
SENATE BILL 6340

State of Washington 58th Legislature 2004 Regular Session

By Senators Prentice, Kline and McAuliffe

Read first time 01/19/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to freedom from discrimination based upon religious
2 beliefs; amending RCW 49.60.030, 49.60.180, and 9A.36.080; and creating
3 new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the first
6 amendment to the United States Constitution and Article I, section 11
7 of the Washington state Constitution guarantee and protect freedom of
8 religion, including the freedom of an individual to conscientiously
9 object to certain actions based upon religious beliefs. The
10 legislature further finds that it is a matter of state concern that
11 these freedoms be protected to the fullest extent under the law.

12 **Sec. 2.** RCW 49.60.030 and 1997 c 271 s 2 are each amended to read
13 as follows:

14 (1) The right to be free from discrimination because of race,
15 creed, color, national origin, religious belief, sex, or the presence
16 of any sensory, mental, or physical disability or the use of a trained
17 dog guide or service animal by a disabled person is recognized as and

1 declared to be a civil right. This right shall include, but not be
2 limited to:

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

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

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

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

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

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

33 (g) The right to conscientious objection to the performance of acts
34 in contravention of an individual's bona fide doctrinal religious
35 beliefs.

36 (2) Any person deeming himself or herself injured by any act in
37 violation of this chapter shall have a civil action in a court of
38 competent jurisdiction to enjoin further violations, or to recover the

1 actual damages sustained by the person, or both, together with the cost
2 of suit including reasonable attorneys' fees or any other appropriate
3 remedy authorized by this chapter or the United States Civil Rights Act
4 of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988
5 (42 U.S.C. Sec. 3601 et seq.).

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

16 **Sec. 3.** RCW 49.60.180 and 1997 c 271 s 10 are each amended to read
17 as follows:

18 It is an unfair practice for any employer:

19 (1) To refuse to hire any person because of age, sex, marital
20 status, race, creed, color, national origin, or the presence of any
21 sensory, mental, or physical disability or the use of a trained dog
22 guide or service animal by a disabled person, unless based upon a bona
23 fide occupational qualification: PROVIDED, That the prohibition
24 against discrimination because of such disability shall not apply if
25 the particular disability prevents the proper performance of the
26 particular worker involved.

27 (2) To discharge or bar any person from employment because of age,
28 sex, marital status, race, creed, color, national origin, or the
29 presence of any sensory, mental, or physical disability or the use of
30 a trained dog guide or service animal by a disabled person.

31 (3) To discriminate against any person in compensation or in other
32 terms or conditions of employment because of age, sex, marital status,
33 race, creed, color, national origin, or the presence of any sensory,
34 mental, or physical disability or the use of a trained dog guide or
35 service animal by a disabled person: PROVIDED, That it shall not be an
36 unfair practice for an employer to segregate washrooms or locker
37 facilities on the basis of sex, or to base other terms and conditions

1 of employment on the sex of employees where the commission by
2 regulation or ruling in a particular instance has found the employment
3 practice to be appropriate for the practical realization of equality of
4 opportunity between the sexes.

5 (4) To print, or circulate, or cause to be printed or circulated
6 any statement, advertisement, or publication, or to use any form of
7 application for employment, or to make any inquiry in connection with
8 prospective employment, which expresses any limitation, specification,
9 or discrimination as to age, sex, marital status, race, creed, color,
10 national origin, or the presence of any sensory, mental, or physical
11 disability or the use of a trained dog guide or service animal by a
12 disabled person, or any intent to make any such limitation,
13 specification, or discrimination, unless based upon a bona fide
14 occupational qualification: PROVIDED, Nothing contained herein shall
15 prohibit advertising in a foreign language.

16 (5) To coerce or attempt to coerce an employee to perform an act in
17 contravention of the employee's bona fide doctrinal religious beliefs.

18 **Sec. 4.** RCW 9A.36.080 and 1993 c 127 s 2 are each amended to read
19 as follows:

20 (1) A person is guilty of malicious harassment if he or she
21 maliciously and intentionally commits one of the following acts because
22 of his or her perception of the victim's race, color, religion,
23 ancestry, national origin, gender, sexual orientation, or mental,
24 physical, or sensory handicap:

25 (a) Causes physical injury to the victim or another person;

26 (b) Causes physical damage to or destruction of the property of the
27 victim or another person; ((~~or~~))

28 (c) Threatens a specific person or group of persons and places that
29 person, or members of the specific group of persons, in reasonable fear
30 of harm to person or property. The fear must be a fear that a
31 reasonable person would have under all the circumstances. For purposes
32 of this section, a "reasonable person" is a reasonable person who is a
33 member of the victim's race, color, religion, ancestry, national
34 origin, gender, or sexual orientation, or who has the same mental,
35 physical, or sensory handicap as the victim. Words alone do not
36 constitute malicious harassment unless the context or circumstances
37 surrounding the words indicate the words are a threat. Threatening

1 words do not constitute malicious harassment if it is apparent to the
2 victim that the person does not have the ability to carry out the
3 threat; or

4 (d) Uses the judicial process in an attempt to coerce an individual
5 to act in contravention of the individual's bona fide doctrinal
6 religious beliefs.

7 (2) In any prosecution for malicious harassment, unless evidence
8 exists which explains to the trier of fact's satisfaction that the
9 person did not intend to threaten the victim or victims, the trier of
10 fact may infer that the person intended to threaten a specific victim
11 or group of victims because of the person's perception of the victim's
12 or victims' race, color, religion, ancestry, national origin, gender,
13 sexual orientation, or mental, physical, or sensory handicap if the
14 person commits one of the following acts:

15 (a) Burns a cross on property of a victim who is or whom the actor
16 perceives to be of African American heritage; or

17 (b) Defaces property of a victim who is or whom the actor perceives
18 to be of Jewish heritage by defacing the property with a swastika.

19 This subsection only applies to the creation of a reasonable
20 inference for evidentiary purposes. This subsection does not restrict
21 the state's ability to prosecute a person under subsection (1) of this
22 section when the facts of a particular case do not fall within (a) or
23 (b) of this subsection.

24 (3) It is not a defense that the accused was mistaken that the
25 victim was a member of a certain race, color, religion, ancestry,
26 national origin, gender, or sexual orientation, or had a mental,
27 physical, or sensory handicap.

28 (4) Evidence of expressions or associations of the accused may not
29 be introduced as substantive evidence at trial unless the evidence
30 specifically relates to the crime charged. Nothing in this chapter
31 shall affect the rules of evidence governing impeachment of a witness.

32 (5) Every person who commits another crime during the commission of
33 a crime under this section may be punished and prosecuted for the other
34 crime separately.

35 (6) "Sexual orientation" for the purposes of this section means
36 heterosexuality, homosexuality, or bisexuality.

37 (7) Malicious harassment is a class C felony.

1 (8) The penalties provided in this section for malicious harassment
2 do not preclude the victims from seeking any other remedies otherwise
3 available under law.

4 (9) Nothing in this section confers or expands any civil rights or
5 protections to any group or class identified under this section, beyond
6 those rights or protections that exist under the federal or state
7 Constitution or the civil laws of the state of Washington.

8 NEW SECTION. **Sec. 5.** This act is to be broadly and liberally
9 construed to provide an individual with the ability to exercise the
10 right to religiously based conscientious objection.

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