

CERTIFICATION OF ENROLLMENT

SENATE BILL 5748

Chapter 259, Laws of 1995

54th Legislature
1995 Regular Session

DISCRIMINATION LAW--REVISIONS

EFFECTIVE DATE: 7/1/95

Passed by the Senate April 19, 1995
YEAS 45 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House April 13, 1995
YEAS 95 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 5, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5748** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

May 5, 1995 - 10:29 a.m.

**Secretary of State
State of Washington**

SENATE BILL 5748

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Senators Prentice, Fraser, Sellar, Rinehart, Prince, Smith, C. Anderson, Franklin, Kohl, Heavey, Pelz and Wojahn; by request of Human Rights Commission

Read first time 02/03/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to expanding the state law against discrimination;
2 amending RCW 49.60.010 and 49.60.260; reenacting and amending RCW
3 49.60.040, 49.60.222, 49.60.225, and 49.60.240; providing an effective
4 date; and declaring an emergency.

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

6 **Sec. 1.** RCW 49.60.010 and 1993 c 510 s 1 are each amended to read
7 as follows:

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

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

10 **Sec. 2.** RCW 49.60.040 and 1993 c 510 s 4 and 1993 c 69 s 3 are
11 each reenacted and amended to read as follows:

12 As used in this chapter:

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

20 (2) "Commission" means the Washington state human rights
21 commission;

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

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

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

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

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

38 (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, national origin, or with any sensory, mental, or physical
8 disability, or the use of a trained guide dog or service dog by a
9 disabled person, to be treated as not welcome, accepted, desired, or
10 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,
38 mausoleum, or cemetery operated or maintained by a bona fide religious
39 or sectarian institution;

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

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

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

14 (14) "Sex" means gender;

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

19 (16) "Complainant" means the person who files a complaint in a real
20 estate transaction;

21 (17) "Respondent" means any person accused in a complaint or
22 amended complaint of an unfair practice in a real estate transaction;

23 (18) "Credit transaction" includes any open or closed end credit
24 transaction, whether in the nature of a loan, retail installment
25 transaction, credit card issue or charge, or otherwise, and whether for
26 personal or for business purposes, in which a service, finance, or
27 interest charge is imposed, or which provides for repayment in
28 scheduled payments, when such credit is extended in the regular course
29 of any trade or commerce, including but not limited to transactions by
30 banks, savings and loan associations or other financial lending
31 institutions of whatever nature, stock brokers, or by a merchant or
32 mercantile establishment which as part of its ordinary business permits
33 or provides that payment for purchases of property or service therefrom
34 may be deferred;

35 (~~((18))~~) (19) "Families with children status" means (~~(when)~~) one or
36 more individuals who have not attained the age of eighteen years (~~(is)~~)
37 being domiciled with a parent or another person having legal custody of
38 such individual or individuals, or with the designee of such parent or
39 other person having such legal custody, with the written permission of

1 such parent or other person. Families with children status also
2 applies to any person who is pregnant or is in the process of securing
3 legal custody (~~(or guardianship)~~) of any individual who has not
4 attained the age of eighteen years;

5 (20) "Covered multifamily dwelling" means: (a) Buildings
6 consisting of four or more dwelling units if such buildings have one or
7 more elevators; and (b) ground floor dwelling units in other buildings
8 consisting of four or more dwelling units;

9 (21) "Premises" means the interior or exterior spaces, parts,
10 components, or elements of a building, including individual dwelling
11 units and the public and common use areas of a building.

12 **Sec. 3.** RCW 49.60.222 and 1993 c 510 s 17 and 1993 c 69 s 5 are
13 each reenacted and amended to read as follows:

14 (1) It is an unfair practice for any person, whether acting for
15 himself, herself, or another, because of sex, marital status, race,
16 creed, color, national origin, families with children status, the
17 presence of any sensory, mental, or physical disability, or the use of
18 a trained guide dog or service dog by a disabled person:

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

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

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

25 (d) To refuse to negotiate for a real estate transaction with a
26 person;

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

31 (f) To discriminate in the sale or rental, or to otherwise make
32 unavailable or deny a dwelling, ~~to any person ((because of a disability~~
33 ~~of that person,))~~; or to a person residing in or intending to reside in
34 that dwelling after it is sold, rented, or made (~~(unavailable))~~
35 available; or to any person associated with the person buying or
36 renting;

37 (g) To make, print, circulate, post, or mail, or cause to be so
38 made or published a statement, advertisement, or sign, or to use a form

1 of application for a real estate transaction, or to make a record or
2 inquiry in connection with a prospective real estate transaction, which
3 indicates, directly or indirectly, an intent to make a limitation,
4 specification, or discrimination with respect thereto;

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

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

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

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

20 (2) For the purposes of this chapter discrimination based on the
21 presence of any sensory, mental, or physical disability or the use of
22 a trained guide dog or service dog by a blind, deaf, or physically
23 disabled person includes:

24 (a) A refusal to permit, at the expense of the disabled person,
25 reasonable modifications of existing (~~(dwelling)~~) premises occupied or
26 to be occupied by such person if such modifications may be necessary to
27 afford such person full enjoyment of the dwelling, except that, in the
28 case of a rental, the landlord may, where it is reasonable to do so,
29 condition permission for a modification on the renter agreeing to
30 restore the interior of the dwelling to the condition that existed
31 before the modification, reasonable wear and tear excepted;

32 (b) To refuse to make reasonable accommodation in rules, policies,
33 practices, or services when such accommodations may be necessary to
34 afford a person with the presence of any sensory, mental, or physical
35 disability and/or the use of a trained guide dog or service dog by a
36 blind, deaf, or physically disabled person equal opportunity to use and
37 enjoy a dwelling; or

38 (c) To fail to design and construct covered multifamily dwellings
39 and premises in conformance with the federal fair housing amendments

1 act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws
2 or regulations pertaining to access by persons with any sensory,
3 mental, or physical disability or use of a trained guide dog or service
4 dog. Whenever the requirements of applicable laws or regulations
5 differ, the requirements which require greater accessibility for
6 persons with any sensory, mental, or physical disability shall govern.

7 ~~((For purposes of this subsection (2), "dwelling" means any
8 building, structure, or portion thereof that is occupied as, or
9 designed or intended for occupancy as, a residence by four or more
10 families, and any vacant land that is offered for sale or lease for the
11 construction or location thereon of any such building, structure, or
12 portion thereof.))~~

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

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

31 (4) Except pursuant to subsection (2)(a) of this section, this
32 section shall not be construed to require structural changes,
33 modifications, or additions to make facilities accessible to a disabled
34 person except as otherwise required by law. Nothing in this section
35 affects the rights, responsibilities, and remedies of landlords and
36 tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to
37 post and enforce reasonable rules of conduct and safety for all tenants
38 and their guests, provided that chapters 59.18 and 59.20 RCW are only
39 affected to the extent they are inconsistent with the nondiscrimination

1 requirements of this chapter. Nothing in this section limits the
2 applicability of any reasonable federal, state, or local restrictions
3 regarding the maximum number of occupants permitted to occupy a
4 dwelling.

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

12 (6) Nothing in this chapter prohibiting discrimination based on
13 families with children status applies to housing for older persons as
14 defined by the federal fair housing amendments act of 1988, 42 U.S.C.
15 Sec. 3607(b)(1) through (3). Nothing in this chapter authorizes
16 requirements for housing for older persons different than the
17 requirements in the federal fair housing amendments act of 1988, 42
18 U.S.C. Sec 3607(b)(1) through (3).

19 **Sec. 4.** RCW 49.60.225 and 1993 c 510 s 20 and 1993 c 69 s 9 are
20 each reenacted and amended to read as follows:

21 (1) When a reasonable cause determination has been made under RCW
22 49.60.240 that an unfair practice in a real estate transaction has been
23 committed and a finding has been made that the respondent has engaged
24 in any unfair practice under RCW 49.60.250, the administrative law
25 judge shall promptly issue an order for such relief suffered by the
26 aggrieved person as may be appropriate, which may include actual
27 damages as provided by (~~Title VIII of the United States civil rights~~
28 ~~act of 1964, as amended, and~~) the federal fair housing amendments act
29 of 1988 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other
30 equitable relief. Such order may, to further the public interest,
31 assess a civil penalty against the respondent:

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

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

1 (c) In an amount up to fifty thousand dollars if the respondent has
2 been determined to have committed two or more unfair practices in a
3 real estate transaction during the seven-year period ending on the date
4 of the filing of this charge, for loss of the right secured by RCW
5 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as
6 now or hereafter amended, to be free from discrimination in real
7 property transactions because of sex, marital status, race, creed,
8 color, national origin, families with children status, or the presence
9 of any sensory, mental, or physical disability or the use of a trained
10 guide dog or service dog by a blind, deaf, or physically disabled
11 person. Enforcement of the order and appeal therefrom by the
12 complainant or respondent may be made as provided in RCW 49.60.260 and
13 49.60.270. If acts constituting the unfair practice in a real estate
14 transaction that is the object of the charge are determined to have
15 been committed by the same natural person who has been previously
16 determined to have committed acts constituting an unfair practice in a
17 real estate transaction, then the civil penalty of up to fifty thousand
18 dollars may be imposed without regard to the period of time within
19 which any subsequent unfair practice in a real estate transaction
20 occurred. All civil penalties assessed under this section shall be
21 paid into the state treasury and credited to the general fund.

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

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

29 **Sec. 5.** RCW 49.60.240 and 1993 c 510 s 22 and 1993 c 69 s 12 are
30 each reenacted and amended to read as follows:

31 After the filing of any complaint, the chairperson of the
32 commission shall refer it to the appropriate section of the
33 commission's staff for prompt investigation and ascertainment of the
34 facts alleged in the complaint. The investigation shall be limited to
35 the alleged facts contained in the complaint. The results of the
36 investigation shall be reduced to written findings of fact, and a
37 finding shall be made that there is or that there is not reasonable
38 cause for believing that an unfair practice has been or is being

1 committed. A copy of said findings shall be provided to the
2 complainant and to the person named in such complaint, hereinafter
3 referred to as the respondent.

4 If the finding is made that there is reasonable cause for believing
5 that an unfair practice has been or is being committed, the
6 commission's staff shall immediately endeavor to eliminate the unfair
7 practice by conference, conciliation, and persuasion.

8 If an agreement is reached for the elimination of such unfair
9 practice as a result of such conference, conciliation, and persuasion,
10 the agreement shall be reduced to writing and signed by the respondent,
11 and an order shall be entered by the commission setting forth the terms
12 of said agreement. No order shall be entered by the commission at this
13 stage of the proceedings except upon such written agreement, except
14 that during the period beginning with the filing of complaints alleging
15 an unfair practice with respect to real estate transactions pursuant to
16 RCW 49.60.222 through 49.60.225, and ending with the filing of a
17 finding of reasonable cause or a dismissal by the commission, the
18 commission staff shall, to the extent feasible, engage in conciliation
19 with respect to such complaint. Any conciliation agreement arising out
20 of conciliation efforts by the commission shall be an agreement between
21 the respondent and the complainant and shall be subject to the approval
22 of the commission. Each conciliation agreement shall be made public
23 unless the complainant and respondent otherwise agree and the
24 commission determines that disclosure is not required to further the
25 purposes of this chapter.

26 If no such agreement can be reached, a finding to that effect shall
27 be made and reduced to writing, with a copy thereof provided to the
28 complainant and the respondent.

29 The commission may adopt rules, including procedural time
30 requirements, for processing complaints alleging an unfair practice
31 with respect to real estate transactions pursuant to RCW 49.60.222
32 through 49.60.225 and which may be consistent with the federal fair
33 housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.), but which
34 in no case shall exceed or be more restrictive than the requirements or
35 standards of such act.

36 **Sec. 6.** RCW 49.60.260 and 1993 c 69 s 15 are each amended to read
37 as follows:

1 (1) The commission or any person entitled to relief of a final
2 order may petition the court within the county wherein any unfair
3 practice occurred or wherein any person charged with an unfair practice
4 resides or transacts business for the enforcement of any final order
5 which is not complied with and is issued by the commission or an
6 administrative law judge under the provisions of this chapter and for
7 appropriate temporary relief or a restraining order, and shall certify
8 and file in court the final order sought to be enforced. Within five
9 days after filing such petition in court, the commission or any person
10 entitled to relief of a final order shall cause a notice of the
11 petition to be sent by certified mail to all parties or their
12 representatives.

13 (2) If within sixty days after the date the administrative law
14 judge's order concerning an unfair practice in a real estate
15 transaction is entered, no petition has been filed under subsection (1)
16 of this section and the commission has not sought enforcement of the
17 final order under this section, any person entitled to relief under the
18 final order may petition for a decree enforcing the order in the
19 superior courts of the state of Washington for the county in which the
20 unfair practice in a real estate transaction under RCW 49.60.222
21 through 49.60.224 is alleged to have occurred.

22 (3) From the time the petition is filed, the court shall have
23 jurisdiction of the proceedings and of the questions determined
24 thereon, and shall have the power to grant such temporary relief or
25 restraining order as it deems just and suitable.

26 (4) If the petition shows that there is a final order issued by the
27 commission or administrative law judge under RCW 49.60.240 or 49.60.250
28 and that the order has not been complied with in whole or in part, the
29 court shall issue an order directing the person who is alleged to have
30 not complied with the administrative order to appear in court at a time
31 designated in the order, not less than ten days from the date thereof,
32 and show cause why the administrative order should not be enforced
33 according to the terms. The commission or any person entitled to
34 relief of any final order shall immediately serve the noncomplying
35 party with a copy of the court order and the petition.

36 (5) The administrative order shall be enforced by the court if the
37 person does not appear, or if the person appears and the court finds
38 that:

39 (a) The order is regular on its face;

1 (b) The order has not been complied with; and

2 (c) The person's answer discloses no valid reason why the order
3 should not be enforced, or that the reason given in the person's answer
4 could have been raised by review under RCW 34.05.510 through 34.05.598,
5 and the person has given no valid excuse for failing to use that
6 remedy.

7 (6) The jurisdiction of the court shall be exclusive and its
8 judgment and decree shall be final, except that the same shall be
9 subject to appellate review by the supreme court or the court of
10 appeals, on appeal, by either party, irrespective of the nature of the
11 decree or judgment. The review shall be taken and prosecuted in the
12 same manner and form and with the same effect as is provided in other
13 cases.

14 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and shall take
17 effect July 1, 1995.

Passed the Senate April 19, 1995.

Passed the House April 13, 1995.

Approved by the Governor May 5, 1995.

Filed in Office of Secretary of State May 5, 1995.