
SENATE BILL 5823

State of Washington

60th Legislature

2007 Regular Session

By Senators Fairley, Kline and Kohl-Welles

Read first time 02/02/2007. Referred to Committee on Consumer Protection & Housing.

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

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

5 **Sec. 1.** RCW 49.60.030 and 2006 c 4 s 3 are each amended to read as
6 follows:

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

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

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

17 (c) The right to engage in real estate transactions without
18 discrimination, including discrimination against families with children
19 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, sexual orientation, the presence of
19 any sensory, mental, or physical disability, or the use of a trained
20 dog guide or service animal by a (~~disabled~~) person with disabilities,
21 or national origin or lawful business relationship: PROVIDED HOWEVER,
22 That nothing herein contained shall prohibit the use of boycotts as
23 authorized by law pertaining to labor disputes and unfair labor
24 practices.

25 (2) Any person deeming himself or herself injured by any act in
26 violation of this chapter shall have a civil action in a court of
27 competent jurisdiction to enjoin further violations, or to recover the
28 actual damages sustained by the person, or both, together with the cost
29 of suit including reasonable attorneys' fees or any other appropriate
30 remedy authorized by this chapter or the United States Civil Rights Act
31 of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988
32 (42 U.S.C. Sec. 3601 et seq.).

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

1 chapter 19.86 RCW, is, for the purpose of applying that chapter, a
2 matter affecting the public interest, is not reasonable in relation to
3 the development and preservation of business, and is an unfair or
4 deceptive act in trade or commerce.

5 **Sec. 2.** RCW 49.60.040 and 2006 c 4 s 4 are each amended to read as
6 follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

16 (2) "Commission" means the Washington state human rights
17 commission;

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

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

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

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

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

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

35 (9) "Full enjoyment of" includes the right to purchase any service,
36 commodity, or article of personal property offered or sold on, or by,
37 any establishment to the public, and the admission of any person to

1 accommodations, advantages, facilities, or privileges of any place of
2 public resort, accommodation, assemblage, or amusement, without acts
3 directly or indirectly causing persons of any particular race, creed,
4 color, sex, sexual orientation, national origin, lawful source of
5 income, or with any sensory, mental, or physical disability, or the use
6 of a trained dog guide or service animal by a (~~disabled~~) person with
7 disabilities, to be treated as not welcome, accepted, desired, or
8 solicited;

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

1 (11) "Real property" includes buildings, structures, dwellings,
2 real estate, lands, tenements, leaseholds, interests in real estate
3 cooperatives, condominiums, and hereditaments, corporeal and
4 incorporeal, or any interest therein;

5 (12) "Real estate transaction" includes the sale, appraisal,
6 brokering, exchange, purchase, rental, or lease of real property,
7 transacting or applying for a real estate loan, or the provision of
8 brokerage services;

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

14 (14) "Sex" means gender;

15 (15) "Sexual orientation" means heterosexuality, homosexuality,
16 bisexuality, and gender expression or identity. As used in this
17 definition, "gender expression or identity" means having or being
18 perceived as having a gender identity, self-image, appearance,
19 behavior, or expression, whether or not that gender identity, self-
20 image, appearance, behavior, or expression is different from that
21 traditionally associated with the sex assigned to that person at birth;

22 (16) "Aggrieved person" means any person who: (a) Claims to have
23 been injured by an unfair practice in a real estate transaction; or (b)
24 believes that he or she will be injured by an unfair practice in a real
25 estate transaction that is about to occur;

26 (17) "Complainant" means the person who files a complaint in a real
27 estate transaction;

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

30 (19) "Credit transaction" includes any open or closed end credit
31 transaction, whether in the nature of a loan, retail installment
32 transaction, credit card issue or charge, or otherwise, and whether for
33 personal or for business purposes, in which a service, finance, or
34 interest charge is imposed, or which provides for repayment in
35 scheduled payments, when such credit is extended in the regular course
36 of any trade or commerce, including but not limited to transactions by
37 banks, savings and loan associations or other financial lending
38 institutions of whatever nature, stock brokers, or by a merchant or

1 mercantile establishment which as part of its ordinary business permits
2 or provides that payment for purchases of property or service therefrom
3 may be deferred;

4 (20) "Families with children status" means one or more individuals
5 who have not attained the age of eighteen years being domiciled with a
6 parent or another person having legal custody of such individual or
7 individuals, or with the designee of such parent or other person having
8 such legal custody, with the written permission of such parent or other
9 person. Families with children status also applies to any person who
10 is pregnant or is in the process of securing legal custody of any
11 individual who has not attained the age of eighteen years;

12 (21) "Covered multifamily dwelling" means: (a) Buildings
13 consisting of four or more dwelling units if such buildings have one or
14 more elevators; and (b) ground floor dwelling units in other buildings
15 consisting of four or more dwelling units;

16 (22) "Premises" means the interior or exterior spaces, parts,
17 components, or elements of a building, including individual dwelling
18 units and the public and common use areas of a building;

19 (23) "Dog guide" means a dog that is trained for the purpose of
20 guiding blind persons or a dog that is trained for the purpose of
21 assisting hearing impaired persons;

22 (24) "Service animal" means an animal that is trained for the
23 purpose of assisting or accommodating (~~(a disabled person's)~~) the
24 sensory, mental, or physical disability of a person with disabilities;

25 (25) "Lawful source of income" means verifiable legal income,
26 including income derived from employment, social security, supplemental
27 security income, other retirement programs, child support, alimony, and
28 any federal, state, local, or nonprofit-administered benefit or subsidy
29 programs, including housing assistance, public assistance, and general
30 assistance programs.

31 **Sec. 3.** RCW 49.60.222 and 2006 c 4 s 14 are each amended to read
32 as follows:

33 (1) It is an unfair practice for any person, whether acting for
34 himself, herself, or another, because of sex, marital status, sexual
35 orientation, race, creed, color, national origin, lawful source of
36 income, families with children status, the presence of any sensory,

1 mental, or physical disability, or the use of a trained dog guide or
2 service animal by a (~~disabled~~) person with disabilities:

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

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

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

9 (d) To refuse to negotiate for a real estate transaction with a
10 person;

11 (e) To represent to a person that real property is not available
12 for inspection, sale, rental, or lease when in fact it is so available,
13 or to fail to bring a property listing to his or her attention, or to
14 refuse to permit the person to inspect real property;

15 (f) To discriminate in the sale or rental, or to otherwise make
16 unavailable or deny a dwelling, to any person; or to a person residing
17 in or intending to reside in that dwelling after it is sold, rented, or
18 made available; or to any person associated with the person buying or
19 renting;

20 (g) To make, print, circulate, post, or mail, or cause to be so
21 made or published a statement, advertisement, or sign, or to use a form
22 of application for a real estate transaction, or to make a record or
23 inquiry in connection with a prospective real estate transaction, which
24 indicates, directly or indirectly, an intent to make a limitation,
25 specification, or discrimination with respect thereto;

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

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

31 (j) To discriminate in the course of negotiating, executing, or
32 financing a real estate transaction whether by mortgage, deed of trust,
33 contract, or other instrument imposing a lien or other security in real
34 property, or in negotiating or executing any item or service related
35 thereto including issuance of title insurance, mortgage insurance, loan
36 guarantee, or other aspect of the transaction. Nothing in this section
37 shall limit the effect of RCW 49.60.176 relating to unfair practices in
38 credit transactions; or

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

3 (2) For the purposes of this chapter discrimination based on the
4 presence of any sensory, mental, or physical disability or the use of
5 a trained dog guide or service animal by a person who is blind, deaf,
6 or physically disabled (~~(person)~~) includes:

7 (a) A refusal to permit, at the expense of the (~~(disabled)~~) person
8 with disabilities, reasonable modifications of existing premises
9 occupied or to be occupied by such person if such modifications may be
10 necessary to afford such person full enjoyment of the dwelling, except
11 that, in the case of a rental, the landlord may, where it is reasonable
12 to do so, condition permission for a modification on the renter
13 agreeing to restore the interior of the dwelling to the condition that
14 existed before the modification, reasonable wear and tear excepted;

15 (b) To refuse to make reasonable accommodation in rules, policies,
16 practices, or services when such accommodations may be necessary to
17 afford a person with the presence of any sensory, mental, or physical
18 disability and/or the use of a trained dog guide or service animal by
19 a person who is blind, deaf, or physically disabled (~~(person)~~) an equal
20 opportunity to use and enjoy a dwelling; or

21 (c) To fail to design and construct covered multifamily dwellings
22 and premises in conformance with the federal fair housing amendments
23 act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws
24 or regulations pertaining to access by persons with any sensory,
25 mental, or physical disability or use of a trained dog guide or service
26 animal. Whenever the requirements of applicable laws or regulations
27 differ, the requirements which require greater accessibility for
28 persons with any sensory, mental, or physical disability shall govern.

29 Nothing in (a) or (b) of this subsection shall apply to: (i) A
30 single-family house rented or leased by the owner if the owner does not
31 own or have an interest in the proceeds of the rental or lease of more
32 than three such single-family houses at one time, the rental or lease
33 occurred without the use of a real estate broker or salesperson, as
34 defined in RCW 18.85.010, and the rental or lease occurred without the
35 publication, posting, or mailing of any advertisement, sign, or
36 statement in violation of subsection (1)(g) of this section; or (ii)
37 rooms or units in dwellings containing living quarters occupied or

1 intended to be occupied by no more than four families living
2 independently of each other if the owner maintains and occupies one of
3 the rooms or units as his or her residence.

4 (3) Notwithstanding any other provision of this chapter, it shall
5 not be an unfair practice or a denial of civil rights for any public or
6 private educational institution to separate the sexes or give
7 preference to or limit use of dormitories, residence halls, or other
8 student housing to persons of one sex or to make distinctions on the
9 basis of marital or families with children status.

10 (4) Except pursuant to subsection (2)(a) of this section, this
11 section shall not be construed to require structural changes,
12 modifications, or additions to make facilities accessible to a
13 (~~disabled~~) person with disabilities except as otherwise required by
14 law. Nothing in this section affects the rights, responsibilities, and
15 remedies of landlords and tenants pursuant to chapter 59.18 or 59.20
16 RCW, including the right to post and enforce reasonable rules of
17 conduct and safety for all tenants and their guests, provided that
18 chapters 59.18 and 59.20 RCW are only affected to the extent they are
19 inconsistent with the nondiscrimination requirements of this chapter.
20 Nothing in this section limits the applicability of any reasonable
21 federal, state, or local restrictions regarding the maximum number of
22 occupants permitted to occupy a dwelling.

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

30 (6) Nothing in this chapter prohibiting discrimination based on
31 families with children status applies to housing for older persons as
32 defined by the federal fair housing amendments act of 1988, 42 U.S.C.
33 Sec. 3607(b)(1) through (3), as amended by the housing for older
34 persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.
35 Nothing in this chapter authorizes requirements for housing for older
36 persons different than the requirements in the federal fair housing
37 amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as

1 amended by the housing for older persons act of 1995, P.L. 104-76, as
2 enacted on December 28, 1995.

3 (7) Nothing in this chapter shall apply to real estate transactions
4 involving the sharing of a dwelling unit, or rental or sublease of a
5 portion of a dwelling unit, when the dwelling unit is to be occupied by
6 the owner or sublessor. For purposes of this section, "dwelling unit"
7 has the same meaning as in RCW 59.18.030.

8 **Sec. 4.** RCW 49.60.223 and 2006 c 4 s 15 are each amended to read
9 as follows:

10 It is an unfair practice for any person, for profit, to induce or
11 attempt to induce any person to sell or rent any real property by
12 representations regarding the entry or prospective entry into the
13 neighborhood of a person or persons of a particular race, creed, color,
14 sex, national origin, lawful source of income, sexual orientation,
15 families with children status, or with any sensory, mental, or physical
16 disability and/or the use of a trained dog guide or service animal by
17 a person who is blind, deaf, or physically disabled (~~(person)~~).

18 **Sec. 5.** RCW 49.60.224 and 2006 c 4 s 16 are each amended to read
19 as follows:

20 (1) Every provision in a written instrument relating to real
21 property which purports to forbid or restrict the conveyance,
22 encumbrance, occupancy, or lease thereof to individuals of a specified
23 race, creed, color, sex, national origin, lawful source of income,
24 sexual orientation, families with children status, or with any sensory,
25 mental, or physical disability or the use of a trained dog guide or
26 service animal by a person who is blind, deaf, or physically disabled
27 (~~(person)~~), and every condition, restriction, or prohibition, including
28 a right of entry or possibility of reverter, which directly or
29 indirectly limits the use or occupancy of real property on the basis of
30 race, creed, color, sex, national origin, lawful source of income,
31 sexual orientation, families with children status, or the presence of
32 any sensory, mental, or physical disability or the use of a trained dog
33 guide or service animal by a person who is blind, deaf, or physically
34 disabled (~~(person)~~) is void.

35 (2) It is an unfair practice to insert in a written instrument

1 relating to real property a provision that is void under this section
2 or to honor or attempt to honor such a provision in the chain of title.

3 **Sec. 6.** RCW 49.60.225 and 2006 c 4 s 17 are each amended to read
4 as follows:

5 (1) When a reasonable cause determination has been made under RCW
6 49.60.240 that an unfair practice in a real estate transaction has been
7 committed and a finding has been made that the respondent has engaged
8 in any unfair practice under RCW 49.60.250, the administrative law
9 judge shall promptly issue an order for such relief suffered by the
10 aggrieved person as may be appropriate, which may include actual
11 damages as provided by the federal fair housing amendments act of 1988
12 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable
13 relief. Such order may, to further the public interest, assess a civil
14 penalty against the respondent:

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

18 (b) In an amount up to twenty-five thousand dollars if the
19 respondent has been determined to have committed one other unfair
20 practice in a real estate transaction during the five-year period
21 ending on the date of the filing of this charge; or

22 (c) In an amount up to fifty thousand dollars if the respondent has
23 been determined to have committed two or more unfair practices in a
24 real estate transaction during the seven-year period ending on the date
25 of the filing of this charge, for loss of the right secured by RCW
26 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as
27 now or hereafter amended, to be free from discrimination in real
28 property transactions because of sex, marital status, race, creed,
29 color, national origin, lawful source of income, sexual orientation,
30 families with children status, or the presence of any sensory, mental,
31 or physical disability or the use of a trained dog guide or service
32 animal by a person who is blind, deaf, or physically disabled
33 (~~person~~). Enforcement of the order and appeal therefrom by the
34 complainant or respondent may be made as provided in RCW 49.60.260 and
35 49.60.270. If acts constituting the unfair practice in a real estate
36 transaction that is the object of the charge are determined to have
37 been committed by the same natural person who has been previously

1 determined to have committed acts constituting an unfair practice in a
2 real estate transaction, then the civil penalty of up to fifty thousand
3 dollars may be imposed without regard to the period of time within
4 which any subsequent unfair practice in a real estate transaction
5 occurred. All civil penalties assessed under this section shall be
6 paid into the state treasury and credited to the general fund.

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

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

14 NEW SECTION. **Sec. 7.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

--- END ---