

HOUSE BILL REPORT

HB 1515

As Passed House:

February 11, 2005

Title: An act relating to the jurisdiction of the Washington human rights commission.

Brief Description: Expanding the jurisdiction of the human rights commission.

Sponsors: By Representatives Murray, Hankins, Walsh, Jarrett, McDermott, Grant, Linville, Upthegrove, Quall, Moeller, Tom, Appleton, Schual-Berke, Darneille, Clibborn, Hunter, Flannigan, Simpson, Williams, Hunt, Hudgins, B. Sullivan, Haigh, Chase, Wood, Cody, Sommers, Kenney, Dickerson, McIntire, Hasegawa, Santos and Ormsby.

Brief History:

Committee Activity:

State Government Operations & Accountability: 2/1/05, 2/8/05 [DP].

Floor Activity:

Passed House: 2/11/05, 61-37.

Brief Summary of Bill

- Prohibits discrimination based on sexual orientation.
- Adds definitions of sexual orientation and creed to the Law Against Discrimination.
- Exempts from the law against discrimination certain real estate transactions involving the sharing, rental, or sublease of a dwelling unit when the unit is to be occupied by the owner or sublessor.

HOUSE COMMITTEE ON STATE GOVERNMENT OPERATIONS & ACCOUNTABILITY

Majority Report: Do pass. Signed by 5 members: Representatives Haigh, Chair; Green, Vice Chair; Hunt, McDermott and Miloscia.

Minority Report: Do not pass. Signed by 4 members: Representatives Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Schindler and Sump.

Staff: Jim Morishima (786-7191).

Background:

I. Washington's Law Against Discrimination

The state Law Against Discrimination provides that a person has the right to be free from discrimination based on race, color, creed, national origin, sex, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal. This right applies to employment, public accommodations, real estate transactions, insurance, and commerce.

To effectuate the right to be free from discrimination, the Law Against Discrimination defines certain practices as being unfair. For example, it is an unfair practice to refuse to hire or fire a person based on sex, race, creed, color, national origin, marital status, the presence of any sensory or physical disability, or the use of a trained dog guide or service animal.

Additionally, it is an unfair practice to discriminate in real estate transactions based on sex, race, creed, color, national origin, marital status, the presence of any sensory or physical disability, or the use of a trained dog guide or service animal.

The Washington State Human Rights Commission (WSHRC) is responsible, in part, for administering and enforcing the Law Against Discrimination. The WSHRC receives and investigates complaints made by persons alleging practices that violate the Law Against Discrimination. To that end, the WSHRC may hold hearings and subpoena witnesses. If the WSHRC finds that there is reasonable cause to believe that discrimination has occurred, it must try to eliminate the unfair practice via conference and conciliation. If this process fails, the WSHRC must refer the matter to an administrative law judge who may issue an order providing relief to the complainant.

II. The Insurance Code

A provision of the insurance code prohibits a person in the insurance business from refusing to issue or renew an insurance contract or canceling an insurance contract because of the insured's sex or marital status, or the presence of any sensory, mental, or physical handicap.

Summary of Bill: Summary of Bill:

I. Washington's Law Against Discrimination

The Law Against Discrimination is amended to prohibit discrimination based on a person's sexual orientation. "Sexual orientation" is defined as heterosexuality, homosexuality, bisexuality, and gender expression or identity.

"Creed" is defined as a system of religious beliefs and religious expressions, including moral and ethical beliefs and expressions about right and wrong that are sincerely held with the strength of traditional religious views.

Real estate transactions involving the sharing of a dwelling unit, or rental or sublease of a portion of a dwelling unit, when the dwelling unit is to be occupied by the owner or sublessor, are exempt from the Law Against Discrimination.

II. The Insurance Code

A person in the insurance business may not refuse to issue or renew an insurance contract or cancel an insurance contract because of the insured's sexual orientation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill is not about quotas, affirmative action, affecting small businesses or religious organizations, or marriage. It is about citizens of the state who work hard and pay taxes who happen to be gay being treated fairly. The bill is good for business; it helps businesses attract and retain employees. It also makes employees happier and therefore more productive. Having a diverse work force is good for businesses. This bill is about justice and fairness; none should be fired because of sexual orientation. People should be judged on their merits, not on their sexual orientation. Discrimination can be bad for the psyche and the public good. Discrimination can have many detrimental effects, including depression and anxiety. Sexual preference is not a conscious choice and has not been considered a mental disorder for over 30 years. Discrimination is never benign; the genocide during World War II began with discrimination in the areas of education and employment. To be free from discrimination is a gift and a right. Discrimination on the basis of sexual orientation happens all the time.

Testimony Against: The term sexual orientation is too inclusive and too broad. A person's sexual orientation can change over time. The definition of sexual orientation presumes all types of sexuality is the same; it puts sex outside of the realm of morality. This bill would lead to discrimination against organizations that disapprove of sex outside of marriage. There is no documentation of discrimination on the basis of sexual orientation. It should not be the law that people cannot speak out against an unnatural state; you cannot force people to accept these practices. Sexual preference is not an immutable characteristic. There is no means of verification of sexual preference because it is self-proclaimed. The definition of sexual orientation creates a protection that a person could invoke one day and then deny another day. Discrimination on the basis of sexual orientation is not the same as discrimination on the basis of race. You cannot make what someone does in the bedroom a law. When you normalize deviant behavior, you open Pandora's box.

Persons Testifying: (In support) Representative Murray, prime sponsor; Dave Kaplan, Log Cabin Republicans of Washington; Lucy Homans, Washington State Psychological Association; Reiko Callner and Marc Brenman, Washington State Human Rights Commission; Jamie Pedersen, Preston, Gates and Ellis; Greg McCurdy and Jean McCarthy, Microsoft; Rabbi James Mirel, Temple B'Nai Torah; Reverend Robert Taylor, St. Mark's

Episcopal Cathedral; Reverend Paul Benz, Lutheran Public Policy Office; Jacque Lorainzer and Dale Tiffany, Seattle Office for Civil Rights; Marsha Boxer; and Bill McQuaid.

(Opposed) Rick Forcier, Christian Coalition of Washington; Bob Higley, Washington Evangelicals for Responsible Government; Ken Hutcherson, Antioch Bible Church; Susan Shoemaker; John D. Mallinger; and Catherine Funkhauser.

Persons Signed In To Testify But Not Testifying: None.