
SENATE BILL 5917

State of Washington

59th Legislature

2005 Regular Session

By Senators Fairley, Kline and Kohl-Welles

Read first time 02/14/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to discrimination based on lawful source of income;
2 amending RCW 49.60.030, 49.60.040, 49.60.223, 49.60.224, and 49.60.225;
3 and reenacting and amending RCW 49.60.222.

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

5 **Sec. 1.** RCW 49.60.030 and 1997 c 271 s 2 are each amended to read
6 as follows:

7 (1) The right to be free from discrimination because of race,
8 creed, color, national origin, sex, or the presence of any sensory,
9 mental, or physical disability or the use of a trained dog guide or
10 service animal by a disabled person is recognized as and declared to be
11 a civil right. This right shall include, but not be limited to:

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

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

16 (c) The right to engage in real estate transactions without
17 discrimination, including discrimination against families with children
18 and discrimination against individuals due to lawful source of income;

1 (d) The right to engage in credit transactions without
2 discrimination;

3 (e) The right to engage in insurance transactions or transactions
4 with health maintenance organizations without discrimination:
5 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
6 48.44.220, or 48.46.370 does not constitute an unfair practice for the
7 purposes of this subparagraph; and

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

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

32 (3) Except for any unfair practice committed by an employer against
33 an employee or a prospective employee, or any unfair practice in a real
34 estate transaction which is the basis for relief specified in the
35 amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any
36 unfair practice prohibited by this chapter which is committed in the
37 course of trade or commerce as defined in the Consumer Protection Act,
38 chapter 19.86 RCW, is, for the purpose of applying that chapter, a

1 matter affecting the public interest, is not reasonable in relation to
2 the development and preservation of business, and is an unfair or
3 deceptive act in trade or commerce.

4 **Sec. 2.** RCW 49.60.040 and 1997 c 271 s 3 are each amended to read
5 as follows:

6 As used in this chapter:

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

14 (2) "Commission" means the Washington state human rights
15 commission;

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

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

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

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

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

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

33 (9) "Full enjoyment of" includes the right to purchase any service,
34 commodity, or article of personal property offered or sold on, or by,
35 any establishment to the public, and the admission of any person to
36 accommodations, advantages, facilities, or privileges of any place of
37 public resort, accommodation, assemblage, or amusement, without acts

1 directly or indirectly causing persons of any particular race, creed,
2 color, sex, national origin, lawful source of income, or with any
3 sensory, mental, or physical disability, or the use of a trained dog
4 guide or service animal by a disabled person, to be treated as not
5 welcome, accepted, desired, or solicited;

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

35 (11) "Real property" includes buildings, structures, dwellings,
36 real estate, lands, tenements, leaseholds, interests in real estate
37 cooperatives, condominiums, and hereditaments, corporeal and
38 incorporeal, or any interest therein;

1 (12) "Real estate transaction" includes the sale, appraisal,
2 brokering, exchange, purchase, rental, or lease of real property,
3 transacting or applying for a real estate loan, or the provision of
4 brokerage services;

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

10 (14) "Sex" means gender;

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

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

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

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

31 (19) "Families with children status" means one or more individuals
32 who have not attained the age of eighteen years being domiciled with a
33 parent or another person having legal custody of such individual or
34 individuals, or with the designee of such parent or other person having
35 such legal custody, with the written permission of such parent or other
36 person. Families with children status also applies to any person who
37 is pregnant or is in the process of securing legal custody of any
38 individual who has not attained the age of eighteen years;

1 (20) "Covered multifamily dwelling" means: (a) Buildings
2 consisting of four or more dwelling units if such buildings have one or
3 more elevators; and (b) ground floor dwelling units in other buildings
4 consisting of four or more dwelling units;

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

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

11 (23) "Service animal" means an animal that is trained for the
12 purpose of assisting or accommodating a disabled person's sensory,
13 mental, or physical disability;

14 (24) "Lawful source of income" means verifiable legal income,
15 including income derived from employment, social security, supplemental
16 security income, other retirement programs, child support, alimony, and
17 any federal, state, local, or nonprofit-administered benefit or subsidy
18 programs, including housing assistance, public assistance, and general
19 assistance programs.

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

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

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

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

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

34 (d) To refuse to negotiate for a real estate transaction with a
35 person;

36 (e) To represent to a person that real property is not available

1 for inspection, sale, rental, or lease when in fact it is so available,
2 or to fail to bring a property listing to his or her attention, or to
3 refuse to permit the person to inspect real property;

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

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

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

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

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

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

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

34 (a) A refusal to permit, at the expense of the disabled person,
35 reasonable modifications of existing premises occupied or to be
36 occupied by such person if such modifications may be necessary to
37 afford such person full enjoyment of the dwelling, except that, in the
38 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

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

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

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

28 **Sec. 4.** RCW 49.60.223 and 1997 c 271 s 15 are each amended to read
29 as follows:

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

1 **Sec. 5.** RCW 49.60.224 and 1997 c 271 s 16 are each amended to read
2 as follows:

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

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

20 **Sec. 6.** RCW 49.60.225 and 1997 c 271 s 17 are each amended to read
21 as follows:

22 (1) When a reasonable cause determination has been made under RCW
23 49.60.240 that an unfair practice in a real estate transaction has been
24 committed and a finding has been made that the respondent has engaged
25 in any unfair practice under RCW 49.60.250, the administrative law
26 judge shall promptly issue an order for such relief suffered by the
27 aggrieved person as may be appropriate, which may include actual
28 damages as provided by the federal fair housing amendments act of 1988
29 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable
30 relief. Such order may, to further the public interest, assess a civil
31 penalty against the respondent:

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

35 (b) In an amount up to twenty-five thousand dollars if the
36 respondent has been determined to have committed one other unfair

1 practice in a real estate transaction during the five-year period
2 ending on the date of the filing of this charge; or

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

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

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

32 NEW SECTION. **Sec. 7.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

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