

---

SENATE BILL 5680

---

State of Washington

62nd Legislature

2011 Regular Session

By Senators Harper, Hargrove, Carrell, and McAuliffe

Read first time 02/04/11. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to requiring businesses where food for human  
2 consumption is sold or served to allow persons with disabilities to  
3 bring their service animals onto the business premises; amending RCW  
4 9.91.170 and 49.60.215; reenacting and amending RCW 49.60.040; and  
5 prescribing penalties.

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

7 **Sec. 1.** RCW 9.91.170 and 2003 c 53 s 52 are each amended to read  
8 as follows:

9 (1)(a) Any person who:

10 (i) Has received notice that his or her behavior is interfering  
11 with the use of a ((dog guide or)) service animal who continues with  
12 reckless disregard to interfere with the use of a ((dog guide or))  
13 service animal by obstructing, intimidating, or otherwise jeopardizing  
14 the safety of the ((dog guide or)) service animal user or his or her  
15 ((dog guide or)) service animal; or

16 (ii) Prevents a service animal user and his or her service animal  
17 from entering a business where food for human consumption is sold or  
18 served is guilty of a misdemeanor, except as provided in (b) of this  
19 subsection.

1 (b) A second or subsequent violation of this subsection is a gross  
2 misdemeanor.

3 (2)(a) Any person who, with reckless disregard, allows his or her  
4 dog to interfere with the use of a ((~~dog guide or~~)) service animal by  
5 obstructing, intimidating, or otherwise jeopardizing the safety of the  
6 ((~~dog guide or~~)) service animal user or his or her ((~~dog guide or~~))  
7 service animal is guilty of a misdemeanor, except as provided in (b) of  
8 this subsection.

9 (b) A second or subsequent violation of this subsection is a gross  
10 misdemeanor.

11 (3) Any person who, with reckless disregard, injures, disables, or  
12 causes the death of a ((~~dog guide or~~)) service animal is guilty of a  
13 gross misdemeanor.

14 (4) Any person who, with reckless disregard, allows his or her dog  
15 to injure, disable, or cause the death of a ((~~dog guide or~~)) service  
16 animal is guilty of a gross misdemeanor.

17 (5) Any person who intentionally injures, disables, or causes the  
18 death of a ((~~dog guide or~~)) service animal is guilty of a class C  
19 felony punishable according to chapter 9A.20 RCW.

20 (6) Any person who wrongfully obtains or exerts unauthorized  
21 control over a ((~~dog guide or~~)) service animal with the intent to  
22 deprive the ((~~dog guide or~~)) service animal user of his or her ((~~dog  
23 guide or~~)) service animal is guilty of theft in the first degree, RCW  
24 9A.56.030.

25 (7)(a) In any case in which the defendant is convicted of a  
26 violation of this section, he or she shall also be ordered to make full  
27 restitution for all damages, including incidental and consequential  
28 expenses incurred by the ((~~dog guide or~~)) service animal user and the  
29 ((~~dog guide or~~)) service animal which arise out of or are related to  
30 the criminal offense.

31 (b) Restitution for a conviction under this section shall include,  
32 but is not limited to:

33 (i) The value of the replacement of an incapacitated or deceased  
34 ((~~dog guide or~~)) service animal, the training of a replacement ((~~dog  
35 guide or~~)) service animal, or retraining of the affected ((~~dog guide  
36 or~~)) service animal and all related veterinary and care expenses; and

37 (ii) Medical expenses of the ((~~dog guide or~~)) service animal user,

1 training of the (~~dog guide or~~) service animal user, and compensation  
2 for wages or earned income lost by the (~~dog guide or~~) service animal  
3 user.

4 (8) Nothing in this section shall affect any civil remedies  
5 available for violation of this section.

6 (9) For purposes of this section, the following definitions apply:

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

10 ~~(b))~~ "Service animal" means (~~an animal that is trained for the~~  
11 ~~purposes of assisting or accommodating a disabled person's sensory,~~  
12 ~~mental, or physical disability)~~ any dog that is individually trained  
13 to do work or perform tasks for the benefit of an individual with a  
14 disability, including a physical, sensory, psychiatric, intellectual,  
15 or other mental disability. Other species of animals, whether wild or  
16 domestic, trained or untrained, are not service animals. The work or  
17 tasks performed by a service animal must be directly related to the  
18 individual's disability. Examples of work or tasks include, but are  
19 not limited to, assisting individuals who are blind or have low vision  
20 with navigation and other tasks, alerting individuals who are deaf or  
21 hard of hearing to the presence of people or sounds, providing  
22 nonviolent protection or rescue work, pulling a wheelchair, assisting  
23 an individual during a seizure, alerting individuals to the presence of  
24 allergens, retrieving items such as medicine or the telephone,  
25 providing physical support and assistance with balance and stability to  
26 individuals with mobility disabilities, and helping persons with  
27 psychiatric and neurological disabilities by preventing or interrupting  
28 impulsive or destructive behaviors. The crime deterrent effects of an  
29 animal's presence and the provision of emotional support, well-being,  
30 comfort, or companionship do not constitute work or tasks.

31 ~~((e))~~ (b) "Notice" means a verbal or otherwise communicated  
32 warning prescribing the behavior of another person and a request that  
33 the person stop their behavior.

34 ~~((d))~~ (c) "Value" means the value to the (~~dog guide or~~) service  
35 animal user and does not refer to cost or fair market value.

36 **Sec. 2.** RCW 49.60.040 and 2009 c 187 s 3 are each reenacted and  
37 amended to read as follows:

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

3 (1) "Aggrieved person" means any person who: (a) Claims to have  
4 been injured by an unfair practice in a real estate transaction; or (b)  
5 believes that he or she will be injured by an unfair practice in a real  
6 estate transaction that is about to occur.

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

36 (3) "Commission" means the Washington state human rights  
37 commission.

1 (4) "Complainant" means the person who files a complaint in a real  
2 estate transaction.

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

7 (6) "Credit transaction" includes any open or closed end credit  
8 transaction, whether in the nature of a loan, retail installment  
9 transaction, credit card issue or charge, or otherwise, and whether for  
10 personal or for business purposes, in which a service, finance, or  
11 interest charge is imposed, or which provides for repayment in  
12 scheduled payments, when such credit is extended in the regular course  
13 of any trade or commerce, including but not limited to transactions by  
14 banks, savings and loan associations or other financial lending  
15 institutions of whatever nature, stock brokers, or by a merchant or  
16 mercantile establishment which as part of its ordinary business permits  
17 or provides that payment for purchases of property or service therefrom  
18 may be deferred.

19 (7)(a) "Disability" means the presence of a sensory, mental, or  
20 physical impairment that:

21 (i) Is medically cognizable or diagnosable; or

22 (ii) Exists as a record or history; or

23 (iii) Is perceived to exist whether or not it exists in fact.

24 (b) A disability exists whether it is temporary or permanent,  
25 common or uncommon, mitigated or unmitigated, or whether or not it  
26 limits the ability to work generally or work at a particular job or  
27 whether or not it limits any other activity within the scope of this  
28 chapter.

29 (c) For purposes of this definition, "impairment" includes, but is  
30 not limited to:

31 (i) Any physiological disorder, or condition, cosmetic  
32 disfigurement, or anatomical loss affecting one or more of the  
33 following body systems: Neurological, musculoskeletal, special sense  
34 organs, respiratory, including speech organs, cardiovascular,  
35 reproductive, digestive, genitor-urinary, hemic and lymphatic, skin,  
36 and endocrine; or

37 (ii) Any mental, developmental, traumatic, or psychological

1 disorder, including but not limited to cognitive limitation, organic  
2 brain syndrome, emotional or mental illness, and specific learning  
3 disabilities.

4 (d) Only for the purposes of qualifying for reasonable  
5 accommodation in employment, an impairment must be known or shown  
6 through an interactive process to exist in fact and:

7 (i) The impairment must have a substantially limiting effect upon  
8 the individual's ability to perform his or her job, the individual's  
9 ability to apply or be considered for a job, or the individual's access  
10 to equal benefits, privileges, or terms or conditions of employment; or

11 (ii) The employee must have put the employer on notice of the  
12 existence of an impairment, and medical documentation must establish a  
13 reasonable likelihood that engaging in job functions without an  
14 accommodation would aggravate the impairment to the extent that it  
15 would create a substantially limiting effect.

16 (e) For purposes of (d) of this subsection, a limitation is not  
17 substantial if it has only a trivial effect.

18 ~~(8) ("Dog guide" means a dog that is trained for the purpose of~~  
19 ~~guiding blind persons or a dog that is trained for the purpose of~~  
20 ~~assisting hearing impaired persons.~~

21 ~~(9))~~ "Dwelling" means any building, structure, or portion thereof  
22 that is occupied as, or designed or intended for occupancy as, a  
23 residence by one or more families, and any vacant land that is offered  
24 for sale or lease for the construction or location thereon of any such  
25 building, structure, or portion thereof.

26 ~~((10))~~ (9) "Employee" does not include any individual employed by  
27 his or her parents, spouse, or child, or in the domestic service of any  
28 person.

29 ~~((11))~~ (10) "Employer" includes any person acting in the interest  
30 of an employer, directly or indirectly, who employs eight or more  
31 persons, and does not include any religious or sectarian organization  
32 not organized for private profit.

33 ~~((12))~~ (11) "Employment agency" includes any person undertaking  
34 with or without compensation to recruit, procure, refer, or place  
35 employees for an employer.

36 ~~((13))~~ (12) "Families with children status" means one or more  
37 individuals who have not attained the age of eighteen years being  
38 domiciled with a parent or another person having legal custody of such

1 individual or individuals, or with the designee of such parent or other  
2 person having such legal custody, with the written permission of such  
3 parent or other person. Families with children status also applies to  
4 any person who is pregnant or is in the process of securing legal  
5 custody of any individual who has not attained the age of eighteen  
6 years.

7 ((+14)) (13) "Full enjoyment of" includes the right to purchase  
8 any service, commodity, or article of personal property offered or sold  
9 on, or by, any establishment to the public, and the admission of any  
10 person to accommodations, advantages, facilities, or privileges of any  
11 place of public resort, accommodation, assemblage, or amusement,  
12 without acts directly or indirectly causing persons of any particular  
13 race, creed, color, sex, sexual orientation, national origin, or with  
14 any sensory, mental, or physical disability, or the use of a trained  
15 (~~dog guide or~~) service animal by a person with a disability, to be  
16 treated as not welcome, accepted, desired, or solicited.

17 ((+15)) (14) "Honorably discharged veteran or military status"  
18 means a person who is:

19 (a) A veteran, as defined in RCW 41.04.007; or

20 (b) An active or reserve member in any branch of the armed forces  
21 of the United States, including the national guard, coast guard, and  
22 armed forces reserves.

23 ((+16)) (15) "Labor organization" includes any organization which  
24 exists for the purpose, in whole or in part, of dealing with employers  
25 concerning grievances or terms or conditions of employment, or for  
26 other mutual aid or protection in connection with employment.

27 ((+17)) (16) "Marital status" means the legal status of being  
28 married, single, separated, divorced, or widowed.

29 ((+18)) (17) "National origin" includes "ancestry."

30 ((+19)) (18) "Person" includes one or more individuals,  
31 partnerships, associations, organizations, corporations, cooperatives,  
32 legal representatives, trustees and receivers, or any group of persons;  
33 it includes any owner, lessee, proprietor, manager, agent, or employee,  
34 whether one or more natural persons; and further includes any political  
35 or civil subdivisions of the state and any agency or instrumentality of  
36 the state or of any political or civil subdivision thereof.

37 ((+20)) (19) "Premises" means the interior or exterior spaces,

1 parts, components, or elements of a building, including individual  
2 dwelling units and the public and common use areas of a building.

3 ~~((+21+))~~ (20) "Real estate transaction" includes the sale,  
4 appraisal, brokering, exchange, purchase, rental, or lease of real  
5 property, transacting or applying for a real estate loan, or the  
6 provision of brokerage services.

7 ~~((+22+))~~ (21) "Real property" includes buildings, structures,  
8 dwellings, real estate, lands, tenements, leaseholds, interests in real  
9 estate cooperatives, condominiums, and hereditaments, corporeal and  
10 incorporeal, or any interest therein.

11 ~~((+23+))~~ (22) "Respondent" means any person accused in a complaint  
12 or amended complaint of an unfair practice in a real estate  
13 transaction.

14 ~~((+24+))~~ (23) "Service animal" means ~~((an animal that is trained  
15 for the purpose of assisting or accommodating a sensory, mental, or  
16 physical disability of a person with a disability))~~ any dog that is  
17 individually trained to do work or perform tasks for the benefit of an  
18 individual with a disability, including a physical, sensory,  
19 psychiatric, intellectual, or other mental disability. Other species  
20 of animals, whether wild or domestic, trained or untrained, are not  
21 service animals. The work or tasks performed by a service animal must  
22 be directly related to the individual's disability. Examples of work  
23 or tasks include, but are not limited to, assisting individuals who are  
24 blind or have low vision with navigation and other tasks, alerting  
25 individuals who are deaf or hard of hearing to the presence of people  
26 or sounds, providing nonviolent protection or rescue work, pulling a  
27 wheelchair, assisting an individual during a seizure, alerting  
28 individuals to the presence of allergens, retrieving items such as  
29 medicine or the telephone, providing physical support and assistance  
30 with balance and stability to individuals with mobility disabilities,  
31 and helping persons with psychiatric and neurological disabilities by  
32 preventing or interrupting impulsive or destructive behaviors. The  
33 crime deterrent effects of an animal's presence and the provision of  
34 emotional support, well-being, comfort, or companionship do not  
35 constitute work or tasks.

36 ~~((+25+))~~ (24) "Sex" means gender.

37 ~~((+26+))~~ (25) "Sexual orientation" means heterosexuality,  
38 homosexuality, bisexuality, and gender expression or identity. As used



1 in this definition, "gender expression or identity" means having or  
2 being perceived as having a gender identity, self-image, appearance,  
3 behavior, or expression, whether or not that gender identity, self-  
4 image, appearance, behavior, or expression is different from that  
5 traditionally associated with the sex assigned to that person at birth.

6 **Sec. 3.** RCW 49.60.215 and 2009 c 164 s 2 are each amended to read  
7 as follows:

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

26 (2) For the purposes of this section, "public resort,  
27 accommodation, assemblage, or amusement" includes, but is not limited  
28 to, businesses where food for human consumption is sold or served.

--- END ---