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**SUBSTITUTE HOUSE BILL 1322**

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** House Committee on Judiciary (originally sponsored by Representatives McCoy, Grant, Sells, Cody, Conway, Schual-Berke, Roberts, Pettigrew, Lantz, Kagi, Moeller, Chase, Green, Kenney, Simpson, Darneille, Dickerson, Hankins, Santos, Ormsby and Flannigan)

READ FIRST TIME 02/15/07.

1            AN ACT Relating to the definition of disability in the Washington  
2 law against discrimination; amending RCW 49.60.040; and creating a new  
3 section.

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

5            **Sec. 1.** 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

1 employer, directly or indirectly, who employs eight or more persons,  
2 and does not include any religious or sectarian organization not  
3 organized for private profit;

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

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

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

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

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

17 (9) "Full enjoyment of" includes the right to purchase any service,  
18 commodity, or article of personal property offered or sold on, or by,  
19 any establishment to the public, and the admission of any person to  
20 accommodations, advantages, facilities, or privileges of any place of  
21 public resort, accommodation, assemblage, or amusement, without acts  
22 directly or indirectly causing persons of any particular race, creed,  
23 color, sex, sexual orientation, national origin, or with any sensory,  
24 mental, or physical disability, or the use of a trained dog guide or  
25 service animal by a ((disabled)) person with a disability, to be  
26 treated as not welcome, accepted, desired, or solicited;

27 (10) "Any place of public resort, accommodation, assemblage, or  
28 amusement" includes, but is not limited to, any place, licensed or  
29 unlicensed, kept for gain, hire, or reward, or where charges are made  
30 for admission, service, occupancy, or use of any property or  
31 facilities, whether conducted for the entertainment, housing, or  
32 lodging of transient guests, or for the benefit, use, or accommodation  
33 of those seeking health, recreation, or rest, or for the burial or  
34 other disposition of human remains, or for the sale of goods,  
35 merchandise, services, or personal property, or for the rendering of  
36 personal services, or for public conveyance or transportation on land,  
37 water, or in the air, including the stations and terminals thereof and  
38 the garaging of vehicles, or where food or beverages of any kind are

1 sold for consumption on the premises, or where public amusement,  
2 entertainment, sports, or recreation of any kind is offered with or  
3 without charge, or where medical service or care is made available, or  
4 where the public gathers, congregates, or assembles for amusement,  
5 recreation, or public purposes, or public halls, public elevators, and  
6 public washrooms of buildings and structures occupied by two or more  
7 tenants, or by the owner and one or more tenants, or any public library  
8 or educational institution, or schools of special instruction, or  
9 nursery schools, or day care centers or children's camps: PROVIDED,  
10 That nothing contained in this definition shall be construed to include  
11 or apply to any institute, bona fide club, or place of accommodation,  
12 which is by its nature distinctly private, including fraternal  
13 organizations, though where public use is permitted that use shall be  
14 covered by this chapter; nor shall anything contained in this  
15 definition apply to any educational facility, columbarium, crematory,  
16 mausoleum, or cemetery operated or maintained by a bona fide religious  
17 or sectarian institution;

18 (11) "Real property" includes buildings, structures, dwellings,  
19 real estate, lands, tenements, leaseholds, interests in real estate  
20 cooperatives, condominiums, and hereditaments, corporeal and  
21 incorporeal, or any interest therein;

22 (12) "Real estate transaction" includes the sale, appraisal,  
23 brokering, exchange, purchase, rental, or lease of real property,  
24 transacting or applying for a real estate loan, or the provision of  
25 brokerage services;

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

31 (14) "Sex" means gender;

32 (15) "Sexual orientation" means heterosexuality, homosexuality,  
33 bisexuality, and gender expression or identity. As used in this  
34 definition, "gender expression or identity" means having or being  
35 perceived as having a gender identity, self-image, appearance,  
36 behavior, or expression, whether or not that gender identity, self-  
37 image, appearance, behavior, or expression is different from that  
38 traditionally associated with the sex assigned to that person at birth;

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

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

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

9 (19) "Credit transaction" includes any open or closed end credit  
10 transaction, whether in the nature of a loan, retail installment  
11 transaction, credit card issue or charge, or otherwise, and whether for  
12 personal or for business purposes, in which a service, finance, or  
13 interest charge is imposed, or which provides for repayment in  
14 scheduled payments, when such credit is extended in the regular course  
15 of any trade or commerce, including but not limited to transactions by  
16 banks, savings and loan associations or other financial lending  
17 institutions of whatever nature, stock brokers, or by a merchant or  
18 mercantile establishment which as part of its ordinary business permits  
19 or provides that payment for purchases of property or service therefrom  
20 may be deferred;

21 (20) "Families with children status" means one or more individuals  
22 who have not attained the age of eighteen years being domiciled with a  
23 parent or another person having legal custody of such individual or  
24 individuals, or with the designee of such parent or other person having  
25 such legal custody, with the written permission of such parent or other  
26 person. Families with children status also applies to any person who  
27 is pregnant or is in the process of securing legal custody of any  
28 individual who has not attained the age of eighteen years;

29 (21) "Covered multifamily dwelling" means: (a) Buildings  
30 consisting of four or more dwelling units if such buildings have one or  
31 more elevators; and (b) ground floor dwelling units in other buildings  
32 consisting of four or more dwelling units;

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

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

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

4           (25)(a) "Disability" means the presence of a sensory, mental, or  
5 physical impairment that:

6           (i) Is medically cognizable or diagnosable; or

7           (ii) Exists as a record or history; or

8           (iii) Is perceived to exist whether or not it exists in fact.

9           (b) A disability exists whether it is temporary or permanent,  
10 common or uncommon, mitigated or unmitigated, or whether or not it  
11 limits the ability to work generally or work at a particular job or  
12 whether or not it limits any other activity within the scope of this  
13 chapter.

14           (c) For purposes of this definition, "impairment" includes but is  
15 not limited to:

16           (i) Any physiological disorder, or condition, cosmetic  
17 disfigurement, or anatomical loss affecting one or more of the  
18 following body systems: Neurological, musculoskeletal, special sense  
19 organs, respiratory, including speech organs, cardiovascular,  
20 reproductive, digestive, genitor-urinary, hemic and lymphatic, skin,  
21 and endocrine; or

22           (ii) Any mental, developmental, traumatic, or psychological  
23 disorder, including but not limited to cognitive limitation, organic  
24 brain syndrome, emotional or mental illness, and specific learning  
25 disabilities.

26           (d) Only for the purposes of qualifying for reasonable  
27 accommodation in employment, an impairment must have:

28           (i) A substantially limiting effect upon the individual's ability  
29 to perform his or her job, the individual's ability to apply or be  
30 considered for a job, or the individual's access to equal benefits,  
31 privileges, or terms or conditions of employment; or

32           (ii) The reasonable likelihood that job-related factors will  
33 aggravate it to the extent that it could create a substantially  
34 limiting effect if not accommodated.

35           (e) For purposes of (d) of this subsection, a limitation is  
36 substantial if it has more than a trivial effect.

1        NEW SECTION.   **Sec. 2.**   This act is remedial and retroactive, and  
2   applies to all claims that are not time barred, as well as all claims  
3   pending in any court or agency on the effective date of this act.

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