
HOUSE BILL 2996

State of Washington

65th Legislature

2018 Regular Session

By Representatives Barkis, Goodman, Springer, Muri, Vick, and Appleton

Read first time 02/22/18. Referred to Committee on 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 thirty days after receiving
21 the 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 thirty days after receiving the notice
9 required by (a) of this subsection, provides the aggrieved person or
10 the person's attorney with a corrective action plan and submits the
11 completed application for the building permit or other similar form
12 of government approval to the appropriate governmental entity for a
13 determination, the aggrieved person may not file the civil action for
14 an additional sixty days from the date that the private entity
15 provided the corrective action plan to the aggrieved person or the
16 person's attorney. The time after the completed application for the
17 building permit or other similar form of government approval is
18 submitted to the governmental entity up until a final determination
19 is provided to the private entity is tolled and is not included in
20 calculating the additional sixty days, except that any delay that is
21 caused by the private entity before the final determination is
22 provided is not tolled. During the additional sixty days, the private
23 entity must comply with the requirements of this chapter with respect
24 to any new 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 2009 c 164 s 1 are each amended to
26 read as follows:

27 (1) The right to be free from discrimination because of race,
28 creed, color, national origin, sex, honorably discharged veteran or
29 military status, sexual orientation, or the presence of any sensory,
30 mental, or physical disability or the use of a trained dog guide or
31 service animal by a person with a disability is recognized as and
32 declared to be a civil right. This right shall include, but not be
33 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;

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 or lawful business relationship: PROVIDED HOWEVER, That
26 nothing herein contained shall prohibit the use of boycotts as
27 authorized by law pertaining to labor disputes and unfair labor
28 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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