

# SENATE BILL REPORT

## ESHB 2661

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As Reported By Senate Committee On:  
Financial Institutions, Housing & Consumer Protection, January 24, 2006

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

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

**Sponsors:** House Committee on State Government Operations & Accountability (originally sponsored by Representatives Murray, Hankins, Pettigrew, Jarrett, McDermott, Grant, Lovick, Haigh, Moeller, Shabro, Santos, Kessler, Uptegrove, Tom, Hunter, Hasegawa, Walsh, Fromhold, Springer, Appleton, McCoy, Chase, Hudgins, Kenney, Lantz, Hunt, Darneille, Quall, Takko, Sommers, Williams, Sells, Green, Schual-Berke, Simpson, Clibborn, Conway, Linville, Cody, Kagi, B. Sullivan, McIntire, Dickerson, Miloscia, Roberts and Ormsby; by request of Governor Gregoire).

**Brief History:** Passed House: 1/20/06, 60-37.

**Committee Activity:** Financial Institutions, Housing & Consumer Protection: 1/24/06 [DPA, DNP].

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

**Majority Report:** Do pass as amended.

Signed by Senators Fairley, Chair; Berkey, Vice Chair; Finkbeiner, Franklin, Keiser, Prentice and Spanel.

**Minority Report:** Do not pass.

Signed by Senators Benton, Ranking Minority Member; Benson and Schmidt.

**Staff:** Jennifer Arnold (786-7471)

**Background:** The Washington Law Against Discrimination (WLAD) establishes that it is a civil right to be free from discrimination based on race; creed; color; national origin; families with children; sex; marital status; age; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a disabled person. This right applies to employment; places of public resort, accommodation, assemblage, or amusement; commerce; and real estate, credit, and insurance transactions.

There are certain statutory exceptions to the WLAD, including among others, the following: (1) employers with fewer than eight employees and non-profit religious or sectarian organizations are exempt from the employment provisions of the WLAD; (2) any institute that is distinctly private in nature is exempt from the WLAD; and (3) insurance contracts may take into consideration sex, marital status, or the presence of any sensory, mental, or physical handicap when bona fide statistical differences in risk or exposure have been substantiated.

The Washington State Human Rights Commission (Commission) is responsible, in part, for administering and enforcing the WLAD. The Commission receives and investigates complaints made by persons alleging unfair practices in violation of this law. If the Commission finds that there is reasonable cause to believe that discrimination has occurred, it must first try to eliminate the unfair practice via conference and conciliation. If this process fails, the matter will be referred to an administrative law judge, who may, after a hearing on the matter, issue an order providing relief to the complainant.

**Summary of Amended Bill:** The Law Against Discrimination is expanded to prohibit discrimination based on a person's sexual orientation. "Sexual orientation" is defined as heterosexuality, homosexuality, bisexuality, and gender expression or identity. "Gender expression or identity" is defined as having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

Real estate transactions that include the sharing, rental, or sublease of a dwelling unit when the dwelling unit is to be occupied by the owner or sublessor are exempted from the WLAD.

It is clarified, for purposes of the Law Against Discrimination, that the inclusion of sexual orientation, among the bases for which discrimination is prohibited in employment matters, cannot be construed to require an employer to establish employment goals or quotas based on sexual orientation.

It is expressly provided in the WALD that inclusion of sexual orientation is not to be construed to modify or supersede state law relating to marriage.

**Amended Bill Compared to Original Bill:** An additional provision is added to expressly state that the Law Against Discrimination is not to be construed as an endorsement of any specific belief, practice, behavior, or orientation.

**Appropriation:** None.

**Fiscal Note:** Preliminary note available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill is needed for all those who are currently being discriminated against. There are statistics to prove that persons are discriminated against on the basis of sexual orientation in this state. We need to be clear that this bill is not about small business and religious organizations, both of which are exempt from these statutes, nor is it about marriage laws. This bill is, however, about citizens who work hard, pay their taxes, and look after their families. It is supported by business because business knows that a tolerant atmosphere creates a better work environment. A message needs to be sent that this is a tolerant state and that as such, there are no second class citizens in our state. Sexual orientation is not a lifestyle; it is an identity, which is not a choice. This bill is necessary because of the lack of respect that exists. Further, there have been state-wide polls showing strong support for making it against the law to discriminate on the basis of sexual orientation.

**Testimony Against:** This bill has been before the Legislature for many years and has never passed; there is a reason for that. This is a bad law that is poorly worded. The Senate should reject this bill because it creates a new protected class based on behavior. This will open the door to increased federal review and allow homosexuals to be treated as a suspect class, the same as race and religion under federal law, subject to strict scrutiny review, leading to more lawsuits. This is not like race, an immutable quality, and should not be given special protections. The prime sponsor has a conflict of interest in bringing this legislation. The bill also legitimizes homosexuality to our children by teaching them that it is normal and embraced; this is something the people of the state should vote on. It is against the values of so many. This is unnecessary because historically economic deprivation, political powerlessness, and immutable characteristics were characteristics of classes needing protection; however, homosexuality has none of those characteristics. This would be unwise legislation because it would result in a lot of troubling and unknown set-backs.

**Who Testified:** PRO: Representative Murray, prime sponsor; Senator Kohl-Welles; Mark Rupp, Office of the Governor; James Kelly, Urban League; Marilyn Cass, Catholic parent; Doug Sanborn, Coors; Bishop Vincent Wamer, Episcopal Church.

CON: Bob Higley, Faith and Freedom Network; Alex Rowland, Sound the Alarm; Randy Lerkovar, Calvary Chapel; Ken Hutchinson, activist; Pastor Dwaine Wolfe, New Horizon Christian Center.

Signed in, Unable to Testify & Submitted Written Testimony: Chris Shardelman, citizen; Paul Shlichta, Olympic Research Institute; Rick Forcier, Christian Coalition of Washington; Scott Manley, Westwood Baptist Church; Doris Smith and Kathleen Hartson, South Kitsap Republican Women; Mary Ingalls, citizen; Shirley Rheault, citizen; Chris Gilge, citizen; Rose Gundersen, citizen.