
SENATE BILL 6533

State of Washington

60th Legislature

2008 Regular Session

By Senators Kline, Fairley, Kohl-Welles, Weinstein, Kauffman, and McDermott

Read first time 01/17/08. Referred to Committee on Judiciary.

1 AN ACT Relating to discrimination based on lawful source of income;
2 reenacting and amending RCW 49.60.250; adding a new section to chapter
3 49.60 RCW; and prescribing penalties.

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 RCW
6 to read as follows:

7 (1) It is an unfair practice for any person, whether acting for
8 himself, herself, or another, to discriminate in the rental of a
9 dwelling to, or to refuse to negotiate or enter into a rental agreement
10 with, a person because of the person's lawful source of income.

11 (2)(a) When a finding has been made under RCW 49.60.250 that the
12 respondent has engaged in an unfair practice under this section, the
13 administrative law judge shall promptly issue an order for appropriate
14 relief for the aggrieved party, which may include actual damages and
15 injunctive or other equitable relief. The order may, to further the
16 public interest, assess a civil penalty against the respondent:

17 (i) In an amount up to two thousand five hundred dollars if the
18 respondent is determined not to have committed any prior unfair
19 practices under this section;

1 (ii) In an amount up to seven thousand five hundred dollars if the
2 respondent is determined to have committed one other unfair practice
3 under this section during the five-year period ending on the date of
4 the filing of this charge; or

5 (iii) In an amount up to ten thousand dollars if the respondent is
6 determined to have committed two or more unfair practices under this
7 section during the seven-year period ending on the date of the filing
8 of this charge.

9 (b) Civil penalties assessed under this section shall be paid into
10 the state treasury and credited to the general fund.

11 (3) This section does not:

12 (a) Apply to rental transactions involving the sharing of a
13 dwelling unit as defined in RCW 59.18.030, or the rental or subleasing
14 of a portion of a dwelling unit, when the dwelling unit is to be
15 occupied by the owner or sublessor;

16 (b) Affect the rights, responsibilities, and remedies of landlords
17 and tenants under chapter 59.18 or 59.20 RCW, except to the extent of
18 inconsistencies with the nondiscrimination requirements of this
19 section; or

20 (c) Limit the applicability of RCW 49.60.215 relating to unfair
21 practices in places of public accommodation or RCW 49.60.222 through
22 49.60.227 relating to unfair practices in real estate transactions.

23 (4) For the purposes of this section, "lawful source of income"
24 means verifiable legal income, including income derived from
25 employment, social security, supplemental security income, other
26 retirement programs, child support, alimony, and any federal, state, or
27 local government or nonprofit-administered benefit or subsidy program,
28 including rental assistance programs, public assistance, and general
29 assistance programs.

30 **Sec. 2.** RCW 49.60.250 and 1993 c 510 s 23 and 1993 c 69 s 14 are
31 each reenacted and amended to read as follows:

32 (1) In case of failure to reach an agreement for the elimination of
33 such unfair practice, and upon the entry of findings to that effect,
34 the entire file, including the complaint and any and all findings made,
35 shall be certified to the chairperson of the commission. The
36 chairperson of the commission shall thereupon request the appointment
37 of an administrative law judge under Title 34 RCW to hear the complaint

1 and shall cause to be issued and served in the name of the commission
2 a written notice, together with a copy of the complaint, as the same
3 may have been amended, requiring the respondent to answer the charges
4 of the complaint at a hearing before the administrative law judge, at
5 a time and place to be specified in such notice.

6 (2) The place of any such hearing may be the office of the
7 commission or another place designated by it. The case in support of
8 the complaint shall be presented at the hearing by counsel for the
9 commission: PROVIDED, That the complainant may retain independent
10 counsel and submit testimony and be fully heard. No member or employee
11 of the commission who previously made the investigation or caused the
12 notice to be issued shall participate in the hearing except as a
13 witness, nor shall the member or employee participate in the
14 deliberations of the administrative law judge in such case. Any
15 endeavors or negotiations for conciliation shall not be received in
16 evidence.

17 (3) The respondent shall file a written answer to the complaint and
18 appear at the hearing in person or otherwise, with or without counsel,
19 and submit testimony and be fully heard. The respondent has the right
20 to cross-examine the complainant.

21 (4) The administrative law judge conducting any hearing may permit
22 reasonable amendment to any complaint or answer. Testimony taken at
23 the hearing shall be under oath and recorded.

24 (5) If, upon all the evidence, the administrative law judge finds
25 that the respondent has engaged in any unfair practice, the
26 administrative law judge shall state findings of fact and shall issue
27 and file with the commission and cause to be served on such respondent
28 an order requiring such respondent to cease and desist from such unfair
29 practice and to take such affirmative action, including, (but not
30 limited to) hiring, reinstatement or upgrading of employees, with or
31 without back pay, an admission or restoration to full membership rights
32 in any respondent organization, or to take such other action as, in the
33 judgment of the administrative law judge, will effectuate the purposes
34 of this chapter, including action that could be ordered by a court,
35 except that damages for humiliation and mental suffering shall not
36 exceed ten thousand dollars, and including a requirement for report of
37 the matter on compliance. Relief available for violations of RCW
38 49.60.222 through 49.60.224 shall be limited to the relief specified in

1 RCW 49.60.225. Relief available for violations of section 1 of this
2 act shall be limited to the relief specified in section 1(2) of this
3 act.

4 (6) If a determination is made that retaliatory action, as defined
5 in RCW 42.40.050, has been taken against a whistleblower, as defined in
6 RCW 42.40.020, the administrative law judge may, in addition to any
7 other remedy, impose a civil penalty upon the retaliator of up to three
8 thousand dollars and issue an order to the state employer to suspend
9 the retaliator for up to thirty days without pay. At a minimum, the
10 administrative law judge shall require that a letter of reprimand be
11 placed in the retaliator's personnel file. All penalties recovered
12 shall be paid into the state treasury and credited to the general fund.

13 (7) The final order of the administrative law judge shall include
14 a notice to the parties of the right to obtain judicial review of the
15 order by appeal in accordance with the provisions of RCW 34.05.510
16 through 34.05.598, and that such appeal must be served and filed within
17 thirty days after the service of the order on the parties.

18 (8) If, upon all the evidence, the administrative law judge finds
19 that the respondent has not engaged in any alleged unfair practice, the
20 administrative law judge shall state findings of fact and shall
21 similarly issue and file an order dismissing the complaint.

22 (9) An order dismissing a complaint may include an award of
23 reasonable attorneys' fees in favor of the respondent if the
24 administrative law judge concludes that the complaint was frivolous,
25 unreasonable, or groundless.

26 (10) The commission shall establish rules of practice to govern,
27 expedite, and effectuate the foregoing procedure.

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