

SSB 5788 - S AMD 481

By Senator Pedersen

ADOPTED 01/24/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 49.60.040 and 2020 c 85 s 1 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Aggrieved person" means any person who: (a) Claims to have
8 been injured by an unfair practice in a real estate transaction; or
9 (b) believes that he or she will be injured by an unfair practice in
10 a real estate transaction that is about to occur.

11 (2) "Any place of public resort, accommodation, assemblage, or
12 amusement" includes, but is not limited to, any place, licensed or
13 unlicensed, kept for gain, hire, or reward, or where charges are made
14 for admission, service, occupancy, or use of any property or
15 facilities, whether conducted for the entertainment, housing, or
16 lodging of transient guests, or for the benefit, use, or
17 accommodation of those seeking health, recreation, or rest, or for
18 the burial or other disposition of human remains, or for the sale of
19 goods, merchandise, services, or personal property, or for the
20 rendering of personal services, or for public conveyance or
21 transportation on land, water, or in the air, including the stations
22 and terminals thereof and the garaging of vehicles, or where food or
23 beverages of any kind are sold for consumption on the premises, or
24 where public amusement, entertainment, sports, or recreation of any
25 kind is offered with or without charge, or where medical service or
26 care is made available, or where the public gathers, congregates, or
27 assembles for amusement, recreation, or public purposes, or public
28 halls, public elevators, and public washrooms of buildings and
29 structures occupied by two or more tenants, or by the owner and one
30 or more tenants, or any public library or educational institution, or
31 schools of special instruction, or nursery schools, or day care
32 centers or children's camps: PROVIDED, That nothing contained in this

1 definition shall be construed to include or apply to any institute,
2 bona fide club, or place of accommodation, which is by its nature
3 distinctly private, including fraternal organizations, though where
4 public use is permitted that use shall be covered by this chapter;
5 nor shall anything contained in this definition apply to any
6 educational facility, columbarium, crematory, mausoleum, or cemetery
7 operated or maintained by a bona fide religious or sectarian
8 institution: PROVIDED FURTHER, That this definition, as it relates to
9 "service animal trainers" and "service animal trainees" as those
10 terms are defined in this section, shall not include those places of
11 public accommodation conducted for housing or lodging of transient
12 guests.

13 (3) "Commission" means the Washington state human rights
14 commission.

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

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

21 (6) "Credit transaction" includes any open or closed end credit
22 transaction, whether in the nature of a loan, retail installment
23 transaction, credit card issue or charge, or otherwise, and whether
24 for personal or for business purposes, in which a service, finance,
25 or interest charge is imposed, or which provides for repayment in
26 scheduled payments, when such credit is extended in the regular
27 course of any trade or commerce, including but not limited to
28 transactions by banks, savings and loan associations or other
29 financial lending institutions of whatever nature, stock brokers, or
30 by a merchant or mercantile establishment which as part of its
31 ordinary business permits or provides that payment for purchases of
32 property or service therefrom may be deferred.

33 (7)(a) "Disability" means the presence of a sensory, mental, or
34 physical impairment that:

35 (i) Is medically cognizable or diagnosable; or

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

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

38 (b) A disability exists whether it is temporary or permanent,
39 common or uncommon, mitigated or unmitigated, or whether or not it
40 limits the ability to work generally or work at a particular job or

1 whether or not it limits any other activity within the scope of this
2 chapter.

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

5 (i) Any physiological disorder, or condition, cosmetic
6 disfigurement, or anatomical loss affecting one or more of the
7 following body systems: Neurological, musculoskeletal, special sense
8 organs, respiratory, including speech organs, cardiovascular,
9 reproductive, digestive, (~~genitor-urinary~~[genitourinary])
10 genitourinary, hemic and lymphatic, skin, and endocrine; or

11 (ii) Any mental, developmental, traumatic, or psychological
12 disorder, including but not limited to cognitive limitation, organic
13 brain syndrome, emotional or mental illness, and specific learning
14 disabilities.

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

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

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

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

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

33 (9) "Dwelling" means any building, structure, or portion thereof
34 that is occupied as, or designed or intended for occupancy as, a
35 residence by one or more families, and any vacant land that is
36 offered for sale or lease for the construction or location thereon of
37 any such building, structure, or portion thereof.

38 (10) "Employee" does not include any individual employed by his
39 or her parents, spouse, or child, or in the domestic service of any
40 person.

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

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

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

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

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

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

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

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

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

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

1 (19) "Person" includes one or more individuals, partnerships,
2 associations, organizations, corporations, cooperatives, legal
3 representatives, trustees and receivers, or any group of persons; it
4 includes any owner, lessee, proprietor, manager, agent, or employee,
5 whether one or more natural persons; and further includes any
6 political or civil subdivisions of the state and any agency or
7 instrumentality of the state or of any political or civil subdivision
8 thereof.

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

12 (21) "Race" is inclusive of traits historically associated or
13 perceived to be associated with race including, but not limited to,
14 hair texture and protective hairstyles. For purposes of this
15 subsection, "protective hairstyles" includes, but is not limited to,
16 such hairstyles as afros, braids, locks, and twists.

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

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

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

27 (25) "Service animal" means any dog or miniature horse(~~(, as~~
28 ~~discussed in RCW 49.60.214,~~) that is individually trained to do work
29 or perform tasks for the benefit of an individual with a disability,
30 including a physical, sensory, psychiatric, intellectual, or other
31 mental disability. The work or tasks performed by the service animal
32 must be directly related to the individual's disability. Examples of
33 work or tasks include, but are not limited to, assisting individuals
34 who are blind or have low vision with navigation and other tasks,
35 alerting individuals who are deaf or hard of hearing to the presence
36 of people or sounds, providing nonviolent protection or rescue work,
37 pulling a wheelchair, assisting an individual during a seizure,
38 alerting individuals to the presence of allergens, retrieving items
39 such as medicine or the telephone, providing physical support and
40 assistance with balance and stability to individuals with mobility

1 disabilities, and helping persons with psychiatric and neurological
2 disabilities by preventing or interrupting impulsive or destructive
3 behaviors. The crime deterrent effects of an animal's presence and
4 the provision of emotional support, well-being, comfort, or
5 companionship do not constitute work or tasks. This subsection does
6 not apply to RCW 49.60.222 through 49.60.227 with respect to housing
7 accommodations or real estate transactions.

8 (26) "Service animal trainee" means any dog or miniature horse
9 that is undergoing training to become a service animal.

10 (27) "Service animal trainer" means an individual exercising
11 care, custody, and control over a service animal trainee during a
12 course of training designed to develop the service animal trainee
13 into a service animal.

14 (28) "Sex" means gender.

15 ~~((27))~~ (29) "Sexual orientation" means heterosexuality,
16 homosexuality, bisexuality, and gender expression or identity. As
17 used in this definition, "gender expression or identity" means having
18 or being perceived as having a gender identity, self-image,
19 appearance, behavior, or expression, whether or not that gender
20 identity, self-image, appearance, behavior, or expression is
21 different from that traditionally associated with the sex assigned to
22 that person at birth.

23 **Sec. 2.** RCW 49.60.214 and 2018 c 176 s 4 are each amended to
24 read as follows:

25 (1) It shall be a civil infraction under chapter 7.80 RCW for any
26 person to misrepresent an animal as a service animal or service
27 animal trainee. A violation of this section occurs when a person:

28 (a) Expressly or impliedly represents that an animal is a service
29 animal ~~((as defined in RCW 49.60.040))~~ or service animal trainee for
30 the purpose of securing the rights or privileges afforded disabled
31 persons accompanied by service animals set forth in state or federal
32 law; and

33 (b) Knew or should have known that the animal in question did not
34 meet the definition of a service animal or service animal trainee.

35 (2) (a) An enforcement officer as defined under RCW 7.80.040 may
36 investigate and enforce this section by making an inquiry of the
37 person accompanied by the animal in question and issuing a civil
38 infraction. Refusal to answer the questions allowable under (b) of
39 this subsection shall create a presumption that the animal is not a

1 service animal or service animal trainee and the enforcement officer
2 may issue a civil infraction and require the person to remove the
3 animal from the place of public accommodation.

4 (b) An enforcement officer or place of public accommodation shall
5 not ask about the nature or extent of a person's disability, but may
6 make two inquiries to determine whether an animal qualifies as a
7 service animal or service animal trainee. An enforcement officer or
8 place of public accommodation may ask if the animal is required
9 because of a disability and what work or task the animal has been
10 trained or is in training to perform. An enforcement officer or place
11 of public accommodation shall not require documentation, such as
12 proof that the animal has been certified, trained, or licensed as a
13 service animal, or require that the service animal demonstrate its
14 task. Generally, an enforcement officer or place of public
15 accommodation may not make these inquiries about a service animal
16 when it is readily apparent that an animal is trained to do work or
17 perform tasks for a person with a disability, such as a dog is
18 observed guiding a person who is blind or has low vision, pulling a
19 person's wheelchair, or providing assistance with stability or
20 balance to a person with an observable mobility disability.

21 ~~((3) A place of public accommodation shall make reasonable
22 modifications in policies, practices, or procedures to permit the use
23 of a miniature horse by an individual with a disability in accordance
24 with RCW 49.60.040(24) if the miniature horse has been individually
25 trained to do work or perform tasks for the benefit of the individual
26 with a disability. In determining whether reasonable modifications in
27 policies, practices, or procedures can be made to allow a miniature
28 horse into a facility, a place of public accommodation shall act in
29 accordance with all applicable laws and regulations.))~~

30 **Sec. 3.** RCW 49.60.215 and 2020 c 52 s 13 are each amended to
31 read as follows:

32 (1) It shall be an unfair practice for any person or the person's
33 agent or employee to ~~((commit))~~:

34 (a) Commit an act which directly or indirectly results in any
35 distinction, restriction, or discrimination ~~((, or the requiring of))~~;

36 (b) Require any person to pay a larger sum than the uniform rates
37 charged other persons ~~((, or the refusing or withholding))~~;

38 (c) Refuse or withhold from any person the admission, patronage,
39 custom, presence, frequenting, dwelling, staying, or lodging in any

1 place of public resort, accommodation, assemblage, or amusement(~~(7~~
2 ~~except for)~~).

3 (2) Notwithstanding subsection (1) of this section, a person or
4 the person's agent or employee may enforce conditions and limitations
5 established by law and applicable to all persons, regardless of race,
6 creed, color, national origin, citizenship or immigration status,
7 sexual orientation, sex, honorably discharged veteran or military
8 status, status as a mother breastfeeding her child, the presence of
9 any sensory, mental, or physical disability, or the use of a trained
10 dog guide or service animal by a person with a disability: PROVIDED,
11 That this section shall not be construed to require structural
12 changes, modifications, or additions to make any place accessible to
13 a person with a disability except as otherwise required by law:
14 PROVIDED, That behavior or actions constituting a risk to property or
15 other persons can be grounds for refusal and shall not constitute an
16 unfair practice.

17 (3) A place of public accommodation must make reasonable
18 modifications in policies, practices, or procedures to permit the use
19 of a miniature horse by an individual with a disability in accordance
20 with RCW 49.60.040(25) if the miniature horse has been individually
21 trained to do work or perform tasks for the benefit of the individual
22 with a disability. In determining whether reasonable modifications in
23 policies, practices, or procedures can be made to allow a miniature
24 horse into a facility, a place of public accommodation must act in
25 accordance with all applicable laws and regulations.

26 (4) If a place of public accommodation customarily charges a
27 person for damages that the person causes to the place, the place may
28 charge a service animal trainer for damages that a service animal
29 trainee causes to the place.

30 (5) A service animal trainer must maintain control of a service
31 animal trainee. Except as provided in this subsection, control must
32 be exerted by means of a harness, leash, or other tether. If the use
33 of a harness, leash, or other tether would interfere with the ability
34 of the animal to do the work or perform the tasks for which the
35 animal is being trained, control may be exerted by the effective use
36 of voice commands, signals, or other means. If an animal is not under
37 control as required in this subsection, a place of public
38 accommodation may consider the animal to be out of control for
39 purposes of subsection (6) of this section.

1 (6) (a) Except as provided in this subsection, a place of public
2 accommodation may not deny a service animal trainer the right to be
3 accompanied by a service animal trainee in any area of the place that
4 is open to the public or to business invitees. A place of public
5 accommodation may require a service animal trainer to remove a
6 service animal trainee if:

7 (i) The animal is not trained to urinate and defecate outside of
8 the facility or only in an appropriate place; or

9 (ii) The animal is out of control and effective action is not
10 taken to control the animal.

11 (b) A place of public accommodation may impose legitimate
12 requirements necessary for the safe operation of the place of public
13 accommodation. The place of public accommodation must ensure that the
14 safety requirements are based on actual risks, not on speculation,
15 stereotypes, or generalizations about persons with disabilities.

16 (c) A place of public accommodation may post signage indicating
17 the misrepresentation of an animal as a service animal or service
18 animal trainee may result in a civil infraction of up to \$500
19 pursuant to chapter 7.80 RCW.

20 (7) A place of public accommodation must make reasonable
21 modifications as necessary to allow an opportunity for a person with
22 a disability who is benefited by the use of a dog guide or service
23 animal to obtain goods, services, and the use of the advantages,
24 facilities, and privileges of the place. For purposes of this
25 subsection, except as provided in subsection (6) of this section, in
26 addition to any other applicable accommodation requirement, allowing
27 the presence of the service animal is a reasonable modification.

28 (8) A place of public accommodation is not required to provide
29 care or supervision for a service animal or service animal trainee.

30 (9) The protection granted under this section to a person with a
31 disability or service animal trainer does not invalidate or limit the
32 remedies, rights, and procedures of any other federal, state, or
33 local laws that provide equal or greater protection of the rights of
34 a person with a disability, service animal trainer, or individuals
35 associated with a person with a disability."

ADOPTED 01/24/2024

1 On page 1, line 1 of the title, after "training;" strike the
2 remainder of the title and insert "amending RCW 49.60.214 and
3 49.60.215; and reenacting and amending RCW 49.60.040."

EFFECT: (1) Amends the definition of "service animal trainee" to mean any dog or miniature horse that is undergoing training to become a service animal.

(2) Corrects verbiage related to places of public accommodation.

(3) Limits the effects of the new language in the bill to service animal trainers and service animal trainees.

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