
HOUSE BILL 1217

State of Washington

65th Legislature

2017 Regular Session

By Representatives Klippert, Hargrove, Shea, Haler, Taylor, Holy, Young, McCaslin, Rodne, Smith, Van Werven, Dent, Hayes, and Short

Read first time 01/13/17. Referred to Committee on Judiciary.

1 AN ACT Relating to restricting the government from burdening a
2 person's fundamental right to free exercise of religion and freedom
3 of conscience; amending RCW 49.60.030; and adding new sections to
4 chapter 49.60 RCW.

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

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

8 The legislature finds and declares that free exercise of religion
9 and freedom of conscience are fundamental rights, expressly
10 recognized and protected by both the federal and state Constitutions.
11 The legislature finds further that these fundamental rights apply in
12 this state, and with rare exceptions, supersede laws, rules, and
13 other government actions even if such laws, rules, or other
14 government actions are facially neutral. The legislature intends
15 that, in interpreting any right created by law or rule of a
16 legislative or administrative body, the court always give deference
17 to a right that is expressly recognized and protected in the
18 Constitution over a law or rule that is not a right expressly
19 recognized and protected in the Constitution.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.60
2 RCW to read as follows:

3 (1) Except as provided in subsection (2) of this section,
4 government must not substantially burden a person's free exercise of
5 religion or freedom of conscience, even if the burden results from a
6 law, rule, or action of general applicability.

7 (2) Government may not substantially burden a person's free
8 exercise of religion or freedom of conscience unless it demonstrates
9 that application of the law, rule, or other action imposing the
10 burden on the person is both:

11 (a) Essential to further a compelling governmental interest
12 implicating another express constitutional right; and

13 (b) The least restrictive means of furthering that compelling
14 governmental interest.

15 (3) A law or rule may not be construed to apply in a manner that
16 substantially burdens a person's free exercise of religion or freedom
17 of conscience unless the legislative or administrative body enacting
18 or adopting the law or rule has made specific findings documenting
19 the reasons that such law or rule is essential to further a
20 compelling governmental interest implicating another express
21 constitutional right, and that the law or rule uses the least
22 restrictive means of furthering that compelling governmental
23 interest.

24 (4) A person whose free exercise of religion or freedom of
25 conscience is burdened in violation of this section may assert that
26 violation as a claim or defense in a judicial or administrative
27 proceeding, regardless of whether the state or any other governmental
28 entity is a party to the proceeding.

29 (5) In this section, the term "substantially burden" is intended
30 solely to ensure that this chapter is not triggered by trivial,
31 technical, or de minimis infractions.

32 **Sec. 3.** RCW 49.60.030 and 2009 c 164 s 1 are each amended to
33 read as follows:

34 (1) The right to be free from discrimination because of race,
35 creed, color, national origin, sex, honorably discharged veteran or
36 military status, sexual orientation, or the presence of any sensory,
37 mental, or physical disability or the use of a trained dog guide or
38 service animal by a person with a disability is recognized as and

1 declared to be a civil right. This right shall include, but not be
2 limited to:

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

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

8 (c) The right to engage in real estate transactions without
9 discrimination, including discrimination against families with
10 children;

11 (d) The right to engage in credit transactions without
12 discrimination;

13 (e) The right to engage in insurance transactions or transactions
14 with health maintenance organizations without discrimination:
15 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
16 48.44.220, or 48.46.370 does not constitute an unfair practice for
17 the purposes of this subparagraph;

18 (f) The right to engage in commerce free from any discriminatory
19 boycotts or blacklists. Discriminatory boycotts or blacklists for
20 purposes of this section shall be defined as the formation or
21 execution of any express or implied agreement, understanding, policy
22 or contractual arrangement for economic benefit between any persons
23 which is not specifically authorized by the laws of the United States
24 and which is required or imposed, either directly or indirectly,
25 overtly or covertly, by a foreign government or foreign person in
26 order to restrict, condition, prohibit, or interfere with or in order
27 to exclude any person or persons from any business relationship on
28 the basis of race, color, creed, religion, sex, honorably discharged
29 veteran or military status, sexual orientation, the presence of any
30 sensory, mental, or physical disability, or the use of a trained dog
31 guide or service animal by a person with a disability, or national
32 origin or lawful business relationship: PROVIDED HOWEVER, That
33 nothing herein contained shall prohibit the use of boycotts as
34 authorized by law pertaining to labor disputes and unfair labor
35 practices; and

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

38 (2) Any person deeming himself or herself injured by any act in
39 violation of this chapter shall have a civil action in a court of
40 competent jurisdiction to enjoin further violations, or to recover

1 the actual damages sustained by the person, or both, together with
2 the cost of suit including reasonable attorneys' fees or any other
3 appropriate remedy authorized by this chapter or the United States
4 Civil Rights Act of 1964 as amended, or the Federal Fair Housing
5 Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.).

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

16 (4) A person who asserts that the application of liability under
17 this section substantially burdens the person's express
18 constitutionally protected free exercise of religion or freedom of
19 conscience, as demonstrated by the person's sincerely held religious
20 beliefs, is immune from civil liability for any claim based upon an
21 alleged violation of this section unless the plaintiff can
22 demonstrate that the imposition of liability under this section is
23 both essential to further a compelling governmental interest
24 implicating another express constitutional right and is the least
25 restrictive means of furthering that compelling governmental
26 interest. In doing so, the plaintiff carries the burdens of both
27 production and persuasion.

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