

2 **SHB 1443** - S COMM AMD
3 By Committee on Law & Justice

4

5 Strike everything after the enacting clause and insert the
6 following:

7 **"Sec. 1.** RCW 49.60.010 and 1993 c 510 s 1 are each amended to read
8 as follows:

9 This chapter shall be known as the "law against discrimination".
10 It is an exercise of the police power of the state for the protection
11 of the public welfare, health, and peace of the people of this state,
12 and in fulfillment of the provisions of the Constitution of this state
13 concerning civil rights. The legislature hereby finds and declares
14 that practices of discrimination against any of its inhabitants because
15 of race, creed, color, national origin, sex, marital status, sexual
16 orientation, age, or the presence of any sensory, mental, or physical
17 disability or the use of a trained guide dog or service dog by a
18 disabled person are a matter of state concern, that such discrimination
19 threatens not only the rights and proper privileges of its inhabitants
20 but menaces the institutions and foundation of a free democratic state.
21 A state agency is herein created with powers with respect to
22 elimination and prevention of discrimination in employment, in credit
23 and insurance transactions, in places of public resort, accommodation,
24 or amusement, and in real property transactions because of race, creed,
25 color, national origin, sex, marital status, sexual orientation, age,
26 or the presence of any sensory, mental, or physical disability or the
27 use of a trained guide dog or service dog by a disabled person; and the
28 commission established hereunder is hereby given general jurisdiction
29 and power for such purposes.

30 **Sec. 2.** RCW 49.60.020 and 1993 c 510 s 2 are each amended to read
31 as follows:

32 The provisions of this chapter shall be construed liberally for the
33 accomplishment of the purposes thereof. Nothing contained in this
34 chapter shall be deemed to repeal any of the provisions of any other
35 law of this state relating to discrimination because of race, color,

1 creed, national origin, sex, marital status, sexual orientation, age,
2 or the presence of any sensory, mental, or physical disability, other
3 than a law which purports to require or permit doing any act which is
4 an unfair practice under this chapter. Nor shall anything herein
5 contained be construed to deny the right to any person to institute any
6 action or pursue any civil or criminal remedy based upon an alleged
7 violation of his or her civil rights.

8 **Sec. 3.** RCW 49.60.030 and 1993 c 510 s 3 and 1993 c 69 s 1 are
9 each reenacted and amended to read as follows:

10 (1) The right to be free from discrimination because of race,
11 creed, color, national origin, sex, sexual orientation, or the presence
12 of any sensory, mental, or physical disability or the use of a trained
13 guide dog or service dog by a disabled person is recognized as and
14 declared to be a civil right. This right shall include, but not be
15 limited to:

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

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

20 (c) The right to engage in real estate transactions without
21 discrimination, including discrimination against families with
22 children;

23 (d) The right to engage in credit transactions without
24 discrimination;

25 (e) The right to engage in insurance transactions or transactions
26 with health maintenance organizations without discrimination:
27 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
28 48.44.220, or 48.46.370 does not constitute an unfair practice for the
29 purposes of this subparagraph; and

30 (f) The right to engage in commerce free from any discriminatory
31 boycotts or blacklists. Discriminatory boycotts or blacklists for
32 purposes of this section shall be defined as the formation or execution
33 of any express or implied agreement, understanding, policy or
34 contractual arrangement for economic benefit between any persons which
35 is not specifically authorized by the laws of the United States and
36 which is required or imposed, either directly or indirectly, overtly or
37 covertly, by a foreign government or foreign person in order to
38 restrict, condition, prohibit, or interfere with or in order to exclude

1 any person or persons from any business relationship on the basis of
2 race, color, creed, religion, sex, sexual orientation, the presence of
3 any sensory, mental, or physical disability, or the use of a trained
4 guide dog or service dog by a disabled person, or national origin or
5 lawful business relationship: PROVIDED HOWEVER, That nothing herein
6 contained shall prohibit the use of boycotts as authorized by law
7 pertaining to labor disputes and unfair labor practices.

8 (2) Any person deeming himself or herself injured by any act in
9 violation of this chapter shall have a civil action in a court of
10 competent jurisdiction to enjoin further violations, or to recover the
11 actual damages sustained by the person, or both, together with the cost
12 of suit including reasonable attorneys' fees or any other appropriate
13 remedy authorized by this chapter or the United States Civil Rights Act
14 of 1964 as amended, or the federal fair housing amendments act of 1988
15 (42 U.S.C. Sec. 3601 et seq.)(~~and~~).

16 (3) Except for any unfair practice committed by an employer against
17 an employee or a prospective employee, or any unfair practice in a real
18 estate transaction which is the basis for relief specified in the
19 amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any
20 unfair practice prohibited by this chapter which is committed in the
21 course of trade or commerce as defined in the Consumer Protection Act,
22 chapter 19.86 RCW, is, for the purpose of applying that chapter, a
23 matter affecting the public interest, is not reasonable in relation to
24 the development and preservation of business, and is an unfair or
25 deceptive act in trade or commerce.

26 **Sec. 4.** RCW 49.60.040 and 1993 c 510 s 4 and 1993 c 69 s 3 are
27 each reenacted and amended to read as follows:

28 As used in this chapter:

29 (1) "Person" includes one or more individuals, partnerships,
30 associations, organizations, corporations, cooperatives, legal
31 representatives, trustees and receivers, or any group of persons; it
32 includes any owner, lessee, proprietor, manager, agent, or employee,
33 whether one or more natural persons; and further includes any political
34 or civil subdivisions of the state and any agency or instrumentality of
35 the state or of any political or civil subdivision thereof;

36 (2) "Commission" means the Washington state human rights
37 commission;

38 (3) "Employer" includes any person acting in the interest of an

1 employer, directly or indirectly, who employs eight or more persons,
2 and does not include any religious or sectarian organization not
3 organized for private profit;

4 (4) "Employee" does not include any individual employed by his or
5 her parents, spouse, or child, or in the domestic service of any
6 person;

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

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

14 (7) "Marital status" means the legal status of being married,
15 single, separated, divorced, or widowed;

16 (8) "National origin" includes "ancestry";

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

27 (10) "Any place of public resort, accommodation, assemblage, or
28 amusement" includes, but is not limited to, any place, licensed or
29 unlicensed, kept for gain, hire, or reward, or where charges are made
30 for admission, service, occupancy, or use of any property or
31 facilities, whether conducted for the entertainment, housing, or
32 lodging of transient guests, or for the benefit, use, or accommodation
33 of those seeking health, recreation, or rest, or for the burial or
34 other disposition of human remains, or for the sale of goods,
35 merchandise, services, or personal property, or for the rendering of
36 personal services, or for public conveyance or transportation on land,
37 water, or in the air, including the stations and terminals thereof and
38 the garaging of vehicles, or where food or beverages of any kind are
39 sold for consumption on the premises, or where public amusement,

1 entertainment, sports, or recreation of any kind is offered with or
2 without charge, or where medical service or care is made available, or
3 where the public gathers, congregates, or assembles for amusement,
4 recreation, or public purposes, or public halls, public elevators, and
5 public washrooms of buildings and structures occupied by two or more
6 tenants, or by the owner and one or more tenants, or any public library
7 or educational institution, or schools of special instruction, or
8 nursery schools, or day care centers or children's camps: PROVIDED,
9 That nothing contained in this definition shall be construed to include
10 or apply to any institute, bona fide club, or place of accommodation,
11 which is by its nature distinctly private, including fraternal
12 organizations, though where public use is permitted that use shall be
13 covered by this chapter; nor shall anything contained in this
14 definition apply to any educational facility, columbarium, crematory,
15 mausoleum, or cemetery operated or maintained by a bona fide religious
16 or sectarian institution;

17 (11) "Real property" includes buildings, structures, dwellings,
18 real estate, lands, tenements, leaseholds, interests in real estate
19 cooperatives, condominiums, and hereditaments, corporeal and
20 incorporeal, or any interest therein;

21 (12) "Real estate transaction" includes the sale, appraisal,
22 brokering, exchange, purchase, rental, or lease of real property,
23 transacting or applying for a real estate loan, or the provision of
24 brokerage services;

25 (13) "Dwelling" means any building, structure, or portion thereof
26 that is occupied as, or designed or intended for occupancy as, a
27 residence by one or more families, and any vacant land that is offered
28 for sale or lease for the construction or location thereon of any such
29 building, structure, or portion thereof;

30 (14) "Sex" means gender;

31 (15) "Sexual orientation" includes heterosexuality, homosexuality,
32 and bisexuality;

33 (16) "Aggrieved person" means any person who: (a) Claims to have
34 been injured by an unfair practice in a real estate transaction; or (b)
35 believes that he or she will be injured by an unfair practice in a real
36 estate transaction that is about to occur;

37 (~~(16)~~) (17) "Complainant" means the person who files a complaint
38 in a real estate transaction;

39 (~~(17)~~) (18) "Credit transaction" includes any open or closed end

1 credit transaction, whether in the nature of a loan, retail installment
2 transaction, credit card issue or charge, or otherwise, and whether for
3 personal or for business purposes, in which a service, finance, or
4 interest charge is imposed, or which provides for repayment in
5 scheduled payments, when such credit is extended in the regular course
6 of any trade or commerce, including but not limited to transactions by
7 banks, savings and loan associations or other financial lending
8 institutions of whatever nature, stock brokers, or by a merchant or
9 mercantile establishment which as part of its ordinary business permits
10 or provides that payment for purchases of property or service therefrom
11 may be deferred;

12 (~~(18)~~) (19) "Families with children status" means when one or
13 more individuals who have not attained the age of eighteen years is
14 domiciled with a parent or another person having legal custody of such
15 individual or individuals, or with the designee of such parent or other
16 person having such legal custody, with the written permission of such
17 parent or other person. Families with children status also applies to
18 any person who is pregnant or is in the process of securing legal
19 custody or guardianship of any individual who has not attained the age
20 of eighteen years.

21 **Sec. 5.** RCW 49.60.120 and 1993 c 510 s 6 and 1993 c 69 s 4 are
22 each reenacted and amended to read as follows:

23 The commission shall have the functions, powers, and duties:

24 (1) To appoint an executive director and chief examiner, and such
25 investigators, examiners, clerks, and other employees and agents as it
26 may deem necessary, fix their compensation within the limitations
27 provided by law, and prescribe their duties.

28 (2) To obtain upon request and utilize the services of all
29 governmental departments and agencies.

30 (3) To adopt, promulgate, amend, and rescind suitable rules and
31 regulations to carry out the provisions of this chapter, and the
32 policies and practices of the commission in connection therewith.

33 (4) To receive, impartially investigate, and pass upon complaints
34 alleging unfair practices as defined in this chapter.

35 (5) To issue such publications and such results of investigations
36 and research as in its judgment will tend to promote good will and
37 minimize or eliminate discrimination because of sex, race, creed,
38 color, national origin, marital status, sexual orientation, age, or the

1 presence of any sensory, mental, or physical disability, or the use of
2 a trained guide dog or service dog by a disabled person.

3 (6) To make such technical studies as are appropriate to effectuate
4 the purposes and policies of this chapter and to publish and distribute
5 the reports of such studies.

6 (7) To cooperate and act jointly or by division of labor with the
7 United States or other states, with other Washington state agencies,
8 commissions, and other government entities, and with political
9 subdivisions of the state of Washington and their respective human
10 rights agencies to carry out the purposes of this chapter. However,
11 the powers which may be exercised by the commission under this
12 subsection permit investigations and complaint dispositions only if the
13 investigations are designed to reveal, or the complaint deals only
14 with, allegations which, if proven, would constitute unfair practices
15 under this chapter. The commission may perform such services for these
16 agencies and be reimbursed therefor.

17 (8) To foster good relations between minority and majority
18 population groups of the state through seminars, conferences,
19 educational programs, and other intergroup relations activities.

20 **Sec. 6.** RCW 49.60.130 and 1993 c 510 s 7 are each amended to read
21 as follows:

22 The commission has power to create such advisory agencies and
23 conciliation councils, local, regional, or state-wide, as in its
24 judgment will aid in effectuating the purposes of this chapter. The
25 commission may empower them to study the problems of discrimination in
26 all or specific fields of human relationships or in specific instances
27 of discrimination because of sex, race, creed, color, national origin,
28 marital status, sexual orientation, age, or the presence of any
29 sensory, mental, or physical disability or the use of a trained guide
30 dog or service dog by a disabled person; to foster through community
31 effort or otherwise good will, cooperation, and conciliation among the
32 groups and elements of the population of the state, and to make
33 recommendations to the commission for the development of policies and
34 procedures in general and in specific instances, and for programs of
35 formal and informal education which the commission may recommend to the
36 appropriate state agency. Nothing in chapter . . . , Laws of 1994 (this
37 act) authorizes formal or informal education promoting sexual
38 orientation in common schools as defined in RCW 28A.150.020 or in

1 institutions of higher education as defined in RCW 28B.16.020.

2 Such advisory agencies and conciliation councils shall be composed
3 of representative citizens, serving without pay, but with reimbursement
4 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as
5 now existing or hereafter amended, and the commission may make
6 provision for technical and clerical assistance to such agencies and
7 councils and for the expenses of such assistance. The commission may
8 use organizations specifically experienced in dealing with questions of
9 discrimination.

10 **Sec. 7.** RCW 49.60.175 and 1993 c 510 s 9 are each amended to read
11 as follows:

12 It shall be an unfair practice to use the sex, race, creed, color,
13 national origin, marital status, sexual orientation, or the presence of
14 any sensory, mental, or physical disability of any person, or the use
15 of a trained guide dog or service dog by a disabled person, concerning
16 an application for credit in any credit transaction to determine the
17 credit worthiness of an applicant.

18 **Sec. 8.** RCW 49.60.176 and 1993 c 510 s 10 are each amended to read
19 as follows:

20 (1) It is an unfair practice for any person whether acting for
21 himself, herself, or another in connection with any credit transaction
22 because of race, creed, color, national origin, sex, marital status,
23 sexual orientation, or the presence of any sensory, mental, or physical
24 disability or the use of a trained guide dog or service dog by a
25 disabled person:

26 (a) To deny credit to any person;

27 (b) To increase the charges or fees for or collateral required to
28 secure any credit extended to any person;

29 (c) To restrict the amount or use of credit extended or to impose
30 different terms or conditions with respect to the credit extended to
31 any person or any item or service related thereto;

32 (d) To attempt to do any of the unfair practices defined in this
33 section.

34 (2) Nothing in this section shall prohibit any party to a credit
35 transaction from considering the credit history of any individual
36 applicant.

37 (3) Further, nothing in this section shall prohibit any party to a

1 credit transaction from considering the application of the community
2 property law to the individual case or from taking reasonable action
3 thereon.

4 **Sec. 9.** RCW 49.60.178 and 1993 c 510 s 11 are each amended to read
5 as follows:

6 It is an unfair practice for any person whether acting for himself,
7 herself, or another in connection with an insurance transaction or
8 transaction with a health maintenance organization to cancel or fail or
9 refuse to issue or renew insurance or a health maintenance agreement to
10 any person because of sex, marital status, sexual orientation, race,
11 creed, color, national origin, or the presence of any sensory, mental,
12 or physical disability or the use of a trained guide dog or service dog
13 by a disabled person: PROVIDED, That a practice which is not unlawful
14 under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an
15 unfair practice for the purposes of this section. For the purposes of
16 this section, "insurance transaction" is defined in RCW 48.01.060,
17 health maintenance agreement is defined in RCW 48.46.020, and "health
18 maintenance organization" is defined in RCW 48.46.020.

19 The fact that such unfair practice may also be a violation of
20 chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an
21 action brought under this section.

22 The insurance commissioner, under RCW 48.30.300, and the human
23 rights commission, under chapter 49.60 RCW, shall have concurrent
24 jurisdiction under this section and shall enter into a working
25 agreement as to procedure to be followed in complaints under this
26 section.

27 **Sec. 10.** RCW 49.60.180 and 1993 c 510 s 12 are each amended to
28 read as follows:

29 (1) It is an unfair practice for any employer:

30 ~~((1))~~ (a) To refuse to hire any person because of age, sex,
31 marital status, sexual orientation, race, creed, color, national
32 origin, or the presence of any sensory, mental, or physical disability
33 or the use of a trained guide dog or service dog by a disabled person,
34 unless based upon a bona fide occupational qualification: PROVIDED,
35 That the prohibition against discrimination because of such disability
36 shall not apply if the particular disability prevents the proper
37 performance of the particular worker involved.

1 (~~(2)~~) (b) To discharge or bar any person from employment because
2 of age, sex, marital status, sexual orientation, race, creed, color,
3 national origin, or the presence of any sensory, mental, or physical
4 disability or the use of a trained guide dog or service dog by a
5 disabled person.

6 (~~(3)~~) (c) To discriminate against any person in compensation or
7 in other terms or conditions of employment because of age, sex, marital
8 status, sexual orientation, race, creed, color, national origin, or the
9 presence of any sensory, mental, or physical disability or the use of
10 a trained guide dog or service dog by a disabled person: PROVIDED,
11 That it shall not be an unfair practice for an employer to segregate
12 washrooms or locker facilities on the basis of sex, or to base other
13 terms and conditions of employment on the sex of employees where the
14 commission by regulation or ruling in a particular instance has found
15 the employment practice to be appropriate for the practical realization
16 of equality of opportunity between the sexes.

17 (~~(4)~~) (d) To print, or circulate, or cause to be printed or
18 circulated any statement, advertisement, or publication, or to use any
19 form of application for employment, or to make any inquiry in
20 connection with prospective employment, which expresses any limitation,
21 specification, or discrimination as to age, sex, marital status, sexual
22 orientation, race, creed, color, national origin, or the presence of
23 any sensory, mental, or physical disability or the use of a trained
24 guide dog or service dog by a disabled person, or any intent to make
25 any such limitation, specification, or discrimination, unless based
26 upon a bona fide occupational qualification: PROVIDED, Nothing
27 contained herein shall prohibit advertising in a foreign language.

28 (2) This section shall not be construed to require an employer to
29 establish employment goals or quotas based on sexual orientation or on
30 any other basis.

31 **Sec. 11.** RCW 49.60.190 and 1993 c 510 s 13 are each amended to
32 read as follows:

33 It is an unfair practice for any labor union or labor organization:

34 (1) To deny membership and full membership rights and privileges to
35 any person because of age, sex, marital status, sexual orientation,
36 race, creed, color, national origin, or the presence of any sensory,
37 mental, or physical disability or the use of a trained guide dog or
38 service dog by a disabled person.

1 (2) To expel from membership any person because of age, sex,
2 marital status, sexual orientation, race, creed, color, national
3 origin, or the presence of any sensory, mental, or physical disability
4 or the use of a trained guide dog or service dog by a disabled person.

5 (3) To discriminate against any member, employer, employee, or
6 other person to whom a duty of representation is owed because of age,
7 sex, marital status, sexual orientation, race, creed, color, national
8 origin, or the presence of any sensory, mental, or physical disability
9 or the use of a trained guide dog or service dog by a disabled person.

10 **Sec. 12.** RCW 49.60.200 and 1993 c 510 s 14 are each amended to
11 read as follows:

12 It is an unfair practice for any employment agency to fail or
13 refuse to classify properly or refer for employment, or otherwise to
14 discriminate against, an individual because of age, sex, marital
15 status, sexual orientation, race, creed, color, national origin, or the
16 presence of any sensory, mental, or physical disability or the use of
17 a trained guide dog or service dog by a disabled person, or to print or
18 circulate, or cause to be printed or circulated any statement,
19 advertisement, or publication, or to use any form of application for
20 employment, or to make any inquiry in connection with prospective
21 employment, which expresses any limitation, specification or
22 discrimination as to age, sex, race, sexual orientation, creed, color,
23 ((or)) national origin, or the presence of any sensory, mental, or
24 physical disability or the use of a trained guide dog or service dog by
25 a disabled person, or any intent to make any such limitation,
26 specification, or discrimination, unless based upon a bona fide
27 occupational qualification: PROVIDED, Nothing contained herein shall
28 prohibit advertising in a foreign language.

29 **Sec. 13.** RCW 49.60.215 and 1993 c 510 s 16 are each amended to
30 read as follows:

31 It shall be an unfair practice for any person or the person's agent
32 or employee to commit an act which directly or indirectly results in
33 any distinction, restriction, or discrimination, or the requiring of
34 any person to pay a larger sum than the uniform rates charged other
35 persons, or the refusing or withholding from any person the admission,
36 patronage, custom, presence, frequenting, dwelling, staying, or lodging
37 in any place of public resort, accommodation, assemblage, or amusement,

1 except for conditions and limitations established by law and applicable
2 to all persons, regardless of race, creed, color, national origin,
3 sexual orientation, sex, the presence of any sensory, mental, or
4 physical disability, or the use of a trained guide dog or service dog
5 by a disabled person: PROVIDED, That this section shall not be
6 construed to require structural changes, modifications, or additions to
7 make any place accessible to a disabled person except as otherwise
8 required by law: PROVIDED, That behavior or actions constituting a
9 risk to property or other persons can be grounds for refusal and shall
10 not constitute an unfair practice.

11 **Sec. 14.** RCW 49.60.222 and 1993 c 510 s 17 and 1993 c 69 s 5 are
12 each reenacted and amended to read as follows:

13 (1) It is an unfair practice for any person, whether acting for
14 himself, herself, or another, because of sex, marital status, sexual
15 orientation, race, creed, color, national origin, families with
16 children status, the presence of any sensory, mental, or physical
17 disability, or the use of a trained guide dog or service dog by a
18 disabled person:

19 (a) To refuse to engage in a real estate transaction with a person;

20 (b) To discriminate against a person in the terms, conditions, or
21 privileges of a real estate transaction or in the furnishing of
22 facilities or services in connection therewith;

23 (c) To refuse to receive or to fail to transmit a bona fide offer
24 to engage in a real estate transaction from a person;

25 (d) To refuse to negotiate for a real estate transaction with a
26 person;

27 (e) To represent to a person that real property is not available
28 for inspection, sale, rental, or lease when in fact it is so available,
29 or to fail to bring a property listing to his or her attention, or to
30 refuse to permit the person to inspect real property;

31 (f) To discriminate in the sale or rental, or to otherwise make
32 unavailable or deny a dwelling to any person because of a disability of
33 that person, or a person residing in or intending to reside in that
34 dwelling after it is sold, rented, or made unavailable; or any person
35 associated with the person buying or renting;

36 (g) To make, print, circulate, post, or mail, or cause to be so
37 made or published a statement, advertisement, or sign, or to use a form
38 of application for a real estate transaction, or to make a record or

1 inquiry in connection with a prospective real estate transaction, which
2 indicates, directly or indirectly, an intent to make a limitation,
3 specification, or discrimination with respect thereto;

4 (h) To offer, solicit, accept, use, or retain a listing of real
5 property with the understanding that a person may be discriminated
6 against in a real estate transaction or in the furnishing of facilities
7 or services in connection therewith;

8 (i) To expel a person from occupancy of real property;

9 (j) To discriminate in the course of negotiating, executing, or
10 financing a real estate transaction whether by mortgage, deed of trust,
11 contract, or other instrument imposing a lien or other security in real
12 property, or in negotiating or executing any item or service related
13 thereto including issuance of title insurance, mortgage insurance, loan
14 guarantee, or other aspect of the transaction. Nothing in this section
15 shall limit the effect of RCW 49.60.176 relating to unfair practices in
16 credit transactions; or

17 (k) To attempt to do any of the unfair practices defined in this
18 section.

19 (2) For the purposes of this chapter discrimination based on the
20 presence of any sensory, mental, or physical disability or the use of
21 a trained guide dog or service dog by a blind, deaf, or physically
22 disabled person includes:

23 (a) A refusal to permit, at the expense of the disabled person,
24 reasonable modifications of existing dwelling occupied or to be
25 occupied by such person if such modifications may be necessary to
26 afford such person full enjoyment of the dwelling, except that, in the
27 case of a rental, the landlord may, where it is reasonable to do so,
28 condition permission for a modification on the renter agreeing to
29 restore the interior of the dwelling to the condition that existed
30 before the modification, reasonable wear and tear excepted;

31 (b) To refuse to make reasonable accommodation in rules, policies,
32 practices, or services when such accommodations may be necessary to
33 afford a person with the presence of any sensory, mental, or physical
34 disability and/or the use of a trained guide dog or service dog by a
35 blind, deaf, or physically disabled person equal opportunity to use and
36 enjoy a dwelling; or

37 (c) To fail to design and construct dwellings in conformance with
38 the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et
39 seq.) and all other applicable laws or regulations pertaining to access

1 by persons with any sensory, mental, or physical disability or use of
2 a trained guide dog or service dog. Whenever the requirements of
3 applicable laws or regulations differ, the requirements which require
4 greater accessibility for persons with any sensory, mental, or physical
5 disability shall govern.

6 For purposes of this subsection (2), "dwelling" means any building,
7 structure, or portion thereof that is occupied as, or designed or
8 intended for occupancy as, a residence by four or more families, and
9 any vacant land that is offered for sale or lease for the construction
10 or location thereon of any such building, structure, or portion
11 thereof.

12 (3) Notwithstanding any other provision of this chapter, it shall
13 not be an unfair practice or a denial of civil rights for any public or
14 private educational institution to separate the sexes or give
15 preference to or limit use of dormitories, residence halls, or other
16 student housing to persons of one sex or to make distinctions on the
17 basis of marital or families with children status.

18 (4) Except pursuant to subsection (2)(a) of this section, this
19 section shall not be construed to require structural changes,
20 modifications, or additions to make facilities accessible to a disabled
21 person except as otherwise required by law. Nothing in this section
22 affects the rights, responsibilities, and remedies of landlords and
23 tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to
24 post and enforce reasonable rules of conduct and safety for all tenants
25 and their guests, provided that chapters 59.18 and 59.20 RCW are only
26 affected to the extent they are inconsistent with the nondiscrimination
27 requirements of this chapter. Nothing in this section limits the
28 applicability of any reasonable federal, state, or local restrictions
29 regarding the maximum number of occupants permitted to occupy a
30 dwelling.

31 (5) Notwithstanding any other provision of this chapter, it shall
32 not be an unfair practice for any public establishment providing for
33 accommodations offered for the full enjoyment of transient guests as
34 defined by RCW 9.91.010(1)(c) to make distinctions on the basis of
35 families with children status. Nothing in this section shall limit the
36 effect of RCW 49.60.215 relating to unfair practices in places of
37 public accommodation.

38 (6) Nothing in this chapter prohibiting discrimination based on
39 families with children status applies to housing for older persons as

1 defined by the federal fair housing amendments act of 1988, 42 U.S.C.
2 Sec. 3607(b)(1) through (3). Nothing in this chapter authorizes
3 requirements for housing for older persons different than the
4 requirements in the federal fair housing amendments act of 1988, 42
5 U.S.C. Sec 3607(b)(1) through (3).

6 **Sec. 15.** RCW 49.60.223 and 1993 c 510 s 18 and 1993 c 69 s 6 are
7 each reenacted and amended to read as follows:

8 It is an unfair practice for any person, for profit, to induce or
9 attempt to induce any person to sell or rent any real property by
10 representations regarding the entry or prospective entry into the
11 neighborhood of a person or persons of a particular race, creed, color,
12 sex, national origin, sexual orientation, families with children
13 status, or with any sensory, mental, or physical disability and/or the
14 use of a trained guide dog or service dog by a blind, deaf, or
15 physically disabled person.

16 **Sec. 16.** RCW 49.60.224 and 1993 c 69 s 8 are each amended to read
17 as follows:

18 (1) Every provision in a written instrument relating to real
19 property which purports to forbid or restrict the conveyance,
20 encumbrance, occupancy, or lease thereof to individuals of a specified
21 race, creed, color, sex, national origin, sexual orientation, families
22 with children status, or with any sensory, mental, or physical
23 disability or the use of a trained guide dog or service dog by a blind,
24 deaf, or physically disabled person, and every condition, restriction,
25 or prohibition, including a right of entry or possibility of reverter,
26 which directly or indirectly limits the use or occupancy of real
27 property on the basis of race, creed, color, sex, national origin,
28 sexual orientation, families with children status, or the presence of
29 any sensory, mental, or physical disability or the use of a trained
30 guide dog or service dog by a blind, deaf, or physically disabled
31 person is void.

32 (2) It is an unfair practice to insert in a written instrument
33 relating to real property a provision that is void under this section
34 or to honor or attempt to honor such a provision in the chain of title.

35 **Sec. 17.** RCW 49.60.225 and 1993 c 510 s 20 and 1993 c 69 s 9 are
36 each reenacted and amended to read as follows:

1 (1) When a reasonable cause determination has been made under RCW
2 49.60.240 that an unfair practice in a real estate transaction has been
3 committed and a finding has been made that the respondent has engaged
4 in any unfair practice under RCW 49.60.250, the administrative law
5 judge shall promptly issue an order for such relief suffered by the
6 aggrieved person as may be appropriate, which may include actual
7 damages as provided by Title VIII of the United States civil rights act
8 of 1964, as amended, and the federal fair housing amendments act of
9 1988 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable
10 relief. Such order may, to further the public interest, assess a civil
11 penalty against the respondent:

12 (a) In an amount up to ten thousand dollars if the respondent has
13 not been determined to have committed any prior unfair practice in a
14 real estate transaction;

15 (b) In an amount up to twenty-five thousand dollars if the
16 respondent has been determined to have committed one other unfair
17 practice in a real estate transaction during the five-year period
18 ending on the date of the filing of this charge; or

19 (c) In an amount up to fifty thousand dollars if the respondent has
20 been determined to have committed two or more unfair practices in a
21 real estate transaction during the seven-year period ending on the date
22 of the filing of this charge, for loss of the right secured by RCW
23 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as
24 now or hereafter amended, to be free from discrimination in real
25 property transactions because of sex, marital status, race, creed,
26 color, national origin, sexual orientation, families with children
27 status, or the presence of any sensory, mental, or physical disability
28 or the use of a trained guide dog or service dog by a blind, deaf, or
29 physically disabled person. Enforcement of the order and appeal
30 therefrom by the complainant or respondent may be made as provided in
31 RCW 49.60.260 and 49.60.270. If acts constituting the unfair practice
32 in a real estate transaction that is the object of the charge are
33 determined to have been committed by the same natural person who has
34 been previously determined to have committed acts constituting an
35 unfair practice in a real estate transaction, then the civil penalty of
36 up to fifty thousand dollars may be imposed without regard to the
37 period of time within which any subsequent unfair practice in a real
38 estate transaction occurred. All civil penalties assessed under this
39 section shall be paid into the state treasury and credited to the

1 general fund.

2 (2) Such order shall not affect any contract, sale, conveyance,
3 encumbrance, or lease consummated before the issuance of an order that
4 involves a bona fide purchaser, encumbrancer, or tenant who does not
5 have actual notice of the charge filed under this chapter.

6 (3) Notwithstanding any other provision of this chapter, persons
7 awarded damages under this section may not receive additional damages
8 pursuant to RCW 49.60.250.

9 **Sec. 18.** RCW 48.30.300 and 1993 c 492 s 287 are each amended to
10 read as follows:

11 Notwithstanding any provision contained in Title 48 RCW to the
12 contrary:

13 (1) No person or entity engaged in the business of insurance in
14 this state shall refuse to issue any contract of insurance or cancel or
15 decline to renew such contract because of the sex ((~~or~~)), marital
16 status, or sexual orientation as defined in RCW 49.60.040, or the
17 presence of any sensory, mental, or physical handicap of the insured or
18 prospective insured. The amount of benefits payable, or any term,
19 rate, condition, or type of coverage shall not be restricted, modified,
20 excluded, increased or reduced on the basis of the sex ((~~or~~)), marital
21 status, or sexual orientation, or be restricted, modified, excluded or
22 reduced on the basis of the presence of any sensory, mental, or
23 physical handicap of the insured or prospective insured. Subject to
24 the provisions of subsection (2) of this section these provisions shall
25 not prohibit fair discrimination on the basis of sex, or marital
26 status, or the presence of any sensory, mental, or physical handicap
27 when bona fide statistical differences in risk or exposure have been
28 substantiated.

29 (2) With respect to disability policies issued or renewed on and
30 after July 1, 1994, that provide coverage against loss arising from
31 medical, surgical, hospital, or emergency care services:

32 (a) Policies shall guarantee continuity of coverage. Such
33 provision, which shall be included in every policy, shall provide that:

34 (i) The policy may be canceled or nonrenewed without the prior
35 written approval of the commissioner only for nonpayment of premium or
36 as permitted under RCW 48.18.090; and

37 (ii) The policy may be canceled or nonrenewed because of a change
38 in the physical or mental condition or health of a covered person only

1 with the prior written approval of the commissioner. Such approval
2 shall be granted only when the insurer has discharged its obligation to
3 continue coverage for such person by obtaining coverage with another
4 insurer, health care service contractor, or health maintenance
5 organization, which coverage is comparable in terms of premiums and
6 benefits as defined by rule of the commissioner.

7 (b) It is an unfair practice for a disability insurer to modify the
8 coverage provided or rates applying to an in-force disability insurance
9 policy and to fail to make such modification in all such issued and
10 outstanding policies.

11 (c) Subject to rules adopted by the commissioner, it is an unfair
12 practice for a disability insurer to:

13 (i) Cease the sale of a policy form unless it has received prior
14 written authorization from the commissioner and has offered all
15 policyholders covered under such discontinued policy the opportunity to
16 purchase comparable coverage without health screening; or

17 (ii) Engage in a practice that subjects policyholders to rate
18 increases on discontinued policy forms unless such policyholders are
19 offered the opportunity to purchase comparable coverage without health
20 screening.

21 The insurer may limit an offer of comparable coverage without
22 health screening to a period not less than thirty days from the date
23 the offer is first made."

24 **SHB 1443** - S COMM AMD
25 By Committee on Law & Justice

26
27 On page 1, line 4 of the title, after "transactions;" strike the
28 remainder of the title and insert "amending RCW 49.60.010, 49.60.020,
29 49.60.130, 49.60.175, 49.60.176, 49.60.178, 49.60.180, 49.60.190,
30 49.60.200, 49.60.215, 49.60.224, and 48.30.300; and reenacting and
31 amending RCW 49.60.030, 49.60.040, 49.60.120, 49.60.222, 49.60.223, and
32 49.60.225."

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