
SUBSTITUTE HOUSE BILL 1809

State of Washington

58th Legislature

2003 Regular Session

By House Committee on State Government (originally sponsored by Representatives Murray, Hankins, Grant, Mastin, McDermott, Jarrett, Linville, Upthegrove, Quall, Moeller, Tom, Kessler, Lovick, Hunter, Schual-Berke, Ruderman, Dickerson, Santos, Hudgins, Haigh, Hunt, Pettigrew, Rockefeller, Simpson, Cody and Kenney; by request of Governor Locke)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to the jurisdiction of the Washington human rights
2 commission; amending RCW 49.60.010, 49.60.020, 49.60.030, 49.60.040,
3 49.60.120, 49.60.130, 49.60.175, 49.60.176, 49.60.178, 49.60.180,
4 49.60.190, 49.60.200, 49.60.215, 49.60.223, 49.60.224, 49.60.225, and
5 48.30.300; and reenacting and amending RCW 49.60.222.

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

7 **Sec. 1.** RCW 49.60.010 and 1997 c 271 s 1 are each amended to read
8 as follows:

9 This chapter shall be known as the "law against
10 discrimination((=))." It is an exercise of the police power of the
11 state for the protection of the public welfare, health, and peace of
12 the people of this state, and in fulfillment of the provisions of the
13 Constitution of this state concerning civil rights. The legislature
14 hereby finds and declares that practices of discrimination against any
15 of its inhabitants because of race, creed, color, national origin,
16 families with children, sex, marital status, sexual orientation, age,
17 or the presence of any sensory, mental, or physical disability or the
18 use of a trained dog guide or service animal by a disabled person are
19 a matter of state concern, that such discrimination threatens not only

1 the rights and proper privileges of its inhabitants but menaces the
2 institutions and foundation of a free democratic state. A state agency
3 is herein created with powers with respect to elimination and
4 prevention of discrimination in employment, in credit and insurance
5 transactions, in places of public resort, accommodation, or amusement,
6 and in real property transactions because of race, creed, color,
7 national origin, families with children, sex, marital status, sexual
8 orientation, age, or the presence of any sensory, mental, or physical
9 disability or the use of a trained dog guide or service animal by a
10 disabled person; and the commission established hereunder is hereby
11 given general jurisdiction and power for such purposes.

12 **Sec. 2.** RCW 49.60.020 and 1993 c 510 s 2 are each amended to read
13 as follows:

14 The provisions of this chapter shall be construed liberally for the
15 accomplishment of the purposes thereof. Nothing contained in this
16 chapter shall be deemed to repeal any of the provisions of any other
17 law of this state relating to discrimination because of race, color,
18 creed, national origin, sex, marital status, sexual orientation, age,
19 or the presence of any sensory, mental, or physical disability, other
20 than a law which purports to require or permit doing any act which is
21 an unfair practice under this chapter. Nor shall anything herein
22 contained be construed to deny the right to any person to institute any
23 action or pursue any civil or criminal remedy based upon an alleged
24 violation of his or her civil rights.

25 **Sec. 3.** RCW 49.60.030 and 1997 c 271 s 2 are each amended to read
26 as follows:

27 (1) The right to be free from discrimination because of race,
28 creed, color, national origin, sex, sexual orientation, or the presence
29 of any sensory, mental, or physical disability or the use of a trained
30 dog guide or service animal by a disabled person is recognized as and
31 declared to be a civil right. This right shall include, but not be
32 limited to:

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

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

1 (c) The right to engage in real estate transactions without
2 discrimination, including discrimination against families with
3 children;

4 (d) The right to engage in credit transactions without
5 discrimination;

6 (e) The right to engage in insurance transactions or transactions
7 with health maintenance organizations without discrimination:
8 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
9 48.44.220, or 48.46.370 does not constitute an unfair practice for the
10 purposes of this subparagraph; and

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

27 (2) Any person deeming himself or herself injured by any act in
28 violation of this chapter shall have a civil action in a court of
29 competent jurisdiction to enjoin further violations, or to recover the
30 actual damages sustained by the person, or both, together with the cost
31 of suit including reasonable attorneys' fees or any other appropriate
32 remedy authorized by this chapter or the United States Civil Rights Act
33 of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988
34 (42 U.S.C. Sec. 3601 et seq.).

35 (3) Except for any unfair practice committed by an employer against
36 an employee or a prospective employee, or any unfair practice in a real
37 estate transaction which is the basis for relief specified in the
38 amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any

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

7 **Sec. 4.** RCW 49.60.040 and 1997 c 271 s 3 are each amended to read
8 as follows:

9 ~~((As used in this chapter:))~~ The definitions in this section apply
10 throughout this chapter unless the context clearly requires otherwise.

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

18 (2) "Commission" means the Washington state human rights
19 commission;

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

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

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

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

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

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

1 (9) "Full enjoyment of" includes the right to purchase any service,
2 commodity, or article of personal property offered or sold on, or by,
3 any establishment to the public, and the admission of any person to
4 accommodations, advantages, facilities, or privileges of any place of
5 public resort, accommodation, assemblage, or amusement, without acts
6 directly or indirectly causing persons of any particular race, creed,
7 color, sex, sexual orientation, national origin, or with any sensory,
8 mental, or physical disability, or the use of a trained dog guide or
9 service animal by a disabled person, to be treated as not welcome,
10 accepted, desired, or solicited;

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

1 mausoleum, or cemetery operated or maintained by a bona fide religious
2 or sectarian institution;

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

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

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

16 (14) "Sex" means gender;

17 (15) "Sexual orientation" means heterosexuality, homosexuality,
18 bisexuality, and gender expression or identity;

19 (16) "Creed" means a system of religious beliefs and religious
20 expressions, including moral and ethical beliefs and expressions about
21 right and wrong that are sincerely held with the strength of
22 traditional religious views;

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

27 ~~((16))~~ (18) "Complainant" means the person who files a complaint
28 in a real estate transaction;

29 ~~((17))~~ (19) "Respondent" means any person accused in a complaint
30 or amended complaint of an unfair practice in a real estate
31 transaction;

32 ~~((18))~~ (20) "Credit transaction" includes any open or closed end
33 credit transaction, whether in the nature of a loan, retail installment
34 transaction, credit card issue or charge, or otherwise, and whether for
35 personal or for business purposes, in which a service, finance, or
36 interest charge is imposed, or which provides for repayment in
37 scheduled payments, when such credit is extended in the regular course
38 of any trade or commerce, including but not limited to transactions by

1 banks, savings and loan associations or other financial lending
2 institutions of whatever nature, stock brokers, or by a merchant or
3 mercantile establishment which as part of its ordinary business permits
4 or provides that payment for purchases of property or service therefrom
5 may be deferred;

6 ~~((+19+))~~ (21) "Families with children status" means one or more
7 individuals who have not attained the age of eighteen years being
8 domiciled with a parent or another person having legal custody of such
9 individual or individuals, or with the designee of such parent or other
10 person having such legal custody, with the written permission of such
11 parent or other person. Families with children status also applies to
12 any person who is pregnant or is in the process of securing legal
13 custody of any individual who has not attained the age of eighteen
14 years;

15 ~~((+20+))~~ (22) "Covered multifamily dwelling" means: (a) Buildings
16 consisting of four or more dwelling units if such buildings have one or
17 more elevators; and (b) ground floor dwelling units in other buildings
18 consisting of four or more dwelling units;

19 ~~((+21+))~~ (23) "Premises" means the interior or exterior spaces,
20 parts, components, or elements of a building, including individual
21 dwelling units and the public and common use areas of a building;

22 ~~((+22+))~~ (24) "Dog guide" means a dog that is trained for the
23 purpose of guiding blind persons or a dog that is trained for the
24 purpose of assisting hearing impaired persons;

25 ~~((+23+))~~ (25) "Service animal" means an animal that is trained for
26 the purpose of assisting or accommodating a disabled person's sensory,
27 mental, or physical disability.

28 **Sec. 5.** RCW 49.60.120 and 1997 c 271 s 4 are each amended to read
29 as follows:

30 The commission shall have the functions, powers, and duties:

31 (1) To appoint an executive director and chief examiner, and such
32 investigators, examiners, clerks, and other employees and agents as it
33 may deem necessary, fix their compensation within the limitations
34 provided by law, and prescribe their duties.

35 (2) To obtain upon request and utilize the services of all
36 governmental departments and agencies.

1 (3) To adopt, (~~promulgate,~~) amend, and rescind suitable rules
2 (~~and regulations~~) to carry out the provisions of this chapter, and
3 the policies and practices of the commission in connection therewith.

4 (4) To receive, impartially investigate, and pass upon complaints
5 alleging unfair practices as defined in this chapter.

6 (5) To issue such publications and (~~such~~) results of
7 investigations and research as in its judgment will tend to promote
8 good will and minimize or eliminate discrimination because of sex,
9 sexual orientation, race, creed, color, national origin, marital
10 status, age, or the presence of any sensory, mental, or physical
11 disability, or the use of a trained dog guide or service animal by a
12 disabled person.

13 (6) To make such technical studies as are appropriate to effectuate
14 the purposes and policies of this chapter and to publish and distribute
15 the reports of such studies.

16 (7) To cooperate and act jointly or by division of labor with the
17 United States or other states, with other Washington state agencies,
18 commissions, and other government entities, and with political
19 subdivisions of the state of Washington and their respective human
20 rights agencies to carry out the purposes of this chapter. However,
21 the powers which may be exercised by the commission under this
22 subsection permit investigations and complaint dispositions only if the
23 investigations are designed to reveal, or the complaint deals only
24 with, allegations which, if proven, would constitute unfair practices
25 under this chapter. The commission may perform such services for these
26 agencies and be reimbursed therefor.

27 (8) To foster good relations between minority and majority
28 population groups of the state through seminars, conferences,
29 educational programs, and other intergroup relations activities. The
30 commission may charge fees to participants for such activities, however
31 such fees may not exceed an amount necessary to cover the costs of the
32 programs and materials offered.

33 **Sec. 6.** RCW 49.60.130 and 1997 c 271 s 5 are each amended to read
34 as follows:

35 The commission has power to create such advisory agencies and
36 conciliation councils, local, regional, or statewide, as in its
37 judgment will aid in effectuating the purposes of this chapter. The

1 commission may empower them to study the problems of discrimination in
2 all or specific fields of human relationships or in specific instances
3 of discrimination because of sex, race, creed, color, national origin,
4 marital status, sexual orientation, age, or the presence of any
5 sensory, mental, or physical disability or the use of a trained dog
6 guide or service animal by a disabled person; to foster through
7 community effort or otherwise good will, cooperation, and conciliation
8 among the groups and elements of the population of the state, and to
9 make recommendations to the commission for the development of policies
10 and procedures in general and in specific instances, and for programs
11 of formal and informal education which the commission may recommend to
12 the appropriate state agency.

13 Such advisory agencies and conciliation councils shall be composed
14 of representative citizens, serving without pay, but with reimbursement
15 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as
16 now existing or hereafter amended, and the commission may make
17 provision for technical and clerical assistance to such agencies and
18 councils and for the expenses of such assistance. The commission may
19 use organizations specifically experienced in dealing with questions of
20 discrimination.

21 **Sec. 7.** RCW 49.60.175 and 1997 c 271 s 7 are each amended to read
22 as follows:

23 It shall be an unfair practice to use the sex, race, creed, color,
24 national origin, marital status, sexual orientation, or the presence of
25 any sensory, mental, or physical disability of any person, or the use
26 of a trained dog guide or service animal by a disabled person,
27 concerning an application for credit in any credit transaction to
28 determine the credit worthiness of an applicant.

29 **Sec. 8.** RCW 49.60.176 and 1997 c 271 s 8 are each amended to read
30 as follows:

31 (1) It is an unfair practice for any person whether acting for
32 himself, herself, or another in connection with any credit transaction
33 because of race, creed, color, national origin, sex, marital status,
34 sexual orientation, or the presence of any sensory, mental, or physical
35 disability or the use of a trained dog guide or service animal by a
36 disabled person:

1 (a) To deny credit to any person;

2 (b) To increase the charges or fees for or collateral required to
3 secure any credit extended to any person;

4 (c) To restrict the amount or use of credit extended or to impose
5 different terms or conditions with respect to the credit extended to
6 any person or any item or service related thereto;

7 (d) To attempt to do any of the unfair practices defined in this
8 section.

9 (2) Nothing in this section shall prohibit any party to a credit
10 transaction from considering the credit history of any individual
11 applicant.

12 (3) Further, nothing in this section shall prohibit any party to a
13 credit transaction from considering the application of the community
14 property law to the individual case or from taking reasonable action
15 thereon.

16 **Sec. 9.** RCW 49.60.178 and 1997 c 271 s 9 are each amended to read
17 as follows:

18 It is an unfair practice for any person whether acting for himself,
19 herself, or another in connection with an insurance transaction or
20 transaction with a health maintenance organization to cancel or fail or
21 refuse to issue or renew insurance or a health maintenance agreement to
22 any person because of sex, marital status, sexual orientation, race,
23 creed, color, national origin, or the presence of any sensory, mental,
24 or physical disability or the use of a trained dog guide or service
25 animal by a disabled person: PROVIDED, That a practice which is not
26 unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not
27 constitute an unfair practice for the purposes of this section. For
28 the purposes of this section, "insurance transaction" is defined in RCW
29 48.01.060, health maintenance agreement is defined in RCW 48.46.020,
30 and "health maintenance organization" is defined in RCW 48.46.020.

31 The fact that such unfair practice may also be a violation of
32 chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an
33 action brought under this section.

34 The insurance commissioner, under RCW 48.30.300, and the human
35 rights commission, under chapter 49.60 RCW, shall have concurrent
36 jurisdiction under this section and shall enter into a working

1 agreement as to procedure to be followed in complaints under this
2 section.

3 **Sec. 10.** RCW 49.60.180 and 1997 c 271 s 10 are each amended to
4 read as follows:

5 It is an unfair practice for any employer:

6 (1) To refuse to hire any person because of age, sex, marital
7 status, sexual orientation, race, creed, color, national origin, or the
8 presence of any sensory, mental, or physical disability or the use of
9 a trained dog guide or service animal by a disabled person, unless
10 based upon a bona fide occupational qualification: PROVIDED, That the
11 prohibition against discrimination because of such disability shall not
12 apply if the particular disability prevents the proper performance of
13 the particular worker involved.

14 (2) To discharge or bar any person from employment because of age,
15 sex, marital status, sexual orientation, race, creed, color, national
16 origin, or the presence of any sensory, mental, or physical disability
17 or the use of a trained dog guide or service animal by a disabled
18 person.

19 (3) To discriminate against any person in compensation or in other
20 terms or conditions of employment because of age, sex, marital status,
21 sexual orientation, race, creed, color, national origin, or the
22 presence of any sensory, mental, or physical disability or the use of
23 a trained dog guide or service animal by a disabled person: PROVIDED,
24 That it shall not be an unfair practice for an employer to segregate
25 washrooms or locker facilities on the basis of sex, or to base other
26 terms and conditions of employment on the sex of employees where the
27 commission by regulation or ruling in a particular instance has found
28 the employment practice to be appropriate for the practical realization
29 of equality of opportunity between the sexes.

30 (4) To print, or circulate, or cause to be printed or circulated
31 any statement, advertisement, or publication, or to use any form of
32 application for employment, or to make any inquiry in connection with
33 prospective employment, which expresses any limitation, specification,
34 or discrimination as to age, sex, marital status, sexual orientation,
35 race, creed, color, national origin, or the presence of any sensory,
36 mental, or physical disability or the use of a trained dog guide or
37 service animal by a disabled person, or any intent to make any such

1 limitation, specification, or discrimination, unless based upon a bona
2 fide occupational qualification: PROVIDED, Nothing contained herein
3 shall prohibit advertising in a foreign language.

4 **Sec. 11.** RCW 49.60.190 and 1997 c 271 s 11 are each amended to
5 read as follows:

6 It is an unfair practice for any labor union or labor organization:

7 (1) To deny membership and full membership rights and privileges to
8 any person because of age, sex, marital status, sexual orientation,
9 race, creed, color, national origin, 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 disabled person.

12 (2) To expel from membership any person because of age, sex,
13 marital status, sexual orientation, race, creed, color, national
14 origin, or the presence of any sensory, mental, or physical disability
15 or the use of a trained dog guide or service animal by a disabled
16 person.

17 (3) To discriminate against any member, employer, employee, or
18 other person to whom a duty of representation is owed because of age,
19 sex, marital status, sexual orientation, race, creed, color, national
20 origin, or the presence of any sensory, mental, or physical disability
21 or the use of a trained dog guide or service animal by a disabled
22 person.

23 **Sec. 12.** RCW 49.60.200 and 1997 c 271 s 12 are each amended to
24 read as follows:

25 It is an unfair practice for any employment agency to fail or
26 refuse to classify properly or refer for employment, or otherwise to
27 discriminate against, an individual because of age, sex, marital
28 status, sexual orientation, race, creed, color, national origin, or the
29 presence of any sensory, mental, or physical disability or the use of
30 a trained dog guide or service animal by a disabled person, or to print
31 or circulate, or cause to be printed or circulated any statement,
32 advertisement, or publication, or to use any form of application for
33 employment, or to make any inquiry in connection with prospective
34 employment, which expresses any limitation, specification or
35 discrimination as to age, sex, race, sexual orientation, creed, color,
36 or national origin, or the presence of any sensory, mental, or physical

1 disability or the use of a trained dog guide or service animal by a
2 disabled person, or any intent to make any such limitation,
3 specification, or discrimination, unless based upon a bona fide
4 occupational qualification: PROVIDED, Nothing contained herein shall
5 prohibit advertising in a foreign language.

6 **Sec. 13.** RCW 49.60.215 and 1997 c 271 s 13 are each amended to
7 read as follows:

8 It shall be an unfair practice for any person or the person's agent
9 or employee to commit an act which directly or indirectly results in
10 any distinction, restriction, or discrimination, or the requiring of
11 any person to pay a larger sum than the uniform rates charged other
12 persons, or the refusing or withholding from any person the admission,
13 patronage, custom, presence, frequenting, dwelling, staying, or lodging
14 in any place of public resort, accommodation, assemblage, or amusement,
15 except for conditions and limitations established by law and applicable
16 to all persons, regardless of race, creed, color, national origin,
17 sexual orientation, sex, the presence of any sensory, mental, or
18 physical disability, or the use of a trained dog guide or service
19 animal by a disabled person: PROVIDED, That this section shall not be
20 construed to require structural changes, modifications, or additions to
21 make any place accessible to a disabled person except as otherwise
22 required by law: PROVIDED, That behavior or actions constituting a
23 risk to property or other persons can be grounds for refusal and shall
24 not constitute an unfair practice.

25 **Sec. 14.** RCW 49.60.222 and 1997 c 400 s 3 and 1997 c 271 s 14 are
26 each reenacted and amended to read as follows:

27 (1) It is an unfair practice for any person, whether acting for
28 himself, herself, or another, because of sex, marital status, sexual
29 orientation, race, creed, color, national origin, families with
30 children status, the presence of any sensory, mental, or physical
31 disability, or the use of a trained dog guide or service animal by a
32 disabled person:

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

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

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

3 (d) To refuse to negotiate for a real estate transaction with a
4 person;

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

9 (f) To discriminate in the sale or rental, or to otherwise make
10 unavailable or deny a dwelling, to any person; or to a person residing
11 in or intending to reside in that dwelling after it is sold, rented, or
12 made available; or to any person associated with the person buying or
13 renting;

14 (g) To make, print, circulate, post, or mail, or cause to be so
15 made or published a statement, advertisement, or sign, or to use a form
16 of application for a real estate transaction, or to make a record or
17 inquiry in connection with a prospective real estate transaction, which
18 indicates, directly or indirectly, an intent to make a limitation,
19 specification, or discrimination with respect thereto;

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

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

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

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

35 (2) For the purposes of this chapter discrimination based on the
36 presence of any sensory, mental, or physical disability or the use of
37 a trained dog guide or service animal by a blind, deaf, or physically
38 disabled person includes:

1 (a) A refusal to permit, at the expense of the disabled person,
2 reasonable modifications of existing premises occupied or to be
3 occupied by such person if such modifications may be necessary to
4 afford such person full enjoyment of the dwelling, except that, in the
5 case of a rental, the landlord may, where it is reasonable to do so,
6 condition permission for a modification on the renter agreeing to
7 restore the interior of the dwelling to the condition that existed
8 before the modification, reasonable wear and tear excepted;

9 (b) To refuse to make reasonable accommodation in rules, policies,
10 practices, or services when such accommodations may be necessary to
11 afford a person with the presence of any sensory, mental, or physical
12 disability and/or the use of a trained dog guide or service animal by
13 a blind, deaf, or physically disabled person equal opportunity to use
14 and enjoy a dwelling; or

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

23 Nothing in (a) or (b) of this subsection shall apply to: (i) A
24 single-family house rented or leased by the owner if the owner does not
25 own or have an interest in the proceeds of the rental or lease of more
26 than three such single-family houses at one time, the rental or lease
27 occurred without the use of a real estate broker or salesperson, as
28 defined in RCW 18.85.010, and the rental or lease occurred without the
29 publication, posting, or mailing of any advertisement, sign, or
30 statement in violation of subsection (1)(g) of this section; or (ii)
31 rooms or units in dwellings containing living quarters occupied or
32 intended to be occupied by no more than four families living
33 independently of each other if the owner maintains and occupies one of
34 the rooms or units as his or her residence.

35 (3) Notwithstanding any other provision of this chapter, it shall
36 not be an unfair practice or a denial of civil rights for any public or
37 private educational institution to separate the sexes or give

1 preference to or limit use of dormitories, residence halls, or other
2 student housing to persons of one sex or to make distinctions on the
3 basis of marital or families with children status.

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

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

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

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

1 **Sec. 15.** RCW 49.60.223 and 1997 c 271 s 15 are each amended to
2 read as follows:

3 It is an unfair practice for any person, for profit, to induce or
4 attempt to induce any person to sell or rent any real property by
5 representations regarding the entry or prospective entry into the
6 neighborhood of a person or persons of a particular race, creed, color,
7 sex, national origin, sexual orientation, families with children
8 status, or with any sensory, mental, or physical disability and/or the
9 use of a trained dog guide or service animal by a blind, deaf, or
10 physically disabled person.

11 **Sec. 16.** RCW 49.60.224 and 1997 c 271 s 16 are each amended to
12 read as follows:

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

27 (2) It is an unfair practice to insert in a written instrument
28 relating to real property a provision that is void under this section
29 or to honor or attempt to honor such a provision in the chain of title.

30 **Sec. 17.** RCW 49.60.225 and 1997 c 271 s 17 are each amended to
31 read as follows:

32 (1) When a reasonable cause determination has been made under RCW
33 49.60.240 that an unfair practice in a real estate transaction has been
34 committed and a finding has been made that the respondent has engaged
35 in any unfair practice under RCW 49.60.250, the administrative law
36 judge shall promptly issue an order for such relief suffered by the

1 aggrieved person as may be appropriate, which may include actual
2 damages as provided by the federal fair housing amendments act of 1988
3 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable
4 relief. Such order may, to further the public interest, assess a civil
5 penalty against the respondent:

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

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

13 (c) In an amount up to fifty thousand dollars if the respondent has
14 been determined to have committed two or more unfair practices in a
15 real estate transaction during the seven-year period ending on the date
16 of the filing of this charge, for loss of the right secured by RCW
17 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as
18 now or hereafter amended, to be free from discrimination in real
19 property transactions because of sex, marital status, race, creed,
20 color, national origin, sexual orientation, families with children
21 status, or the presence of any sensory, mental, or physical disability
22 or the use of a trained dog guide or service animal by a blind, deaf,
23 or physically disabled person. Enforcement of the order and appeal
24 therefrom by the complainant or respondent may be made as provided in
25 RCW 49.60.260 and 49.60.270. If acts constituting the unfair practice
26 in a real estate transaction that is the object of the charge are
27 determined to have been committed by the same natural person who has
28 been previously determined to have committed acts constituting an
29 unfair practice in a real estate transaction, then the civil penalty of
30 up to fifty thousand dollars may be imposed without regard to the
31 period of time within which any subsequent unfair practice in a real
32 estate transaction occurred. All civil penalties assessed under this
33 section shall be paid into the state treasury and credited to the
34 general fund.

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

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

4 **Sec. 18.** RCW 48.30.300 and 1993 c 492 s 287 are each amended to
5 read as follows:

6 Notwithstanding any provision contained in Title 48 RCW to the
7 contrary:

8 (1) No person or entity engaged in the business of insurance in
9 this state shall refuse to issue any contract of insurance or cancel or
10 decline to renew such contract because of the sex ((~~or~~)), marital
11 status, or sexual orientation as defined in RCW 49.60.040, or the
12 presence of any sensory, mental, or physical handicap of the insured or
13 prospective insured. The amount of benefits payable, or any term,
14 rate, condition, or type of coverage shall not be restricted, modified,
15 excluded, increased or reduced on the basis of the sex ((~~or~~)), marital
16 status, or sexual orientation, or be restricted, modified, excluded or
17 reduced on the basis of the presence of any sensory, mental, or
18 physical handicap of the insured or prospective insured. Subject to
19 the provisions of subsection (2) of this section these provisions shall
20 not prohibit fair discrimination on the basis of sex, or marital
21 status, or the presence of any sensory, mental, or physical handicap
22 when bona fide statistical differences in risk or exposure have been
23 substantiated.

24 (2) With respect to disability policies issued or renewed on and
25 after July 1, 1994, that provide coverage against loss arising from
26 medical, surgical, hospital, or emergency care services:

27 (a) Policies shall guarantee continuity of coverage. Such
28 provision, which shall be included in every policy, shall provide that:

29 (i) The policy may be canceled or nonrenewed without the prior
30 written approval of the commissioner only for nonpayment of premium or
31 as permitted under RCW 48.18.090; and

32 (ii) The policy may be canceled or nonrenewed because of a change
33 in the physical or mental condition or health of a covered person only
34 with the prior written approval of the commissioner. Such approval
35 shall be granted only when the insurer has discharged its obligation to
36 continue coverage for such person by obtaining coverage with another

1 insurer, health care service contractor, or health maintenance
2 organization, which coverage is comparable in terms of premiums and
3 benefits as defined by rule of the commissioner.

4 (b) It is an unfair practice for a disability insurer to modify the
5 coverage provided or rates applying to an in-force disability insurance
6 policy and to fail to make such modification in all such issued and
7 outstanding policies.

8 (c) Subject to rules adopted by the commissioner, it is an unfair
9 practice for a disability insurer to:

10 (i) Cease the sale of a policy form unless it has received prior
11 written authorization from the commissioner and has offered all
12 policyholders covered under such discontinued policy the opportunity to
13 purchase comparable coverage without health screening; or

14 (ii) Engage in a practice that subjects policyholders to rate
15 increases on discontinued policy forms unless such policyholders are
16 offered the opportunity to purchase comparable coverage without health
17 screening.

18 The insurer may limit an offer of comparable coverage without
19 health screening to a period not less than thirty days from the date
20 the offer is first made.

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