

---

HOUSE BILL 1796

---

State of Washington

65th Legislature

2017 Regular Session

By Representatives Farrell, Kilduff, Doglio, Robinson, Stanford, Hudgins, McBride, Macri, Ormsby, Frame, Slatter, Jenkins, and Pollet

Read first time 01/30/17. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to providing reasonable accommodations in the  
2 workplace for pregnant women; amending RCW 49.60.230; and adding a  
3 new section to chapter 49.60 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.60  
6 RCW to read as follows:

7 (1) The definitions in this subsection apply throughout this  
8 section unless the context clearly requires otherwise.

9 (a) "Pregnancy" includes the employee's pregnancy and pregnancy-  
10 related health conditions, including the need to express breast milk.

11 (b) "Reasonable accommodation" means measures that enable the  
12 proper performance of the particular job held or desired and enable  
13 the enjoyment of equal benefits, privileges, or terms and conditions  
14 of employment. "Reasonable accommodation" includes, but is not  
15 limited to:

16 (i) Providing more frequent, longer, or flexible restroom breaks;

17 (ii) Modifying a no food or drink policy;

18 (iii) Acquiring or modifying equipment or an employee's work  
19 station;

20 (iv) Providing seating or allowing the employee to sit more  
21 frequently if her job requires her to stand;

1 (v) Providing for a temporary transfer to a less strenuous or  
2 less hazardous position;

3 (vi) Providing assistance with manual labor; and

4 (vii) Modifying work schedules.

5 (2) It is an unfair practice for any employer to:

6 (a) Fail or refuse to make reasonable accommodation for an  
7 employee for pregnancy, unless the employer can demonstrate that  
8 doing so would impose an undue hardship on the employer's program,  
9 enterprise, or business;

10 (b) Take adverse action against an employee who requests or uses  
11 an accommodation under this section that affects the terms,  
12 conditions, or privileges of employment;

13 (c) Deny employment opportunities to an otherwise qualified  
14 employee if such denial is based on the employer's need to make  
15 reasonable accommodation required by this section;

16 (d) Require an employee to take leave if another reasonable  
17 accommodation can be provided for the employee's pregnancy; or

18 (e) Require an employee requesting reasonable accommodation for  
19 pregnancy to accept an accommodation that the employee chooses not to  
20 accept.

21 (3) An employer may request that the employee provide written  
22 certification from her treating health care professional regarding  
23 the need for reasonable accommodation.

24 (4)(a) This section does not require an employer to create  
25 additional employment that the employer would not otherwise have  
26 created, unless the employer does so or would do so for other classes  
27 of employees who need accommodation.

28 (b) This section does not require an employer to discharge any  
29 employee, transfer any employee with more seniority, or promote any  
30 employee who is not qualified to perform the job, unless the employer  
31 does so or would do so to accommodate other classes of employees who  
32 need accommodation.

33 (5) The attorney general shall investigate complaints and enforce  
34 this section. In addition to the complaint process with the attorney  
35 general, any person believed to be injured by a violation of this  
36 section has a civil cause of action in court to enjoin further  
37 violations, or to recover the actual damages sustained by the person,  
38 or both, together with the cost of suit and reasonable attorneys'  
39 fees or any other appropriate remedy authorized by state or federal  
40 law.

1 (6) This section does not preempt, limit, diminish, or otherwise  
2 affect any other provision of law relating to sex discrimination or  
3 pregnancy, or in any way diminish or limit legal protections or  
4 coverage for pregnancy.

5 **Sec. 2.** RCW 49.60.230 and 2008 c 266 s 7 are each amended to  
6 read as follows:

7 (1) Who may file a complaint:

8 (a) Except as provided in subsection (3) of this section, any  
9 person claiming to be aggrieved by an alleged unfair practice may,  
10 personally or by his or her attorney, make, sign, and file with the  
11 commission a complaint in writing under oath or by declaration. The  
12 complaint shall state the name of the person alleged to have  
13 committed the unfair practice and the particulars thereof, and  
14 contain such other information as may be required by the commission.

15 (b) Whenever it has reason to believe that any person has been  
16 engaged or is engaging in an unfair practice, the commission may  
17 issue a complaint.

18 (c) Any employer or principal whose employees, or agents, or any  
19 of them, refuse or threaten to refuse to comply with the provisions  
20 of this chapter may file with the commission a written complaint  
21 under oath or by declaration asking for assistance by conciliation or  
22 other remedial action.

23 (2) Any complaint filed pursuant to this section must be so filed  
24 within six months after the alleged act of discrimination except that  
25 complaints alleging an unfair practice in a real estate transaction  
26 pursuant to RCW 49.60.222 through 49.60.225 must be so filed within  
27 one year after the alleged unfair practice in a real estate  
28 transaction has occurred or terminated and a complaint alleging  
29 whistleblower retaliation must be filed within two years.

30 (3) Complaints alleging an unfair practice under section 1 of  
31 this act must be filed with the attorney general.

--- END ---