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HOUSE BILL 1574

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State of Washington

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By Representatives Klippert, Mosbrucker, Boehnke, Jacobsen, Barkis, Klicker, Chandler, Graham, Walen, Goodman, Chase, Schmick, Chapman, Dufault, and Sutherland

Read first time 04/14/21. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to civil actions alleging violation of the right  
2 to be free from discrimination because of the presence of any  
3 sensory, mental, or physical disability or the use of a trained dog  
4 guide or service animal by a person with a disability; amending RCW  
5 49.60.030; and adding a new section to chapter 49.60 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.60  
8 RCW to read as follows:

9 With regard to any civil action under RCW 49.60.030(2) that  
10 alleges any place of public resort, accommodation, assemblage, or  
11 amusement that is operated by a private entity has a building,  
12 facility, or parking lot that violates this chapter by reason of  
13 discrimination because of the presence of any sensory, mental, or  
14 physical disability or the use of a trained dog guide or service  
15 animal by a person with a disability:

16 (1)(a) Before filing such civil action, the aggrieved person or  
17 the person's attorney shall provide written notice with sufficient  
18 detail to allow the private entity to identify and cure the violation  
19 or comply with the law. If the private entity does not cure the  
20 violation or comply with the law within 30 days after receiving the  
21 notice, the aggrieved person may file the civil action. For the

1 purposes of this subsection, "sufficient detail" means the name of  
2 the aggrieved person who encountered the barrier, the date when the  
3 barrier was encountered by the aggrieved person, and a description of  
4 the barrier that was encountered by the aggrieved person.

5 (b) If the private entity is required to obtain a building permit  
6 or other similar form of government approval to make the changes  
7 necessary to cure the violation or comply with the law and the  
8 private entity, within 30 days after receiving the notice required by

9 (a) of this subsection, provides the aggrieved person or the person's  
10 attorney with a corrective action plan and submits the completed  
11 application for the building permit or other similar form of  
12 government approval to the appropriate governmental entity for a  
13 determination, the aggrieved person may not file the civil action for  
14 an additional 60 days from the date that the private entity provided  
15 the corrective action plan to the aggrieved person or the person's  
16 attorney. The time after the completed application for the building  
17 permit or other similar form of government approval is submitted to  
18 the governmental entity up until a final determination is provided to  
19 the private entity is tolled and is not included in calculating the  
20 additional 60 days, except that any delay that is caused by the  
21 private entity before the final determination is provided is not  
22 tolled. During the additional 60 days, the private entity must comply  
23 with the requirements of this chapter with respect to any new  
24 construction.

25 (2) When filing such civil action, an aggrieved person must file  
26 an affidavit, under penalty of perjury, that the aggrieved person has  
27 read the entire complaint, agrees with all of the allegations and  
28 facts contained in the complaint and, unless authorized by statute or  
29 rule, is not receiving and has not been promised anything of value in  
30 exchange for filing the civil action.

31 (3) An aggrieved person or the aggrieved person's attorney may  
32 not demand or collect money from the private entity before the end of  
33 the applicable time period under subsection (1) of this section but  
34 may state that the private entity may be civilly liable for a  
35 violation of this chapter.

36 (4) On the motion of any party, the court may stay such civil  
37 action to determine whether the person filing the civil action or the  
38 person's attorney is a vexatious litigant or to determine whether  
39 there are multiple civil actions that involve the same plaintiff and

1 that should be consolidated consistent with the rules of civil  
2 procedure.

3 (5) (a) In addition to any sanction that the court may award to a  
4 party pursuant to any rule or law, the court may impose a sanction on  
5 a plaintiff or the plaintiff's attorney in such civil action if the  
6 court determines that such action, or a series of actions under this  
7 chapter, are brought for the primary purpose of obtaining a payment  
8 from the defendant due to the costs of defending the action in a  
9 court. When imposing a sanction, the court may consider the totality  
10 of the abusive litigation-related practices of the plaintiff and the  
11 plaintiff's attorney.

12 (b) If the court imposes a sanction pursuant to (a) of this  
13 subsection, the court may order a party to pay a part of the sanction  
14 to the commission and, if ordered, the parties must notify the  
15 commission of the court's order. The commission shall use these  
16 moneys to:

17 (i) Educate covered persons or entities about the person's or  
18 entity's obligations under this chapter with respect to the right to  
19 be free from discrimination because of 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; and

22 (ii) Award attorney fees to claimants who file a meritorious  
23 complaint with the commission and who resolve the complaint without  
24 litigation.

25 **Sec. 2.** RCW 49.60.030 and 2020 c 52 s 4 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, citizenship or immigration status,  
29 sex, honorably discharged veteran or military status, sexual  
30 orientation, or the presence of any sensory, mental, or physical  
31 disability or the use of a trained dog guide or service animal by a  
32 person with a disability is recognized as and declared to be a civil  
33 right. This right shall include, but not be limited to:

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

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

1 (c) The right to engage in real estate transactions without  
2 discrimination, including discrimination against families with  
3 children;

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

6 (e) The right to engage in insurance transactions or transactions  
7 with health maintenance organizations without discrimination:  
8 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,  
9 48.44.220, or 48.46.370 does not constitute an unfair practice for  
10 the purposes of this (~~subparagraph~~) subsection (1)(e);

11 (f) The right to engage in commerce free from any discriminatory  
12 boycotts or blacklists. Discriminatory boycotts or blacklists for  
13 purposes of this section shall be defined as the formation or  
14 execution of any express or implied agreement, understanding, policy  
15 or contractual arrangement for economic benefit between any persons  
16 which is not specifically authorized by the laws of the United States  
17 and which is required or imposed, either directly or indirectly,  
18 overtly or covertly, by a foreign government or foreign person in  
19 order to restrict, condition, prohibit, or interfere with or in order  
20 to exclude any person or persons from any business relationship on  
21 the basis of race, color, creed, religion, sex, honorably discharged  
22 veteran or military status, sexual orientation, the presence of any  
23 sensory, mental, or physical disability, or the use of a trained dog  
24 guide or service animal by a person with a disability, or national  
25 origin, citizenship or immigration status, or lawful business  
26 relationship: PROVIDED HOWEVER, That nothing herein contained shall  
27 prohibit the use of boycotts as authorized by law pertaining to labor  
28 disputes and unfair labor practices; 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, subject to  
33 section 1 of this act, in a court of competent jurisdiction to enjoin  
34 further violations, or to recover the actual damages sustained by the  
35 person, or both, together with the cost of suit including reasonable  
36 attorneys' fees or any other appropriate remedy authorized by this  
37 chapter or the United States Civil Rights Act of 1964 as amended, or  
38 the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3601  
39 et seq.).

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

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