

ESHB 1795 - S AMD 1309

By Senator King

NOT ADOPTED 03/03/2022

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 49.44.210 and 2018 c 117 s 1 are each amended to
4 read as follows:

5 (1) Except for settlement agreements under subsection (4) of this
6 section, an employer may not require an employee, as a condition of
7 employment, to sign a nondisclosure agreement, waiver, or other
8 document that prevents the employee from disclosing harassment,
9 discrimination, sexual harassment, or sexual assault occurring in the
10 workplace, at work-related events coordinated by or through the
11 employer, ((~~or~~)) between employees, or between an employer and an
12 employee((~~or~~)) off the employment premises.

13 (2) Except for settlement agreements under subsection (4) of this
14 section, any nondisclosure agreement, waiver, or other document
15 signed by an employee as a condition of employment that has the
16 purpose or effect of preventing the employee from disclosing or
17 discussing harassment, discrimination, sexual harassment, or sexual
18 assault occurring in the workplace, at work-related events
19 coordinated by or through the employer, ((~~or~~)) between employees, or
20 between an employer and an employee((~~or~~)) off the employment premises
21 is against public policy and is void and unenforceable.

22 (3) It is an unfair practice under chapter 49.60 RCW for an
23 employer to discharge or otherwise retaliate against an employee for
24 disclosing or discussing harassment, discrimination, sexual
25 harassment, or sexual assault occurring in the workplace, at work-
26 related events coordinated by or through the employer, or between
27 employees, ((~~or~~)) between an employer and an employee((~~or~~)) off the
28 employment premises.

29 (4) This section does not prohibit a settlement agreement between
30 an employee or former employee alleging sexual harassment and an
31 employer from containing confidentiality provisions.

32 (5) For the purposes of this section:

1 (a) "Sexual assault" means any type of sexual contact or behavior
2 that occurs without the explicit consent of the recipient.
3 (b) "Sexual contact" has the same meaning as in RCW 9A.44.010.
4 (c) "Sexual harassment" has the same meaning as in RCW
5 28A.640.020.
6 (d) "Employee" does not include human resources staff,
7 supervisors, or managers when they are expected to maintain
8 confidentiality as part of their assigned job duties. It also does
9 not include individuals who are notified and asked to participate in
10 an open and ongoing investigation into alleged sexual harassment and
11 requested to maintain confidentiality during the pendency of that
12 investigation.
13 (e) "Harassment" has the same meaning as in RCW 9A.46.020.
14 (f) "Discrimination" means employment discrimination prohibited
15 by chapter 49.60 RCW."

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16 On page 1, line 4 of the title, after "assault;" strike the
17 remainder of the title and insert "and amending RCW 49.44.210."

EFFECT: Strikes the underlying bill and instead adds harassment
and discrimination to the existing statute on nondisclosure of sexual
harassment and sexual assault.

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