

**SUBSTITUTE HOUSE BILL 1300**

**State of Washington                      53rd Legislature                      1993 Regular Session**

**By** House Committee on Judiciary (originally sponsored by Representatives Appelwick, Padden, J. Kohl, Riley, Forner, Ballasiotes, Schmidt, Brough, Long, Thibaudeau, Karahalios, Franklin, Johanson, G. Cole, Wood, Casada, Jacobsen, Leonard and H. Myers)

Read first time 02/12/93.

1            AN ACT Relating to discrimination; amending RCW 49.60.010,  
2 49.60.020, 49.60.030, 49.60.120, 49.60.130, 49.60.174, 49.60.175,  
3 49.60.176, 49.60.178, 49.60.180, 49.60.190, 49.60.200, 49.60.205,  
4 49.60.222, 49.60.223, 49.60.224, 49.60.225, 49.60.230, 49.60.240,  
5 49.60.250, 49.44.090, and 70.124.060; reenacting and amending RCW  
6 49.60.040 and 49.60.215; and adding a new section to chapter 49.60 RCW.

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

8            **Sec. 1.** RCW 49.60.010 and 1985 c 185 s 1 are each amended to read  
9 as follows:

10            This chapter shall be known as the "law against discrimination".  
11 It is an exercise of the police power of the state for the protection  
12 of the public welfare, health, and peace of the people of this state,  
13 and in fulfillment of the provisions of the Constitution of this state  
14 concerning civil rights. The legislature hereby finds and declares  
15 that practices of discrimination against any of its inhabitants because  
16 of race, creed, color, national origin, sex, marital status, age, or  
17 the presence of any sensory, mental, or physical ((handicap))  
18 disability or the use of a trained guide dog or service dog by a  
19 disabled person are a matter of state concern, that such discrimination

1 threatens not only the rights and proper privileges of its inhabitants  
2 but menaces the institutions and foundation of a free democratic state.  
3 A state agency is herein created with powers with respect to  
4 elimination and prevention of discrimination in employment, in credit  
5 and insurance transactions, in places of public resort, accommodation,  
6 or amusement, and in real property transactions because of race, creed,  
7 color, national origin, sex, marital status, age, or the presence of  
8 any sensory, mental, or physical (~~handicap~~) disability or the use of  
9 a trained guide dog or service dog by a disabled person; and the  
10 commission established hereunder is hereby given general jurisdiction  
11 and power for such purposes.

12       **Sec. 2.** RCW 49.60.020 and 1973 1st ex.s. c 214 s 2 are each  
13 amended to read 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, age, or the presence of  
19 any sensory, mental, or physical (~~handicap~~) disability, other than a  
20 law which purports to require or permit doing any act which is an  
21 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 1984 c 32 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, or the presence of any sensory,  
29 mental, or physical (~~handicap~~) disability or the use of a trained  
30 guide dog or service dog 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;

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

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

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

26 (2) Any person deeming himself or herself injured by any act in  
27 violation of this chapter shall have a civil action in a court of  
28 competent jurisdiction to enjoin further violations, to recover the  
29 actual damages sustained by ((him)) the person, or both, together with  
30 the cost of suit including a reasonable attorney's fees or any other  
31 remedy authorized by this chapter or the United States Civil Rights Act  
32 of 1964 as amended; and

33 (3) ~~((Notwithstanding any other provisions of))~~ In addition to any  
34 penalties provided by this chapter, any ((aet)) unfair practice  
35 prohibited by this chapter ((related to sex discrimination)) or related  
36 to discriminatory boycotts or blacklists which is committed in the  
37 course of trade or commerce in the state of Washington as defined in  
38 the Consumer Protection Act, chapter 19.86 RCW, ((shall be deemed an  
39 unfair practice within the meaning of RCW 19.86.020 and 19.86.030 and

1 ~~subject to all the provisions of chapter 19.86 RCW as now or hereafter~~  
2 ~~amended)) is a matter affecting the public interest for the purpose of~~  
3 ~~applying chapter 19.86 RCW and is not reasonable in relation to the~~  
4 ~~development and preservation of business. A violation of this chapter~~  
5 ~~constitutes an unfair or deceptive act or practice in trade or commerce~~  
6 ~~for the purpose of applying chapter 19.86 RCW.~~

7 **Sec. 4.** RCW 49.60.040 and 1985 c 203 s 2 and 1985 c 185 s 2 are  
8 each reenacted and amended to read as follows:

9 As used in this chapter:

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

17 "Commission" means the Washington state human rights commission;

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

22 "Employee" does not include any individual employed by his or her  
23 parents, spouse, or child, or in the domestic service of any person;

24 "Labor organization" includes any organization which exists for the  
25 purpose, in whole or in part, of dealing with employers concerning  
26 grievances or terms or conditions of employment, or for other mutual  
27 aid or protection in connection with employment;

28 "Employment agency" includes any person undertaking with or without  
29 compensation to recruit, procure, refer, or place employees for an  
30 employer;

31 "Marital status" means the legal status of being married, single,  
32 separated, divorced, or widowed;

33 "National origin" includes "ancestry";

34 "Full enjoyment of" includes the right to purchase any service,  
35 commodity, or article of personal property offered or sold on, or by,  
36 any establishment to the public, and the admission of any person to  
37 accommodations, advantages, facilities, or privileges of any place of  
38 public resort, accommodation, assemblage, or amusement, without acts

1 directly or indirectly causing persons of any particular race, creed,  
2 color, sex, national origin, or with any sensory, mental, or physical  
3 (~~handicap~~) disability, or the use of a trained guide dog or service  
4 dog by a (~~blind or deaf~~) disabled person (~~using a trained dog~~  
5 ~~guide~~), to be treated as not welcome, accepted, desired, or solicited;

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

35 "Real property" includes buildings, structures, real estate, lands,  
36 tenements, leaseholds, interests in real estate cooperatives,  
37 condominiums, and hereditaments, corporeal and incorporeal, or any  
38 interest therein;

1 "Real estate transaction" includes the sale, exchange, purchase,  
2 rental, or lease of real property;

3 "Sex" means gender((-));

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

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 49.60 RCW  
17 to read as follows:

18 (1) For purposes of the term "disability" as used in this chapter,  
19 homosexuality and bisexuality are not impairments and as such are not  
20 disabilities under this act. Under this chapter, the term "disability"  
21 shall not include:

22 (a) Transvestism, transexualism, pedophilia, exhibitionism,  
23 voyeurism, gender identity disorders not resulting from physical  
24 impairments, or other sexual behavior disorders;

25 (b) Compulsive gambling, kleptomania, or pyromania; or

26 (c) Psychoactive substance use disorders resulting from current  
27 illegal use of drugs.

28 (2)(a) For purposes of this chapter, a person who is currently  
29 engaging in the illegal use of drugs, when the covered entity acts on  
30 the basis of such use, shall not be considered to have a disability.

31 (b) Nothing in (a) of this subsection may be construed to exclude  
32 as an individual with a disability an individual who:

33 (i) Has successfully completed a supervised drug rehabilitation  
34 program and is no longer engaging in the illegal use of drugs, or has  
35 otherwise been rehabilitated successfully and is no longer engaging in  
36 such use;

37 (ii) Is participating in a supervised rehabilitation program and is  
38 no longer engaging in such use; or

1 (iii) Is erroneously regarded as engaging in such use, but is not  
2 engaging in such use;  
3 except that it shall not be a violation of this chapter for a covered  
4 entity to adopt or administer reasonable policies or procedures,  
5 including but not limited to drug testing, designed to ensure that an  
6 individual described in (b) (i) or (ii) of this subsection is no longer  
7 engaging in the illegal use of drugs; however, nothing in this section  
8 may be construed to encourage, prohibit, restrict, or authorize the  
9 conducting of testing for the illegal use of drugs.

10 **Sec. 6.** RCW 49.60.120 and 1985 c 185 s 10 are each amended to read  
11 as follows:

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

13 (1) To appoint an executive (~~(secretary)~~) director and chief  
14 examiner, and such investigators, examiners, clerks, and other  
15 employees and agents as it may deem necessary, fix their compensation  
16 within the limitations provided by law, and prescribe their duties.

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

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

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

24 (5) To issue such publications and such results of investigations  
25 and research as in its judgment will tend to promote good will and  
26 minimize or eliminate discrimination because of sex, race, creed,  
27 color, national origin, marital status, age, or the presence of any  
28 sensory, mental, or physical (~~(handicap)~~) disability, or the use of a  
29 trained guide dog or service dog by a disabled person.

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

33 (7) To cooperate and act jointly or by division of labor with the  
34 United States or other states, with other Washington state agencies,  
35 commissions, and other government entities, and with political  
36 subdivisions of the state of Washington and their respective human  
37 rights agencies to carry out the purposes of this chapter. However,  
38 the powers which may be exercised by the commission under this

1 subsection permit investigations and complaint dispositions only if the  
2 investigations are designed to reveal, or the complaint deals only  
3 with, allegations which, if proven, would constitute unfair practices  
4 under this chapter. The commission may perform such services for these  
5 agencies and be reimbursed therefor.

6 (8) To foster good relations between minority and majority  
7 population groups of the state through seminars, conferences,  
8 educational programs, and other intergroup relations activities.

9 **Sec. 7.** RCW 49.60.130 and 1985 c 185 s 11 are each amended to read  
10 as follows:

11 The commission has power to create such advisory agencies and  
12 conciliation councils, local, regional, or state-wide, as in its  
13 judgment will aid in effectuating the purposes of this chapter. The  
14 commission may empower them to study the problems of discrimination in  
15 all or specific fields of human relationships or in specific instances  
16 of discrimination because of sex, race, creed, color, national origin,  
17 marital status, age, or the presence of any sensory, mental, or  
18 physical (~~handicap~~) disability or the use of a trained guide dog or  
19 service dog by a disabled person; to foster through community effort or  
20 otherwise good will, cooperation, and conciliation among the groups and  
21 elements of the population of the state, and to make recommendations to  
22 the commission for the development of policies and procedures in  
23 general and in specific instances, and for programs of formal and  
24 informal education which the commission may recommend to the  
25 appropriate state agency.

26 Such advisory agencies and conciliation councils shall be composed  
27 of representative citizens, serving without pay, but with reimbursement  
28 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as  
29 now existing or hereafter amended, and the commission may make  
30 provision for technical and clerical assistance to such agencies and  
31 councils and for the expenses of such assistance. The commission may  
32 use organizations specifically experienced in dealing with questions of  
33 discrimination.

34 **Sec. 8.** RCW 49.60.174 and 1988 c 206 s 902 are each amended to  
35 read as follows:

36 (1) For the purposes of determining whether an unfair practice  
37 under this chapter has occurred, claims of discrimination based on

1 actual or perceived HIV infection shall be evaluated in the same manner  
2 as other claims of discrimination based on sensory, mental, or physical  
3 (~~handicap~~) disability; or the use of a trained guide dog or service  
4 dog by a disabled person.

5 (2) Subsection (1) of this section shall not apply to transactions  
6 with insurance entities, health service contractors, or health  
7 maintenance organizations subject to RCW 49.60.030(1)(e) or 49.60.178  
8 to prohibit fair discrimination on the basis of actual HIV infection  
9 status when bona fide statistical differences in risk or exposure have  
10 been substantiated.

11 (3) For the purposes of this chapter, "HIV" means the human  
12 immunodeficiency virus, and includes all HIV and HIV-related viruses  
13 which damage the cellular branch of the human immune system and leave  
14 the infected person immunodeficient.

15 **Sec. 9.** RCW 49.60.175 and 1979 c 127 s 4 are each amended to read  
16 as follows:

17 It shall be an unfair practice to use the sex, race, creed, color,  
18 national origin, marital status, or the presence of any sensory,  
19 mental, or physical (~~handicap~~) disability of any person, or the use  
20 of a trained guide dog or service dog by a disabled person, concerning  
21 an application for credit in any credit transaction to determine the  
22 credit worthiness of an applicant.

23 **Sec. 10.** RCW 49.60.176 and 1979 c 127 s 5 are each amended to read  
24 as follows:

25 (1) It is an unfair practice for any person whether acting for  
26 himself, herself, or another in connection with any credit transaction  
27 because of race, creed, color, national origin, sex, marital status, or  
28 the presence of any sensory, mental, or physical (~~handicap~~)  
29 disability or the use of a trained guide dog or service dog by a  
30 disabled person:

31 (a) To deny credit to any person;

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

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

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

3 (2) Nothing in this section shall prohibit any party to a credit  
4 transaction from considering the credit history of any individual  
5 applicant.

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

10 **Sec. 11.** RCW 49.60.178 and 1984 c 32 s 1 are each amended to read  
11 as follows:

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

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

28 The insurance commissioner, under RCW 48.30.300, and the human  
29 rights commission, under chapter 49.60 RCW, shall have concurrent  
30 jurisdiction under this section and shall enter into a working  
31 agreement as to procedure to be followed in complaints under this  
32 section.

33 **Sec. 12.** RCW 49.60.180 and 1985 c 185 s 16 are each amended to  
34 read as follows:

35 It is an unfair practice for any employer:

36 (1) To refuse to hire any person because of age, sex, marital  
37 status, race, creed, color, national origin, or the presence of any

1 sensory, mental, or physical ((handicap)) disability or the use of a  
2 trained guide dog or service dog by a disabled person, unless based  
3 upon a bona fide occupational qualification: PROVIDED, That the  
4 prohibition against discrimination because of such ((handicap))  
5 disability shall not apply if the particular disability prevents the  
6 proper performance of the particular worker involved.

7 (2) To discharge or bar any person from employment because of age,  
8 sex, marital status, race, creed, color, national origin, or the  
9 presence of any sensory, mental, or physical ((handicap)) disability or  
10 the use of a trained guide dog or service dog by a disabled person.

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

22 (4) To print, or circulate, or cause to be printed or circulated  
23 any statement, advertisement, or publication, or to use any form of  
24 application for employment, or to make any inquiry in connection with  
25 prospective employment, which expresses any limitation, specification,  
26 or discrimination as to age, sex, marital status, race, creed, color,  
27 national origin, or the presence of any sensory, mental, or physical  
28 ((handicap)) disability or the use of a trained guide dog or service  
29 dog by a disabled person, or any intent to make any such limitation,  
30 specification, or discrimination, unless based upon a bona fide  
31 occupational qualification: PROVIDED, Nothing contained herein shall  
32 prohibit advertising in a foreign language.

33 **Sec. 13.** RCW 49.60.190 and 1985 c 185 s 17 are each amended to  
34 read as follows:

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

36 (1) To deny membership and full membership rights and privileges to  
37 any person because of age, sex, marital status, race, creed, color,  
38 national origin, or the presence of any sensory, mental, or physical

1 ~~((handicap))~~ disability or the use of a trained guide dog or service  
2 dog by a disabled person.

3 (2) To expel from membership any person because of age, sex,  
4 marital status, race, creed, color, national origin, or the presence of  
5 any sensory, mental, or physical ~~((handicap))~~ disability or the use of  
6 a trained guide dog or service dog by a disabled person.

7 (3) To discriminate against any member, employer, employee, or  
8 other person to whom a duty of representation is owed because of age,  
9 sex, marital status, race, creed, color, national origin, or the  
10 presence of any sensory, mental, or physical ~~((handicap))~~ disability or  
11 the use of a trained guide dog or service dog by a disabled person.

12 **Sec. 14.** RCW 49.60.200 and 1973 1st ex.s. c 214 s 9 are each  
13 amended to read as follows:

14 It is an unfair practice for any employment agency to fail or  
15 refuse to classify properly or refer for employment, or otherwise to  
16 discriminate against, an individual because of age, sex, marital  
17 status, race, creed, color, national origin, or the presence of any  
18 sensory, mental, or physical ~~((handicap))~~ disability or the use of a  
19 trained guide dog or service dog by a disabled person, or to print or  
20 circulate, or cause to be printed or circulated any statement,  
21 advertisement, or publication, or to use any form of application for  
22 employment, or to make any inquiry in connection with prospective  
23 employment, which expresses any limitation, specification or  
24 discrimination as to age, sex, race, creed, color, or national origin,  
25 or the presence of any sensory, mental, or physical ~~((handicap))~~  
26 disability or the use of a trained guide dog or service dog by a  
27 disabled person, or any intent to make any such limitation,  
28 specification, or discrimination, unless based upon a bona fide  
29 occupational qualification: PROVIDED, Nothing contained herein shall  
30 prohibit advertising in a foreign language.

31 **Sec. 15.** RCW 49.60.205 and 1985 c 185 s 28 are each amended to  
32 read as follows:

33 No person shall be considered to have committed an unfair practice  
34 on the basis of age discrimination unless the practice ~~((discriminates~~  
35 ~~against a person between the age of forty and seventy years and))~~  
36 violates RCW 49.44.090. It is a defense to any complaint of an unfair

1 practice of age discrimination that the practice does not violate RCW  
2 49.44.090.

3 **Sec. 16.** RCW 49.60.215 and 1985 c 203 s 1 and 1985 c 90 s 6 are  
4 each reenacted and amended to read as follows:

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

23 **Sec. 17.** RCW 49.60.222 and 1989 c 61 s 1 are each amended to read  
24 as follows:

25 It is an unfair practice for any person, whether acting for  
26 himself, herself, or another, because of sex, marital status, race,  
27 creed, color, national origin, the presence of any sensory, mental, or  
28 physical ~~((handicap))~~ disability, or the use of a trained guide dog or  
29 service dog by a ~~((blind, deaf, or physically))~~ disabled person:

- 30 (1) To refuse to engage in a real estate transaction with a person;  
31 (2) To discriminate against a person in the terms, conditions, or  
32 privileges of a real estate transaction or in the furnishing of  
33 facilities or services in connection therewith;  
34 (3) To refuse to receive or to fail to transmit a bona fide offer  
35 to engage in a real estate transaction from a person;  
36 (4) To refuse to negotiate for a real estate transaction with a  
37 person;

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

5 (6) To print, circulate, post, or mail, or cause to be so published  
6 a statement, advertisement, or sign, or to use a form of application  
7 for a real estate transaction, or to make a record or inquiry in  
8 connection with a prospective real estate transaction, which indicates,  
9 directly or indirectly, an intent to make a limitation, specification,  
10 or discrimination with respect thereto;

11 (7) To offer, solicit, accept, use, or retain a listing of real  
12 property with the understanding that a person may be discriminated  
13 against in a real estate transaction or in the furnishing of facilities  
14 or services in connection therewith;

15 (8) To expel a person from occupancy of real property;

16 (9) To discriminate in the course of negotiating, executing, or  
17 financing a real estate transaction whether by mortgage, deed of trust,  
18 contract, or other instrument imposing a lien or other security in real  
19 property, or in negotiating or executing any item or service related  
20 thereto including issuance of title insurance, mortgage insurance, loan  
21 guarantee, or other aspect of the transaction. Nothing in this section  
22 shall limit the effect of RCW 49.60.176 relating to unfair practices in  
23 credit transactions; or

24 (10) To attempt to do any of the unfair practices defined in this  
25 section.

26 Notwithstanding any other provision of law, it shall not be an  
27 unfair practice or a denial of civil rights for any public or private  
28 educational institution to separate the sexes or give preference to or  
29 limit use of dormitories, residence halls, or other student housing to  
30 persons of one sex or to make distinctions on the basis of marital or  
31 family status.

32 This section shall not be construed to require structural changes,  
33 modifications, or additions to make facilities accessible to a  
34 ((handicapped)) disabled person except as otherwise required by law.  
35 Nothing in this section affects the rights and responsibilities of  
36 landlords and tenants pursuant to chapter 59.18 RCW.

37 **Sec. 18.** RCW 49.60.223 and 1979 c 127 s 9 are each amended to read  
38 as follows:

1 It is an unfair practice for any person, for profit, to induce or  
2 attempt to induce any person to sell or rent any real property by  
3 representations regarding the entry or prospective entry into the  
4 neighborhood of a person or persons of a particular race, creed, color,  
5 national origin, sex, or with any sensory, mental, or physical  
6 ((handicap)) disability and/or the use of a trained guide dog or  
7 service dog by a disabled person.

8 **Sec. 19.** RCW 49.60.224 and 1979 c 127 s 10 are each amended to  
9 read as follows:

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

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

25 **Sec. 20.** RCW 49.60.225 and 1985 c 185 s 19 are each amended to  
26 read as follows:

27 When a determination has been made under RCW 49.60.250 that an  
28 unfair practice involving real property has been committed, the  
29 commission may, in addition to other relief authorized by RCW  
30 49.60.250, award the complainant up to one thousand dollars for loss of  
31 the right secured by RCW 49.60.010, 49.60.030, 49.60.040, and 49.60.222  
32 through 49.60.226, as now or hereafter amended, to be free from  
33 discrimination in real property transactions because of sex, marital  
34 status, race, creed, color, national origin, or the presence of any  
35 sensory, mental, or physical ((handicap)) disability or the use of a  
36 trained guide dog or service dog by a disabled person. Enforcement of

1 the order and appeal therefrom by the complainant or respondent shall  
2 be made as provided in RCW 49.60.260 and 49.60.270.

3 **Sec. 21.** RCW 49.60.230 and 1985 c 185 s 21 are each amended to  
4 read as follows:

5 (1) Who may file a complaint:

6 ~~((+1))~~ (a) Any person claiming to be aggrieved by an alleged  
7 unfair practice may, personally or by his or her attorney, make, sign,  
8 and file with the commission a complaint in writing under oath or by  
9 declaration. The complaint shall state the name ~~((and address))~~ of the  
10 person alleged to have committed the unfair practice and the  
11 particulars thereof, and contain such other information as may be  
12 required by the commission.

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

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

21 (2) Any complaint filed pursuant to this section must be so filed  
22 within six months after the alleged act of discrimination.

23 **Sec. 22.** RCW 49.60.240 and 1985 c 185 s 22 are each amended to  
24 read as follows:

25 After the filing of any complaint, the chairperson of the  
26 commission shall refer it to the appropriate section of the  
27 commission's staff for prompt investigation and ascertainment of the  
28 facts alleged in the complaint. The investigation shall be limited to  
29 the alleged facts contained in the complaint. The results of the  
30 investigation shall be reduced to written findings of fact, and a  
31 finding shall be made that there is or that there is not reasonable  
32 cause for believing that an unfair practice has been or is being  
33 committed. A copy of said findings shall be ~~((furnished))~~ provided to  
34 the complainant and to the person named in such complaint, hereinafter  
35 referred to as the respondent.

36 If the finding is made that there is reasonable cause for believing  
37 that an unfair practice has been or is being committed, the

1 commission's staff shall immediately endeavor to eliminate the unfair  
2 practice by conference, conciliation and persuasion.

3 If an agreement is reached for the elimination of such unfair  
4 practice as a result of such conference, conciliation and persuasion,  
5 the agreement shall be reduced to writing and signed by the respondent,  
6 and an order shall be entered by the commission setting forth the terms  
7 of said agreement. No order shall be entered by the commission at this  
8 stage of the proceedings except upon such written agreement.

9 If no such agreement can be reached, a finding to that effect shall  
10 be made and reduced to writing, with a copy thereof ((furnished))  
11 provided to the complainant and the respondent.

12 **Sec. 23.** RCW 49.60.250 and 1992 c 118 s 5 are each amended to read  
13 as follows:

14 (1) In case of failure to reach an agreement for the elimination of  
15 such unfair practice, and upon the entry of findings to that effect,  
16 the entire file, including the complaint and any and all findings made,  
17 shall be certified to the chairperson of the commission. The  
18 chairperson of the commission shall thereupon request the appointment  
19 of an administrative law judge under Title 34 RCW to hear the complaint  
20 and shall cause to be issued and served in the name of the commission  
21 a written notice, together with a copy of the complaint, as the same  
22 may have been amended, requiring the respondent to answer the charges  
23 of the complaint at a hearing before the administrative law judge, at  
24 a time and place to be specified in such notice.

25 (2) The place of any such hearing may be the office of the  
26 commission or another place designated by it. The case in support of  
27 the complaint shall be presented at the hearing by counsel for the  
28 commission: PROVIDED, That the complainant may retain independent  
29 counsel and submit testimony and be fully heard. No member or employee  
30 of the commission who previously made the investigation or caused the  
31 notice to be issued shall participate in the hearing except as a  
32 witness, nor shall the member or employee participate in the  
33 deliberations of the administrative law judge in such case. Any  
34 endeavors or negotiations for conciliation shall not be received in  
35 evidence.

36 (3) The respondent shall file a written answer to the complaint and  
37 appear at the hearing in person or otherwise, with or without counsel,

1 and submit testimony and be fully heard. The respondent has the right  
2 to cross-examine the complainant.

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

6 (5) If, upon all the evidence, the administrative law judge finds  
7 that the respondent has engaged in any unfair practice, the  
8 administrative law judge shall state findings of fact and shall issue  
9 and file with the commission and cause to be served on such respondent  
10 an order requiring such respondent to cease and desist from such unfair  
11 practice and to take such affirmative action, including, (but not  
12 limited to) hiring, reinstatement or upgrading of employees, with or  
13 without back pay, an admission or restoration to full membership rights  
14 in any respondent organization, or to take such other action as, in the  
15 judgment of the administrative law judge, will effectuate the purposes  
16 of this chapter, including action that could be ordered by a court,  
17 except that damages for humiliation and mental suffering shall not  
18 exceed ((one)) ten thousand dollars, and including a requirement for  
19 report of the matter on compliance.

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

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

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

38 (9) An order dismissing a complaint may include an award of  
39 reasonable attorneys' fees in favor of the respondent if the

1 administrative law judge concludes that the complaint was frivolous,  
2 unreasonable, or groundless.

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

5 **Sec. 24.** RCW 49.44.090 and 1985 c 185 s 30 are each amended to  
6 read as follows:

7 It shall be an unfair practice:

8 (1) For an employer or licensing agency, because an individual is  
9 (~~between the ages of~~) forty (and seventy) years of age or older, to  
10 refuse to hire or employ or license or to bar or to terminate from  
11 employment such individual, or to discriminate against such individual  
12 in promotion, compensation or in terms, conditions or privileges of  
13 employment: PROVIDED, That employers or licensing agencies may  
14 establish reasonable minimum and/or maximum age limits with respect to  
15 candidates for positions of employment, which positions are of such a  
16 nature as to require extraordinary physical effort, endurance,  
17 condition or training, subject to the approval of the executive  
18 (~~secretary~~) director of the Washington state human rights commission  
19 or the director of labor and industries through the division of  
20 industrial relations.

21 (2) For any employer, licensing agency or employment agency to  
22 print or circulate or cause to be printed or circulated any statement,  
23 advertisement, or publication, or to use any form of application for  
24 employment or to make any inquiry in connection with prospective  
25 employment, which expresses any limitation, specification or  
26 discrimination respecting individuals (~~between the ages of~~) forty  
27 (~~and seventy~~) years of age or older: PROVIDED, That nothing herein  
28 shall forbid a requirement of disclosure of birth date upon any form of  
29 application for employment or by the production of a birth certificate  
30 or other sufficient evidence of the applicant's true age after an  
31 employee is hired.

32 Nothing contained in this section or in RCW 49.60.180 as to age  
33 shall be construed to prevent the termination of the employment of any  
34 person who is physically unable to perform his or her duties or to  
35 affect the retirement policy or system of any employer where such  
36 policy or system is not merely a subterfuge to evade the purposes of  
37 this section; nor shall anything in this section or in RCW 49.60.180 be  
38 deemed to preclude the varying of insurance coverages according to an

1 employee's age; nor shall this section be construed as applying to any  
2 state, county, or city law enforcement agencies, or as superseding any  
3 law fixing or authorizing the establishment of reasonable minimum or  
4 maximum age limits with respect to candidates for certain positions in  
5 public employment which are of such a nature as to require  
6 extraordinary physical effort, or which for other reasons warrant  
7 consideration of age factors.

8 **Sec. 25.** RCW 70.124.060 and 1981 c 174 s 5 are each amended to  
9 read as follows:

10 (1) A person other than a person alleged to have committed the  
11 abuse or neglect participating in good faith in the making of a report  
12 pursuant to this chapter, or testifying as to alleged patient abuse or  
13 neglect in a judicial proceeding, shall in so doing be immune from any  
14 liability, civil or criminal, arising out of such reporting or  
15 testifying under any law of this state or its political subdivisions,  
16 and if such person is an employee of a nursing home or state hospital  
17 it shall be an unfair practice under chapter 49.60 RCW for the employer  
18 to (~~dismiss said~~) discharge, expel, or otherwise discriminate against  
19 the employee for such reporting activity.

20 (2) Conduct conforming with the reporting requirements of this  
21 chapter shall not be deemed a violation of the confidential  
22 communication privilege of RCW 5.60.060 (3) or (4) or 18.83.110.  
23 Nothing in this chapter shall be construed as to supersede or abridge  
24 remedies provided in chapter 4.92 RCW.

25 NEW SECTION. **Sec. 26.** If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected.

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