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**SUBSTITUTE HOUSE BILL 1796**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Farrell, Kilduff, Doglio, Robinson, Stanford, Hudgins, McBride, Macri, Ormsby, Frame, Slatter, Jinkins, and Pollet)

AN ACT Relating to providing reasonable accommodations in the workplace for pregnant women; amending RCW 49.60.230; adding a new section to chapter 49.60 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  A new section is added to chapter 49.60 RCW to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Pregnancy" includes the employee's pregnancy and pregnancy-related health conditions, including the need to express breast milk.

(b) "Reasonable accommodation" means measures that enable the proper performance of the particular job held or desired and enable the enjoyment of equal benefits, privileges, or terms and conditions of employment. "Reasonable accommodation" includes, but is not limited to:

(i) Providing more frequent, longer, or flexible restroom breaks;

(ii) Modifying a no food or drink policy;

(iii) Acquiring or modifying equipment or an employee's work station;

(iv) Providing seating or allowing the employee to sit more frequently if her job requires her to stand;

(v) Providing for a temporary transfer to a less strenuous or less hazardous position;

(vi) Providing assistance with manual labor; and

(vii) Modifying work schedules.

(2) It is an unfair practice for any employer to:

(a) Fail or refuse to make reasonable accommodation for an employee for pregnancy, unless the employer can demonstrate that doing so would impose an undue hardship on the employer's program, enterprise, or business;

(b) Take adverse action against an employee who requests or uses an accommodation under this section that affects the terms, conditions, or privileges of employment;

(c) Deny employment opportunities to an otherwise qualified employee if such denial is based on the employer's need to make reasonable accommodation required by this section;

(d) Require an employee to take leave if another reasonable accommodation can be provided for the employee's pregnancy; or

(e) Require an employee requesting reasonable accommodation for pregnancy to accept an accommodation that the employee chooses not to accept.

(3) An employer may request that the employee provide written certification from her treating health care professional regarding the need for reasonable accommodation.

(4)(a) This section does not require an employer to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation.

(b) This section does not require an employer to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job, unless the employer does so or would do so to accommodate other classes of employees who need accommodation.

(5) The attorney general shall investigate complaints and enforce this section. In addition to the complaint process with the attorney general, any person believed to be injured by a violation of this section has a civil cause of action in court to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit and reasonable attorneys' fees or any other appropriate remedy authorized by state or federal law.

(6) This section does not preempt, limit, diminish, or otherwise affect any other provision of law relating to sex discrimination or pregnancy, or in any way diminish or limit legal protections or coverage for pregnancy.

**Sec.**  RCW 49.60.230 and 2008 c 266 s 7 are each amended to read as follows:

(1) Who may file a complaint:

(a) Except as provided in subsection (3) of this section, any person claiming to be aggrieved by an alleged unfair practice may, personally or by his or her attorney, make, sign, and file with the commission a complaint in writing under oath or by declaration. The complaint shall state the name of the person alleged to have committed the unfair practice and the particulars thereof, and contain such other information as may be required by the commission.

(b) Whenever it has reason to believe that any person has been engaged or is engaging in an unfair practice, the commission may issue a complaint.

(c) Any employer or principal whose employees, or agents, or any of them, refuse or threaten to refuse to comply with the provisions of this chapter may file with the commission a written complaint under oath or by declaration asking for assistance by conciliation or other remedial action.

(2) Any complaint filed pursuant to this section must be so filed within six months after the alleged act of discrimination except that complaints alleging an unfair practice in a real estate transaction pursuant to RCW 49.60.222 through 49.60.225 must be so filed within one year after the alleged unfair practice in a real estate transaction has occurred or terminated and a complaint alleging whistleblower retaliation must be filed within two years.

(3) Complaints alleging an unfair practice under section 1 of this act must be filed with the attorney general.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2017, in the omnibus appropriations act, this act is null and void.

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