacted and amended to read as follows:

28 (1) In case of failure to reach an agreement for the elimination of
29 such unfair practice, and upon the entry of findings to that effect,
30 the entire file, including the complaint and any and all findings made,
31 shall be certified to the chairperson of the commission. The
32 chairperson of the commission shall thereupon request the appointment
33 of an administrative law judge under Title 34 RCW to hear the complaint
34 and shall cause to be issued and served in the name of the commission
35 a written notice, together with a copy of the complaint, as the same
36 may have been amended, requiring the respondent to answer the charges
37 of the complaint at a hearing before the administrative law judge, at
38 a time and place to be specified in such notice.

1 (2) The place of any such hearing may be the office of the
2 commission or another place designated by it. The case in support of
3 the complaint shall be presented at the hearing by counsel for the
4 commission: PROVIDED, That the complainant may retain independent
5 counsel and submit testimony and be fully heard. No member or employee
6 of the commission who previously made the investigation or caused the
7 notice to be issued shall participate in the hearing except as a
8 witness, nor shall the member or employee participate in the
9 deliberations of the administrative law judge in such case. Any
10 endeavors or negotiations for conciliation shall not be received in
11 evidence.

12 (3) The respondent shall file a written answer to the complaint and
13 appear at the hearing in person or otherwise, with or without counsel,
14 and submit testimony and be fully heard. The respondent has the right
15 to cross-examine the complainant.

16 (4) The administrative law judge conducting any hearing may permit
17 reasonable amendment to any complaint or answer. Testimony taken at
18 the hearing shall be under oath and recorded.

19 (5) If, upon all the evidence, the administrative law judge finds
20 that the respondent has engaged in any unfair practice, the
21 administrative law judge shall state findings of fact and shall issue
22 and file with the commission and cause to be served on such respondent
23 an order requiring such respondent to cease and desist from such unfair
24 practice and to take such affirmative action, including, (but not
25 limited to) hiring, reinstatement or upgrading of employees, with or
26 without back pay, an admission or restoration to full membership rights
27 in any respondent organization, or to take such other action as, in the
28 judgment of the administrative law judge, will effectuate the purposes
29 of this chapter, including action that could be ordered by a court,
30 except that damages for humiliation and mental suffering shall not
31 exceed ((ten)) thirty-five thousand dollars, and including a
32 requirement for report of the matter on compliance. Relief available
33 for violations of RCW 49.60.222 through 49.60.224 shall be limited to
34 the relief specified in RCW 49.60.225.

35 (6) If a determination is made that retaliatory action, as defined
36 in RCW 42.40.050, has been taken against a whistleblower, as defined in
37 RCW 42.40.020, the administrative law judge may, in addition to any
38 other remedy, impose a civil penalty upon the retaliator of up to three
39 thousand dollars and issue an order to the state employer to suspend

1 the retaliator for up to thirty days without pay. At a minimum, the
2 administrative law judge shall require that a letter of reprimand be
3 placed in the retaliator's personnel file. All penalties recovered
4 shall be paid into the state treasury and credited to the general fund.

5 (7) The final order of the administrative law judge shall include
6 a notice to the parties of the right to obtain judicial review of the
7 order by appeal in accordance with the provisions of RCW 34.05.510
8 through 34.05.598, and that such appeal must be served and filed within
9 thirty days after the service of the order on the parties.

10 (8) If, upon all the evidence, the administrative law judge finds
11 that the respondent has not engaged in any alleged unfair practice, the
12 administrative law judge shall state findings of fact and shall
13 similarly issue and file an order dismissing the complaint.

14 (9) An order dismissing a complaint may include an award of
15 reasonable attorneys' fees in favor of the respondent if the
16 administrative law judge concludes that the complaint was frivolous,
17 unreasonable, or groundless.

18 (10) The commission shall establish rules of practice to govern,
19 expedite, and effectuate the foregoing procedure.

20 **Sec. 19.** RCW 48.30.300 and 1993 c 492 s 287 are each amended to
21 read as follows:

22 Notwithstanding any provision contained in Title 48 RCW to the
23 contrary:

24 (1) No person or entity engaged in the business of insurance in
25 this state shall refuse to issue any contract of insurance or cancel or
26 decline to renew such contract because of the sex ~~((or))~~, marital
27 status, or sexual orientation as defined in RCW 49.60.040, or the
28 presence of any sensory, mental, or physical handicap of the insured or
29 prospective insured. The amount of benefits payable, or any term,
30 rate, condition, or type of coverage shall not be restricted, modified,
31 excluded, increased or reduced on the basis of the sex ~~((or))~~, marital
32 status, or sexual orientation, or be restricted, modified, excluded or
33 reduced on the basis of the presence of any sensory, mental, or
34 physical handicap of the insured or prospective insured. Subject to
35 the provisions of subsection (2) of this section these provisions shall
36 not prohibit fair discrimination on the basis of sex, or marital
37 status, or the presence of any sensory, mental, or physical handicap

1 when bona fide statistical differences in risk or exposure have been
2 substantiated.

3 (2) With respect to disability policies issued or renewed on and
4 after July 1, 1994, that provide coverage against loss arising from
5 medical, surgical, hospital, or emergency care services:

6 (a) Policies shall guarantee continuity of coverage. Such
7 provision, which shall be included in every policy, shall provide that:

8 (i) The policy may be canceled or nonrenewed without the prior
9 written approval of the commissioner only for nonpayment of premium or
10 as permitted under RCW 48.18.090; and

11 (ii) The policy may be canceled or nonrenewed because of a change
12 in the physical or mental condition or health of a covered person only
13 with the prior written approval of the commissioner. Such approval
14 shall be granted only when the insurer has discharged its obligation to
15 continue coverage for such person by obtaining coverage with another
16 insurer, health care service contractor, or health maintenance
17 organization, which coverage is comparable in terms of premiums and
18 benefits as defined by rule of the commissioner.

19 (b) It is an unfair practice for a disability insurer to modify the
20 coverage provided or rates applying to an in-force disability insurance
21 policy and to fail to make such modification in all such issued and
22 outstanding policies.

23 (c) Subject to rules adopted by the commissioner, it is an unfair
24 practice for a disability insurer to:

25 (i) Cease the sale of a policy form unless it has received prior
26 written authorization from the commissioner and has offered all
27 policyholders covered under such discontinued policy the opportunity to
28 purchase comparable coverage without health screening; or

29 (ii) Engage in a practice that subjects policyholders to rate
30 increases on discontinued policy forms unless such policyholders are
31 offered the opportunity to purchase comparable coverage without health
32 screening.

33 The insurer may limit an offer of comparable coverage without
34 health screening to a period not less than thirty days from the date
35 the offer is first made.

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