

SSB 6239 - S AMD 14  
By Senator Swecker

NOT ADOPTED 02/01/2012

1 On page 4, after line 24, insert the following:

2 "NEW SECTION. **Sec. 8.** A new section is added to chapter 26.04 RCW  
3 to read as follows:

4 (1) No individual or entity is required to provide accommodations,  
5 facilities, advantages, privileges, service, or goods related to the  
6 solemnization or celebration of a marriage if such a marriage is  
7 contrary to their religious beliefs.

8 (2) An individual or organization protected by subsection (1) of  
9 this section is immune from any civil claim or cause of action,  
10 including a claim pursuant to chapter 49.60 RCW, based on its refusal  
11 to provide accommodations, facilities, advantages, privileges, service,  
12 or goods related to the solemnization or celebration of a marriage.

13 **Sec. 9.** RCW 49.60.030 and 2009 c 164 s 1 are each amended to read  
14 as follows:

15 (1) The right to be free from discrimination because of race,  
16 creed, color, national origin, sex, honorably discharged veteran or  
17 military status, sexual orientation, or the presence of any sensory,  
18 mental, or physical disability or the use of a trained dog guide or  
19 service animal by a person with a disability is recognized as and  
20 declared to be a civil right. This right shall include, but not be  
21 limited to:

22 (a) The right to obtain and hold employment without discrimination;

23 (b) The right to the full enjoyment of any of the accommodations,  
24 advantages, facilities, or privileges of any place of public resort,  
25 accommodation, assemblage, or amusement;

26 (c) The right to engage in real estate transactions without  
27 discrimination, including discrimination against families with  
28 children;

1 (d) The right to engage in credit transactions without  
2 discrimination;

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

8 (f) The right to engage in commerce free from any discriminatory  
9 boycotts or blacklists. Discriminatory boycotts or blacklists for  
10 purposes of this section shall be defined as the formation or execution  
11 of any express or implied agreement, understanding, policy or  
12 contractual arrangement for economic benefit between any persons which  
13 is not specifically authorized by the laws of the United States and  
14 which is required or imposed, either directly or indirectly, overtly or  
15 covertly, by a foreign government or foreign person in order to  
16 restrict, condition, prohibit, or interfere with or in order to exclude  
17 any person or persons from any business relationship on the basis of  
18 race, color, creed, religion, sex, honorably discharged veteran or  
19 military status, sexual orientation, the presence of any sensory,  
20 mental, or physical disability, or the use of a trained dog guide or  
21 service animal by a person with a disability, or national origin or  
22 lawful business relationship: PROVIDED HOWEVER, That nothing herein  
23 contained shall prohibit the use of boycotts as authorized by law  
24 pertaining to labor disputes and unfair labor practices: PROVIDED  
25 FURTHER, That nothing herein contained shall prohibit the right of an  
26 individual or entity to deny services or goods related to the  
27 solemnization of a marriage if such a marriage is contrary to the  
28 individual's or the owner of the entity's religious beliefs; and

29 (g) The right of a mother to breastfeed her child in any place of  
30 public resort, accommodation, assemblage, or amusement.

31 (2) Any person deeming himself or herself injured by any act in  
32 violation of this chapter shall have a civil action in a court of  
33 competent jurisdiction to enjoin further violations, or to recover the  
34 actual damages sustained by the person, or both, together with the cost  
35 of suit including reasonable attorneys' fees or any other appropriate  
36 remedy authorized by this chapter or the United States Civil Rights Act  
37 of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988  
38 (42 U.S.C. Sec. 3601 et seq.).

1 (3) Except for any unfair practice committed by an employer against  
2 an employee or a prospective employee, or any unfair practice in a real  
3 estate transaction which is the basis for relief specified in the  
4 amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any  
5 unfair practice prohibited by this chapter which is committed in the  
6 course of trade or commerce as defined in the Consumer Protection Act,  
7 chapter 19.86 RCW, is, for the purpose of applying that chapter, a  
8 matter affecting the public interest, is not reasonable in relation to  
9 the development and preservation of business, and is an unfair or  
10 deceptive act in trade or commerce.

11 **Sec. 10.** RCW 49.60.040 and 2009 c 187 s 3 are each reenacted and  
12 amended to read as follows:

13 The definitions in this section apply throughout this chapter  
14 unless the context clearly requires otherwise.

15 (1) "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 (2) "Any place of public resort, accommodation, assemblage, or  
20 amusement" includes, but is not limited to, any place, licensed or  
21 unlicensed, kept for gain, hire, or reward, or where charges are made  
22 for admission, service, occupancy, or use of any property or  
23 facilities, whether conducted for the entertainment, housing, or  
24 lodging of transient guests, or for the benefit, use, or accommodation  
25 of those seeking health, recreation, or rest, or for the burial or  
26 other disposition of human remains, or for the sale of goods,  
27 merchandise, services, or personal property, or for the rendering of  
28 personal services, or for public conveyance or transportation on land,  
29 water, or in the air, including the stations and terminals thereof and  
30 the garaging of vehicles, or where food or beverages of any kind are  
31 sold for consumption on the premises, or where public amusement,  
32 entertainment, sports, or recreation of any kind is offered with or  
33 without charge, or where medical service or care is made available, or  
34 where the public gathers, congregates, or assembles for amusement,  
35 recreation, or public purposes, or public halls, public elevators, and  
36 public washrooms of buildings and structures occupied by two or more  
37 tenants, or by the owner and one or more tenants, or any public library

1 or educational institution, or schools of special instruction, or  
2 nursery schools, or day care centers or children's camps: PROVIDED,  
3 That nothing contained in this definition shall be construed to include  
4 or apply to any institute, bona fide club, or place of accommodation,  
5 which is by its nature distinctly private, including fraternal  
6 organizations, though where public use is permitted that use shall be  
7 covered by this chapter; nor shall anything contained in this  
8 definition apply to any educational facility, columbarium, crematory,  
9 mausoleum, or cemetery operated or maintained by a bona fide religious  
10 or sectarian institution: PROVIDED FURTHER, That nothing contained in  
11 this definition shall be construed to include any place of public  
12 resort, accommodation, assemblage, or amusement that is used for the  
13 celebration or solemnization of a marriage if the owner or owners  
14 assert that such a marriage is contrary to their religious beliefs.

15 (3) "Commission" means the Washington state human rights  
16 commission.

17 (4) "Complainant" means the person who files a complaint in a real  
18 estate transaction.

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

23 (6) "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 (7)(a) "Disability" means the presence of a sensory, mental, or  
36 physical impairment that:

37 (i) Is medically cognizable or diagnosable; or

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

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

2 (b) A disability exists whether it is temporary or permanent,  
3 common or uncommon, mitigated or unmitigated, or whether or not it  
4 limits the ability to work generally or work at a particular job or  
5 whether or not it limits any other activity within the scope of this  
6 chapter.

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

9 (i) Any physiological disorder, or condition, cosmetic  
10 disfigurement, or anatomical loss affecting one or more of the  
11 following body systems: Neurological, musculoskeletal, special sense  
12 organs, respiratory, including speech organs, cardiovascular,  
13 reproductive, digestive, genitor-urinary, hemic and lymphatic, skin,  
14 and endocrine; or

15 (ii) Any mental, developmental, traumatic, or psychological  
16 disorder, including but not limited to cognitive limitation, organic  
17 brain syndrome, emotional or mental illness, and specific learning  
18 disabilities.

19 (d) Only for the purposes of qualifying for reasonable  
20 accommodation in employment, an impairment must be known or shown  
21 through an interactive process to exist in fact and:

22 (i) The impairment must have a substantially limiting effect upon  
23 the individual's ability to perform his or her job, the individual's  
24 ability to apply or be considered for a job, or the individual's access  
25 to equal benefits, privileges, or terms or conditions of employment; or

26 (ii) The employee must have put the employer on notice of the  
27 existence of an impairment, and medical documentation must establish a  
28 reasonable likelihood that engaging in job functions without an  
29 accommodation would aggravate the impairment to the extent that it  
30 would create a substantially limiting effect.

31 (e) For purposes of (d) of this subsection, a limitation is not  
32 substantial if it has only a trivial effect.

33 (8) "Dog guide" means a dog that is trained for the purpose of  
34 guiding blind persons or a dog that is trained for the purpose of  
35 assisting hearing impaired persons.

36 (9) "Dwelling" means any building, structure, or portion thereof  
37 that is occupied as, or designed or intended for occupancy as, a

1 residence by one or more families, and any vacant land that is offered  
2 for sale or lease for the construction or location thereon of any such  
3 building, structure, or portion thereof.

4 (10) "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 (11) "Employer" includes any person acting in the interest of an  
8 employer, directly or indirectly, who employs eight or more persons,  
9 and does not include any religious or sectarian organization not  
10 organized for private profit.

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

14 (13) "Families with children status" means one or more individuals  
15 who have not attained the age of eighteen years being domiciled with a  
16 parent or another person having legal custody of such individual or  
17 individuals, or with the designee of such parent or other person having  
18 such legal custody, with the written permission of such parent or other  
19 person. Families with children status also applies to any person who  
20 is pregnant or is in the process of securing legal custody of any  
21 individual who has not attained the age of eighteen years.

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

32 (15) "Honorably discharged veteran or military status" means a  
33 person who is:

34 (a) A veteran, as defined in RCW 41.04.007; or

35 (b) An active or reserve member in any branch of the armed forces  
36 of the United States, including the national guard, coast guard, and  
37 armed forces reserves.

1 (16) "Labor organization" includes any organization which exists  
2 for the purpose, in whole or in part, of dealing with employers  
3 concerning grievances or terms or conditions of employment, or for  
4 other mutual aid or protection in connection with employment.

5 (17) "Marital status" means the legal status of being married,  
6 single, separated, divorced, or widowed.

7 (18) "National origin" includes "ancestry."

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

15 (20) "Premises" means the interior or exterior spaces, parts,  
16 components, or elements of a building, including individual dwelling  
17 units and the public and common use areas of a building.

18 (21) "Real estate transaction" includes the sale, appraisal,  
19 brokering, exchange, purchase, rental, or lease of real property,  
20 transacting or applying for a real estate loan, or the provision of  
21 brokerage services.

22 (22) "Real property" includes buildings, structures, dwellings,  
23 real estate, lands, tenements, leaseholds, interests in real estate  
24 cooperatives, condominiums, and hereditaments, corporeal and  
25 incorporeal, or any interest therein.

26 (23) "Respondent" means any person accused in a complaint or  
27 amended complaint of an unfair practice in a real estate transaction.

28 (24) "Service animal" means an animal that is trained for the  
29 purpose of assisting or accommodating a sensory, mental, or physical  
30 disability of a person with a disability.

31 (25) "Sex" means gender.

32 (26) "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       **Sec. 11.** RCW 49.60.215 and 2011 c 237 s 1 are each amended to read  
2 as follows:

3       (1) It shall be an unfair practice for any person or the person's  
4 agent or employee to commit an act which directly or indirectly results  
5 in any distinction, restriction, or discrimination, or the requiring of  
6 any person to pay a larger sum than the uniform rates charged other  
7 persons, or the refusing or withholding from any person the admission,  
8 patronage, custom, presence, frequenting, dwelling, staying, or lodging  
9 in any place of public resort, accommodation, assemblage, or amusement,  
10 except for conditions and limitations established by law and applicable  
11 to all persons, regardless of race, creed, color, national origin,  
12 sexual orientation, sex, honorably discharged veteran or military  
13 status, status as a mother breastfeeding her child, the presence of any  
14 sensory, mental, or physical disability, or the use of a trained dog  
15 guide or service animal by a person with a disability: PROVIDED, That  
16 this section shall not be construed to require structural changes,  
17 modifications, or additions to make any place accessible to a person  
18 with a disability except as otherwise required by law: PROVIDED, That  
19 behavior or actions constituting a risk to property or other persons  
20 can be grounds for refusal and shall not constitute an unfair practice:  
21 PROVIDED FURTHER, That an individual or entity shall not be required to  
22 provide accommodations, facilities, advantages, privileges, services,  
23 or goods related to the solemnization or celebration of a marriage that  
24 is in conflict with the individual's or the owner of the entity's  
25 religious beliefs.

26       (2) This section does not apply to food establishments, as defined  
27 in RCW 49.60.218, with respect to the use of a trained dog guide or  
28 service animal by a person with a disability. Food establishments are  
29 subject to RCW 49.60.218 with respect to trained dog guides and service  
30 animals."

31       Renumber the remaining sections consecutively and correct any  
32 internal references accordingly.

NOT ADOPTED 02/01/2012

1           On page 1, beginning on line 4 of the title, after "26.04.070,"  
2           strike all material through "1.12.080" on line 5 and insert "49.60.030,  
3           49.60.215, 26.60.010, 26.60.030, 26.60.090, and 1.12.080; reenacting  
4           and amending RCW 49.60.040"

EFFECT: Provides that individuals and entities are not required to provide public accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage that is in conflict with the individual's or the entity owner's religious beliefs. Amends the human rights commission's statutes.

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