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SENATE BILL 6149

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State of Washington

64th Legislature

2016 Regular Session

By Senators Keiser, Conway, Jayapal, Cleveland, Rolfes, Fraser, Litzow, Fain, Nelson, Habib, Chase, Mullet, Liias, Pedersen, Takko, Hasegawa, Ranker, Frockt, Hill, Benton, Billig, and Darneille

Prefiled 12/14/15. Read first time 01/11/16. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to providing reasonable accommodations in the  
2 workplace for pregnant women; amending RCW 49.60.030 and 49.60.180;  
3 and adding a new section to chapter 49.60 RCW.

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

5 **Sec. 1.** RCW 49.60.030 and 2009 c 164 s 1 are each amended to  
6 read as follows:

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

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

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

19 (c) The right to engage in real estate transactions without  
20 discrimination, including discrimination against families with  
21 children;

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  
7 the purposes of this subparagraph;

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  
11 execution of any express or implied agreement, understanding, policy  
12 or contractual arrangement for economic benefit between any persons  
13 which is not specifically authorized by the laws of the United States  
14 and which is required or imposed, either directly or indirectly,  
15 overtly or covertly, by a foreign government or foreign person in  
16 order to restrict, condition, prohibit, or interfere with or in order  
17 to exclude any person or persons from any business relationship on  
18 the basis of race, color, creed, religion, sex, honorably discharged  
19 veteran or military status, sexual orientation, the presence of any  
20 sensory, mental, or physical disability, or the use of a trained dog  
21 guide or service animal by a person with a disability, or national  
22 origin or lawful business relationship: PROVIDED HOWEVER, That  
23 nothing herein contained shall prohibit the use of boycotts as  
24 authorized by law pertaining to labor disputes and unfair labor  
25 practices; ((and))

26 (g) The right of a mother to breastfeed her child in any place of  
27 public resort, accommodation, assemblage, or amusement; and

28 (h) The right to receive reasonable accommodation in employment  
29 for pregnancy, childbirth, or pregnancy-related health conditions.

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

38 (3) Except for any unfair practice committed by an employer  
39 against an employee or a prospective employee, or any unfair practice  
40 in a real estate transaction which is the basis for relief specified

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

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.60  
9 RCW to read as follows:

10 (1) In addition to the unfair practices under RCW 49.60.180, it  
11 is an unfair practice for any employer:

12 (a) To fail or refuse to make reasonable accommodation for an  
13 applicant or employee for pregnancy, childbirth, or a pregnancy-  
14 related health condition including, but not limited to, the need to  
15 express breast milk, unless the employer can demonstrate that doing  
16 so would impose an undue hardship on the employer's program,  
17 enterprise, or business;

18 (b) To take adverse action against an employee who requests or  
19 uses an accommodation under this section that affects the terms,  
20 conditions, or privileges of employment;

21 (c) To deny employment opportunities to an otherwise qualified  
22 job applicant or employee if such denial is based on the employer's  
23 need to make reasonable accommodation required by this section;

24 (d) To require an employee to take leave if another reasonable  
25 accommodation can be provided for the employee's pregnancy,  
26 childbirth, or pregnancy-related health condition; or

27 (e) To require a job applicant or employee who is pregnant, has a  
28 condition related to childbirth, or has a pregnancy-related health  
29 condition to accept an accommodation that the person chooses not to  
30 accept.

31 (2) For the purposes of this section, "reasonable accommodation"  
32 means measures that enable equal opportunity in the application  
33 process, enable the proper performance of the particular job held or  
34 desired, and enable the enjoyment of equal benefits, privileges, or  
35 terms and conditions of employment. "Reasonable accommodation"  
36 includes, but is not limited to:

- 37 (a) Providing more frequent, longer, or flexible restroom breaks;  
38 (b) Modifying a no food or drink policy;  
39 (c) Allowing for time off to recover from childbirth;

1 (d) Acquiring or modifying equipment or an employee's work  
2 station;

3 (e) Providing seating or allowing the employee to sit more  
4 frequently if her job requires her to stand;

5 (f) Providing for a temporary transfer to a less strenuous or  
6 less hazardous position;

7 (g) Providing for light duty or job restructuring;

8 (h) Providing assistance with manual labor; and

9 (i) Modifying work schedules.

10 (3)(a) This section does not require an employer to create  
11 additional employment that the employer would not otherwise have  
12 created, unless the employer does so or would do so for other classes  
13 of employees who need accommodation.

14 (b) This section does not require an employer to discharge any  
15 employee, transfer any employee with more seniority, or promote any  
16 employee who is not qualified to perform the job, unless the employer  
17 does so or would do so to accommodate other classes of employees who  
18 need accommodation.

19 (4) This section does not preempt, limit, diminish, or otherwise  
20 affect any other provision of law relating to sex discrimination or  
21 pregnancy, or in any way diminish or limit the coverage for a  
22 condition related to pregnancy, childbirth, or a pregnancy-related  
23 health condition.

24 **Sec. 3.** RCW 49.60.180 and 2007 c 187 s 9 are each amended to  
25 read as follows:

26 It is an unfair practice for any employer:

27 (1) To refuse to hire any person because of age, sex, marital  
28 status, sexual orientation, race, creed, color, national origin,  
29 honorably discharged veteran or military status, or the presence of  
30 any sensory, mental, or physical disability or the use of a trained  
31 dog guide or service animal by a person with a disability, unless  
32 based upon a bona fide occupational qualification: PROVIDED, That the  
33 prohibition against discrimination because of such disability shall  
34 not apply if the particular disability prevents the proper  
35 performance of the particular worker involved: PROVIDED, That this  
36 section shall not be construed to require an employer to establish  
37 employment goals or quotas based on sexual orientation.

38 (2) To discharge or bar any person from employment because of  
39 age, sex, marital status, sexual orientation, race, creed, color,

1 national origin, honorably discharged veteran or military status, or  
2 the presence of any sensory, mental, or physical disability or the  
3 use of a trained dog guide or service animal by a person with a  
4 disability.

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

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

29 (5) To violate any provision of section 2 of this act.

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