

1 **SHB 2810** - H AMD

2 By Representative _____

3 On page 56, after line 33, insert the following:

4 "NEW SECTION. **Sec. 326.** The legislature finds that the
5 ability of businesses throughout Washington state to carry on legal
6 activities is fundamental to the economic well-being of businesses,
7 their employees, and the institutions of state and local government
8 and is necessary for the public health, safety and welfare.

9 NEW SECTION. **Sec. 327.** Unless the context clearly requires
10 otherwise, the definitions in this section apply throughout this
11 chapter.

12 "Aggrieved" means:

13 (1) A person, physically present at a business when the
14 prohibited actions occur, whose access is or is about to be
15 obstructed or impeded;

16 (2) A person, physically present at the business when the
17 prohibited actions occur, whose activities are or are about to be
18 disrupted;

19 (3) The business, its employees, or agents;

20 (4) The owner of the business or the building or property upon
21 which the business is located.

22 NEW SECTION. **Sec. 328.** It is unlawful for a person except as
23 otherwise protected by state or federal law, alone or in concert
24 with others, to willfully or recklessly interfere with access to or
25 from a business or willfully or recklessly disrupt the normal
26 functioning of such business by:

27 (1) Physically obstructing or impeding the free passage of a
28 person seeking to enter or depart from the business or from the

1 common areas of the real property upon which the business is
2 located;

3 (2) Making noise that unreasonably disturbs the peace within
4 the business;

5 (3) Trespassing on the business or the common areas of the
6 real property upon which the business is located;

7 (4) Telephoning the business repeatedly, or knowingly
8 permitting any telephone under his or her control to be used for
9 such purpose; or

10 (5) Threatening to inflict injury on the owners, agents,
11 patients, employees, or property of the business or knowingly
12 permitting any telephone under his or her control to be used for
13 such purpose.

14 NEW SECTION. **Sec. 329.** A violation of section 3 of this act
15 is a gross misdemeanor. A person convicted of violating section 3
16 of this act shall be punished as follows:

17 (1) For a first offense, a fine of not less than two hundred
18 fifty dollars and a jail term of not less than twenty-four
19 consecutive hours;

20 (2) For a second offense, a fine of not less than five hundred
21 dollars and a jail term of not less than seven consecutive days;
22 and

23 (3) For a third or subsequent offense, a fine of not less than
24 one thousand dollars and a jail term of not less than thirty
25 consecutive days.

26 **Sec. 330.** RCW 10.31.100 and 1988 c 190 s 1 are each amended
27 to read as follows:

28 A police officer having probable cause to believe that a
29 person has committed or is committing a felony shall have the
30 authority to arrest the person without a warrant. A police officer
31 may arrest a person without a warrant for committing a misdemeanor

1 or gross misdemeanor only when the offense is committed in the
2 presence of the officer, except as provided in subsections (1)
3 through (~~(8)~~) (9) of this section.

4 (1) Any police officer having probable cause to believe that
5 a person has committed or is committing a misdemeanor or gross
6 misdemeanor, involving physical harm or threats of harm to any
7 person or property or the unlawful taking of property or involving
8 the use or possession of cannabis, or involving the acquisition,
9 possession, or consumption of alcohol by a person under the age of
10 twenty-one years under RCW 66.44.270 shall have the authority to
11 arrest the person.

12 (2) A police officer shall arrest and take into custody,
13 pending release on bail, personal recognizance, or court order, a
14 person without a warrant when the officer has probable cause to
15 believe that:

16 (a) An order has been issued of which the person has knowledge
17 under RCW 10.99.040(2), 10.99.050, 26.09.060, 26.44.063, chapter
18 26.26 RCW, or chapter 26.50 RCW restraining the person and the
19 person has violated the terms of the order restraining the person
20 from acts or threats of violence or excluding the person from a
21 residence or, in the case of an order issued under RCW 26.44.063,
22 imposing any other restrictions or conditions upon the person; or

23 (b) The person is eighteen years or older and within the
24 preceding four hours has assaulted that person's spouse, former
25 spouse, or a person eighteen years or older with whom the person
26 resides or has formerly resided and the officer believes: (i) A
27 felonious assault has occurred; (ii) an assault has occurred which
28 has resulted in bodily injury to the victim, whether the injury is
29 observable by the responding officer or not; or (iii) that any
30 physical action has occurred which was intended to cause another
31 person reasonably to fear imminent serious bodily injury or death.
32 Bodily injury means physical pain, illness, or an impairment of
33 physical condition. When the officer has probable cause to believe

1 that spouses, former spouses, or other persons who reside together
2 or formerly resided together have assaulted each other, the officer
3 is not required to arrest both persons. The officer shall arrest
4 the person whom the officer believes to be the primary physical
5 aggressor. In making this determination, the officer shall make
6 every reasonable effort to consider: (i) The intent to protect
7 victims of domestic violence under RCW 10.99.010; (ii) the
8 comparative extent of injuries inflicted or serious threats
9 creating fear of physical injury; and (iii) the history of domestic
10 violence between the persons involved.

11 (3) Any police officer having probable cause to believe that
12 a person has committed or is committing a violation of any of the
13 following traffic laws shall have the authority to arrest the
14 person:

15 (a) RCW 46.52.010, relating to duty on striking an unattended
16 car or other property;

17 (b) RCW 46.52.020, relating to duty in case of injury to or
18 death of a person or damage to an attended vehicle;

19 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving
20 or racing of vehicles;

21 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
22 influence of intoxicating liquor or drugs;

23 (e) RCW 46.20.342, relating to driving a motor vehicle while
24 operator's license is suspended or revoked;

25 (f) RCW 46.61.525, relating to operating a motor vehicle in a
26 negligent manner.

27 (4) A law enforcement officer investigating at the scene of a
28 motor vehicle accident may arrest the driver of a motor vehicle
29 involved in the accident if the officer has probable cause to
30 believe that the driver has committed in connection with the
31 accident a violation of any traffic law or regulation.

1 (5) Any police officer having probable cause to believe that
2 a person has committed or is committing a violation of RCW
3 88.12.100 shall have the authority to arrest the person.

4 (6) An officer may act upon the request of a law enforcement
5 officer in whose presence a traffic infraction was committed, to
6 stop, detain, arrest, or issue a notice of traffic infraction to
7 the driver who is believed to have committed the infraction. The
8 request by the witnessing officer shall give an officer the
9 authority to take appropriate action under the laws of the state of
10 Washington.

11 (7) Any police officer having probable cause to believe that
12 a person has committed or is committing any act of indecent
13 exposure, as defined in RCW 9A.88.010, may arrest the person.

14 (8) A police officer may arrest and take into custody, pending
15 release on bail, personal recognizance, or court order, a person
16 without a warrant when the officer has probable cause to believe
17 that an order has been issued of which the person has knowledge
18 under chapter 10.14 RCW and the person has violated the terms of
19 that order.

20 (9) Any police officer having probable cause to believe that
21 a person has, within twenty-four hours of the alleged violation,
22 committed a violation of section 3 of this act may arrest such
23 person.

24 (10) Except as specifically provided in subsections (2), (3),
25 (4), and (6) of this section, nothing in this section extends or
26 otherwise affects the powers of arrest prescribed in Title 46 RCW.

27 ((+10+)) (11) No police officer may be held criminally or
28 civilly liable for making an arrest pursuant to RCW 10.31.100(2) or
29 (8) if the police officer acts in good faith and without malice.

30 NEW SECTION. Sec. 331. (1) A person or business aggrieved by
31 the actions prohibited by section 3 of this act may seek civil
32 damages from those who committed the prohibited acts and those

1 acting in concert with them. A plaintiff in an action brought
2 under this chapter shall not recover more than his or her actual
3 damages and additional sums authorized in section 7 of this act.
4 Once a plaintiff recovers his or her actual damages and any
5 additional sums authorized under this chapter, additional damages
6 shall not be recovered. A person does not have to be criminally
7 convicted of violating section 3 of this act to be held civilly
8 liable under this section. It is not necessary to prove actual
9 damages to recover the additional sums authorized under section 7
10 of this act, costs, and attorneys' fees. The prevailing party is
11 entitled to recover costs and attorneys' fees.

12 (2) The superior courts of this state shall have authority to
13 grant temporary, preliminary, and permanent injunctive relief to
14 enjoin violations of this chapter.

15 In appropriate circumstances, any superior court having
16 personal jurisdiction over one or more defendants may issue
17 injunctive relief that shall have binding effect on the original
18 defendants and persons acting in concert with the original
19 defendants, in any county in the state.

20 Due to the nature of the harm involved, injunctive relief may
21 be issued without bond in the discretion of the court,
22 notwithstanding any other requirement imposed by statute.

23 The state and its political subdivisions shall cooperate in
24 the enforcement of court injunctions that seek to protect against
25 acts prohibited by this chapter.

26 NEW SECTION. **Sec. 332.** In a civil action brought under this
27 chapter, an individual plaintiff aggrieved by the actions
28 prohibited by section 3 of this act may be entitled to recover up
29 to five hundred dollars for each day that the actions occurred, or
30 up to five thousand dollars for each day that the actions occurred
31 if the plaintiff aggrieved by the actions prohibited under section
32 3 of this act is a business.

1 NEW SECTION. **Sec. 333.** Nothing in section 3 of this act
2 shall prohibit either lawful picketing or other publicity for the
3 purpose of providing the public with information.

4 NEW SECTION. **Sec. 334.** A court having jurisdiction over a
5 criminal or civil proceeding under this chapter shall take all
6 steps reasonably necessary to safeguard the individual privacy and
7 prevent harassment of a business client or business owner who is a
8 party or witness in a proceeding, including granting protective
9 orders and orders in limine.

10 **Sec. 335.** RCW 10.97.070 and 1977 ex.s. c 314 s 7 are each
11 amended to read as follows:

12 (1) Criminal justice agencies may, in their discretion,
13 disclose to persons who have suffered physical loss, property
14 damage, or injury compensable through civil action, the identity of
15 persons suspected as being responsible for such loss, damage, or
16 injury together with such information as the agency reasonably
17 believes may be of assistance to the victim in obtaining civil
18 redress. Such disclosure may be made without regard to whether the
19 suspected offender is an adult or a juvenile, whether charges have
20 or have not been filed, or a prosecuting authority has declined to
21 file a charge or a charge has been dismissed.

22 (2) Unless the agency determines release would interfere with
23 an ongoing criminal investigation, in any action brought pursuant
24 to this chapter, criminal justice agencies shall disclose
25 identifying information, including photographs of suspects, if the
26 acts are alleged by the plaintiff or victim to be a violation of
27 section 3 of this act.

28 (3) The disclosure by a criminal justice agency of
29 investigative information pursuant to subsection (1) of this
30 section shall not establish a duty to disclose any additional
31 information concerning the same incident or make any subsequent

1 disclosure of investigative information, except to the extent an
2 additional disclosure is compelled by legal process.

3 NEW SECTION. **Sec. 336.** Nothing in this chapter shall be
4 construed to limit the right to seek other available criminal or
5 civil remedies. The remedies provided in this chapter are
6 cumulative, not exclusive.

7 NEW SECTION. **Sec. 337.** Sections 327 through 329, 331 through
8 334, and 336 of this act shall constitute a new chapter in Title 9A
9 RCW."

EFFECT: Creates penalties for a person alone or in concert
with others, to willfully or recklessly interfere with access
to or from a business or to willfully or recklessly disrupt
the normal functioning of the business.