

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5788

68th Legislature
2024 Regular Session

Passed by the Senate January 24, 2024
Yeas 49 Nays 0

President of the Senate

Passed by the House March 1, 2024
Yeas 96 Nays 0

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5788** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5788

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Senate Law & Justice (originally sponsored by Senators Pedersen, Wagoner, Kuderer, Mullet, and Saldaña)

READ FIRST TIME 01/12/24.

1 AN ACT Relating to accessibility for service animals in training;
2 amending RCW 49.60.214 and 49.60.215; and reenacting and amending RCW
3 49.60.040.

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

5 **Sec. 1.** RCW 49.60.040 and 2020 c 85 s 1 are each reenacted and
6 amended to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

13 (2) "Any place of public resort, accommodation, assemblage, or
14 amusement" includes, but is not limited to, any place, licensed or
15 unlicensed, kept for gain, hire, or reward, or where charges are made
16 for admission, service, occupancy, or use of any property or
17 facilities, whether conducted for the entertainment, housing, or
18 lodging of transient guests, or for the benefit, use, or
19 accommodation of those seeking health, recreation, or rest, or for
20 the burial or other disposition of human remains, or for the sale of
21 goods, merchandise, services, or personal property, or for the

1 rendering of personal services, or for public conveyance or
2 transportation on land, water, or in the air, including the stations
3 and terminals thereof and the garaging of vehicles, or where food or
4 beverages of any kind are sold for consumption on the premises, or
5 where public amusement, entertainment, sports, or recreation of any
6 kind is offered with or without charge, or where medical service or
7 care is made available, or where the public gathers, congregates, or
8 assembles for amusement, recreation, or public purposes, or public
9 halls, public elevators, and public washrooms of buildings and
10 structures occupied by two or more tenants, or by the owner and one
11 or more tenants, or any public library or educational institution, or
12 schools of special instruction, or nursery schools, or day care
13 centers or children's camps: PROVIDED, That nothing contained in this
14 definition shall be construed to include or apply to any institute,
15 bona fide club, or place of accommodation, which is by its nature
16 distinctly private, including fraternal organizations, though where
17 public use is permitted that use shall be covered by this chapter;
18 nor shall anything contained in this definition apply to any
19 educational facility, columbarium, crematory, mausoleum, or cemetery
20 operated or maintained by a bona fide religious or sectarian
21 institution: PROVIDED FURTHER, That this definition, as it relates to
22 "service animal trainers" and "service animal trainees" as those
23 terms are defined in this section, shall not include those places of
24 public accommodation conducted for housing or lodging of transient
25 guests.

26 (3) "Commission" means the Washington state human rights
27 commission.

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

30 (5) "Covered multifamily dwelling" means: (a) Buildings
31 consisting of four or more dwelling units if such buildings have one
32 or more elevators; and (b) ground floor dwelling units in other
33 buildings consisting of four or more dwelling units.

34 (6) "Credit transaction" includes any open or closed end credit
35 transaction, whether in the nature of a loan, retail installment
36 transaction, credit card issue or charge, or otherwise, and whether
37 for personal or for business purposes, in which a service, finance,
38 or interest charge is imposed, or which provides for repayment in
39 scheduled payments, when such credit is extended in the regular
40 course of any trade or commerce, including but not limited to

1 transactions by banks, savings and loan associations or other
2 financial lending institutions of whatever nature, stock brokers, or
3 by a merchant or mercantile establishment which as part of its
4 ordinary business permits or provides that payment for purchases of
5 property or service therefrom may be deferred.

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

8 (i) Is medically cognizable or diagnosable; or

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

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

11 (b) A disability exists whether it is temporary or permanent,
12 common or uncommon, mitigated or unmitigated, or whether or not it
13 limits the ability to work generally or work at a particular job or
14 whether or not it limits any other activity within the scope of this
15 chapter.

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

18 (i) Any physiological disorder, or condition, cosmetic
19 disfigurement, or anatomical loss affecting one or more of the
20 following body systems: Neurological, musculoskeletal, special sense
21 organs, respiratory, including speech organs, cardiovascular,
22 reproductive, digestive, (~~genitor-urinary~~—[genitourinary])
23 genitourinary, hemic and lymphatic, skin, and endocrine; or

24 (ii) Any mental, developmental, traumatic, or psychological
25 disorder, including but not limited to cognitive limitation, organic
26 brain syndrome, emotional or mental illness, and specific learning
27 disabilities.

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

31 (i) The impairment must have a substantially limiting effect upon
32 the individual's ability to perform his or her job, the individual's
33 ability to apply or be considered for a job, or the individual's
34 access to equal benefits, privileges, or terms or conditions of
35 employment; or

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

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

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

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

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

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

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

21 (13) "Families with children status" means one or more
22 individuals who have not attained the age of eighteen years being
23 domiciled with a parent or another person having legal custody of
24 such individual or individuals, or with the designee of such parent
25 or other person having such legal custody, with the written
26 permission of such parent or other person. Families with children
27 status also applies to any person who is pregnant or is in the
28 process of securing legal custody of any individual who has not
29 attained the age of eighteen years.

30 (14) "Full enjoyment of" includes the right to purchase any
31 service, commodity, or article of personal property offered or sold
32 on, or by, any establishment to the public, and the admission of any
33 person to accommodations, advantages, facilities, or privileges of
34 any place of public resort, accommodation, assemblage, or amusement,
35 without acts directly or indirectly causing persons of any particular
36 race, creed, color, sex, sexual orientation, national origin, or with
37 any sensory, mental, or physical disability, or the use of a trained
38 dog guide or service animal by a person with a disability, to be
39 treated as not welcome, accepted, desired, or solicited.

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

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

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

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

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

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

14 (19) "Person" includes one or more individuals, partnerships,
15 associations, organizations, corporations, cooperatives, legal
16 representatives, trustees and receivers, or any group of persons; it
17 includes any owner, lessee, proprietor, manager, agent, or employee,
18 whether one or more natural persons; and further includes any
19 political or civil subdivisions of the state and any agency or
20 instrumentality of the state or of any political or civil subdivision
21 thereof.

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

25 (21) "Race" is inclusive of traits historically associated or
26 perceived to be associated with race including, but not limited to,
27 hair texture and protective hairstyles. For purposes of this
28 subsection, "protective hairstyles" includes, but is not limited to,
29 such hairstyles as afros, braids, locks, and twists.

30 (22) "Real estate transaction" includes the sale, appraisal,
31 brokering, exchange, purchase, rental, or lease of real property,
32 transacting or applying for a real estate loan, or the provision of
33 brokerage services.

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

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

1 (25) "Service animal" means any dog or miniature horse(~~(, as~~
2 ~~discussed in RCW 49.60.214,~~) that is individually trained to do work
3 or perform tasks for the benefit of an individual with a disability,
4 including a physical, sensory, psychiatric, intellectual, or other
5 mental disability. The work or tasks performed by the service animal
6 must be directly related to the individual's disability. Examples of
7 work or tasks include, but are not limited to, assisting individuals
8 who are blind or have low vision with navigation and other tasks,
9 alerting individuals who are deaf or hard of hearing to the presence
10 of people or sounds, providing nonviolent protection or rescue work,
11 pulling a wheelchair, assisting an individual during a seizure,
12 alerting individuals to the presence of allergens, retrieving items
13 such as medicine or the telephone, providing physical support and
14 assistance with balance and stability to individuals with mobility
15 disabilities, and helping persons with psychiatric and neurological
16 disabilities by preventing or interrupting impulsive or destructive
17 behaviors. The crime deterrent effects of an animal's presence and
18 the provision of emotional support, well-being, comfort, or
19 companionship do not constitute work or tasks. This subsection does
20 not apply to RCW 49.60.222 through 49.60.227 with respect to housing
21 accommodations or real estate transactions.

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

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

28 (28) "Sex" means gender.

29 ((27)) (29) "Sexual orientation" means heterosexuality,
30 homosexuality, bisexuality, and gender expression or identity. As
31 used in this definition, "gender expression or identity" means having
32 or being perceived as having a gender identity, self-image,
33 appearance, behavior, or expression, whether or not that gender
34 identity, self-image, appearance, behavior, or expression is
35 different from that traditionally associated with the sex assigned to
36 that person at birth.

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

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

4 (a) Expressly or impliedly represents that an animal is a service
5 animal (~~as defined in RCW 49.60.040~~) or service animal trainee for
6 the purpose of securing the rights or privileges afforded disabled
7 persons accompanied by service animals set forth in state or federal
8 law; and

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

11 (2)(a) An enforcement officer as defined under RCW 7.80.040 may
12 investigate and enforce this section by making an inquiry of the
13 person accompanied by the animal in question and issuing a civil
14 infraction. Refusal to answer the questions allowable under (b) of
15 this subsection shall create a presumption that the animal is not a
16 service animal or service animal trainee and the enforcement officer
17 may issue a civil infraction and require the person to remove the
18 animal from the place of public accommodation.

19 (b) An enforcement officer or place of public accommodation shall
20 not ask about the nature or extent of a person's disability, but may
21 make two inquiries to determine whether an animal qualifies as a
22 service animal or service animal trainee. An enforcement officer or
23 place of public accommodation may ask if the animal is required
24 because of a disability and what work or task the animal has been
25 trained or is in training to perform. An enforcement officer or place
26 of public accommodation shall not require documentation, such as
27 proof that the animal has been certified, trained, or licensed as a
28 service animal, or require that the service animal demonstrate its
29 task. Generally, an enforcement officer or place of public
30 accommodation may not make these inquiries about a service animal
31 when it is readily apparent that an animal is trained to do work or
32 perform tasks for a person with a disability, such as a dog is
33 observed guiding a person who is blind or has low vision, pulling a
34 person's wheelchair, or providing assistance with stability or
35 balance to a person with an observable mobility disability.

36 ~~((3) A place of public accommodation shall make reasonable~~
37 ~~modifications in policies, practices, or procedures to permit the use~~
38 ~~of a miniature horse by an individual with a disability in accordance~~
39 ~~with RCW 49.60.040(24) if the miniature horse has been individually~~
40 ~~trained to do work or perform tasks for the benefit of the individual~~

1 ~~with a disability. In determining whether reasonable modifications in~~
2 ~~policies, practices, or procedures can be made to allow a miniature~~
3 ~~horse into a facility, a place of public accommodation shall act in~~
4 ~~accordance with all applicable laws and regulations.)~~)

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

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

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

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

13 (c) Refuse or withhold from any person the admission, patronage,
14 custom, presence, frequenting, dwelling, staying, or lodging in any
15 place of public resort, accommodation, assemblage, or amusement(~~(, or~~
16 ~~except for))~~).

17 (2) Notwithstanding subsection (1) of this section, a person or
18 the person's agent or employee may enforce conditions and limitations
19 established by law and applicable to all persons, regardless of race,
20 creed, color, national origin, citizenship or immigration status,
21 sexual orientation, sex, honorably discharged veteran or military
22 status, status as a mother breastfeeding her child, the presence of
23 any sensory, mental, or physical disability, or the use of a trained
24 dog guide or service animal by a person with a disability: PROVIDED,
25 That this section shall not be construed to require structural
26 changes, modifications, or additions to make any place accessible to
27 a person with a disability except as otherwise required by law:
28 PROVIDED, That behavior or actions constituting a risk to property or
29 other persons can be grounds for refusal and shall not constitute an
30 unfair practice.

31 (3) A place of public accommodation must make reasonable
32 modifications in policies, practices, or procedures to permit the use
33 of a miniature horse by an individual with a disability in accordance
34 with RCW 49.60.040(25) if the miniature horse has been individually
35 trained to do work or perform tasks for the benefit of the individual
36 with a disability. In determining whether reasonable modifications in
37 policies, practices, or procedures can be made to allow a miniature
38 horse into a facility, a place of public accommodation must act in
39 accordance with all applicable laws and regulations.

1 (4) If a place of public accommodation customarily charges a
2 person for damages that the person causes to the place, the place may
3 charge a service animal trainer for damages that a service animal
4 trainee causes to the place.

5 (5) A service animal trainer must maintain control of a service
6 animal trainee. Except as provided in this subsection, control must
7 be exerted by means of a harness, leash, or other tether. If the use
8 of a harness, leash, or other tether would interfere with the ability
9 of the animal to do the work or perform the tasks for which the
10 animal is being trained, control may be exerted by the effective use
11 of voice commands, signals, or other means. If an animal is not under
12 control as required in this subsection, a place of public
13 accommodation may consider the animal to be out of control for
14 purposes of subsection (6) of this section.

15 (6)(a) Except as provided in this subsection, a place of public
16 accommodation may not deny a service animal trainer the right to be
17 accompanied by a service animal trainee in any area of the place that
18 is open to the public or to business invitees. A place of public
19 accommodation may require a service animal trainer to remove a
20 service animal trainee if:

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

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

25 (b) A place of public accommodation may impose legitimate
26 requirements necessary for the safe operation of the place of public
27 accommodation. The place of public accommodation must ensure that the
28 safety requirements are based on actual risks, not on speculation,
29 stereotypes, or generalizations about persons with disabilities.

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

34 (7) A place of public accommodation must make reasonable
35 modifications as necessary to allow an opportunity for a person with
36 a disability who is benefited by the use of a dog guide or service
37 animal to obtain goods, services, and the use of the advantages,
38 facilities, and privileges of the place. For purposes of this
39 subsection, except as provided in subsection (6) of this section, in

1 addition to any other applicable accommodation requirement, allowing
2 the presence of the service animal is a reasonable modification.
3 (8) A place of public accommodation is not required to provide
4 care or supervision for a service animal or service animal trainee.
5 (9) The protection granted under this section to a person with a
6 disability or service animal trainer does not invalidate or limit the
7 remedies, rights, and procedures of any other federal, state, or
8 local laws that provide equal or greater protection of the rights of
9 a person with a disability, service animal trainer, or individuals
10 associated with a person with a disability.

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