

1 **SB 5748 - H AMD 814 ADOPTED 4-13-95**

2 By Representative Sheahan

3 Strike everything after the enacting clause and insert the  
4 following:

5  
6 "Sec. 1. RCW 49.60.010 and 1993 c 510 s 1 are each amended to  
7 read as follows:

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

1           **Sec. 2.** RCW 49.60.040 and 1993 c 510 s 4 and 1993 c 69 s 3  
2 are each reenacted and amended to read as follows:

3           As used in this chapter:

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

12           (2) "Commission" means the Washington state human rights  
13 commission;

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

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

21           (5) "Labor organization" includes any organization which  
22 exists for the purpose, in whole or in part, of dealing with  
23 employers concerning grievances or terms or conditions of  
24 employment, or for other mutual aid or protection in connection  
25 with employment;

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

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

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

32           (9) "Full enjoyment of" includes the right to purchase any  
33 service, commodity, or article of personal property offered or sold

1 on, or by, any establishment to the public, and the admission of  
2 any person to accommodations, advantages, facilities, or privileges  
3 of any place of public resort, accommodation, assemblage, or  
4 amusement, without acts directly or indirectly causing persons of  
5 any particular race, creed, color, sex, national origin, or with  
6 any sensory, mental, or physical disability, or the use of a  
7 trained guide dog or service dog by a disabled person, to be  
8 treated as not welcome, accepted, desired, or solicited;

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

1 private, including fraternal organizations, though where public use  
2 is permitted that use shall be covered by this chapter; nor shall  
3 anything contained in this definition apply to any educational  
4 facility, columbarium, crematory, mausoleum, or cemetery operated  
5 or maintained by a bona fide religious or sectarian institution;

6 (11) "Real property" includes buildings, structures,  
7 dwellings, real estate, lands, tenements, leaseholds, interests in  
8 real estate cooperatives, condominiums, and hereditaments,  
9 corporeal and incorporeal, or any interest therein;

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

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

19 (14) "Sex" means gender;

20 (15) "Aggrieved person" means any person who: (a) Claims to  
21 have been injured by an unfair practice in a real estate  
22 transaction; or (b) believes that he or she will be injured by an  
23 unfair practice in a real estate transaction that is about to  
24 occur;

25 (16) "Complainant" means the person who files a complaint in  
26 a real estate transaction;

27 (17) "Respondent" means any person accused in a complaint or  
28 amended complaint of an unfair practice in a real estate  
29 transaction;

30 (18) "Credit transaction" includes any open or closed end  
31 credit transaction, whether in the nature of a loan, retail  
32 installment transaction, credit card issue or charge, or otherwise,  
33 and whether for personal or for business purposes, in which a

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

9 ~~((18))~~ (19) "Families with children status" means ~~((when))~~  
10 one or more individuals who have not attained the age of eighteen  
11 years ~~((is))~~ being domiciled with a parent or another person having  
12 legal custody of such individual or individuals, or with the  
13 designee of such parent or other person having such legal custody,  
14 with the written permission of such parent or other person.  
15 Families with children status also applies to any person who is  
16 pregnant or is in the process of securing legal custody ~~((or~~  
17 guardianship)) of any individual who has not attained the age of  
18 eighteen years;

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

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

26  
27 **Sec. 3.** RCW 49.60.222 and 1993 c 510 s 17 and 1993 c 69 s 5  
28 are each reenacted and amended to read as follows:

29 (1) It is an unfair practice for any person, whether acting  
30 for himself, herself, or another, because of sex, marital status,  
31 race, creed, color, national origin, families with children status,  
32 the presence of any sensory, mental, or physical disability, or the  
33 use of a trained guide dog or service dog by a disabled person:

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

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

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

8 (d) To refuse to negotiate for a real estate transaction with  
9 a person;

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

15 (f) To discriminate in the sale or rental, or to otherwise  
16 make unavailable or deny a dwelling, to any person (~~((because of a~~  
17 ~~disability of that person,))~~); or to a person residing in or  
18 intending to reside in that dwelling after it is sold, rented, or  
19 made (~~((unavailable))~~) available; or to any person associated with  
20 the person buying or renting;

21 (g) To make, print, circulate, post, or mail, or cause to be  
22 so made or published a statement, advertisement, or sign, or to use  
23 a form of application for a real estate transaction, or to make a  
24 record or inquiry in connection with a prospective real estate  
25 transaction, which indicates, directly or indirectly, an intent to  
26 make a limitation, specification, or discrimination with respect  
27 thereto;

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

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

1 (j) To discriminate in the course of negotiating, executing,  
2 or financing a real estate transaction whether by mortgage, deed of  
3 trust, contract, or other instrument imposing a lien or other  
4 security in real property, or in negotiating or executing any item  
5 or service related thereto including issuance of title insurance,  
6 mortgage insurance, loan guarantee, or other aspect of the  
7 transaction. Nothing in this section shall limit the effect of RCW  
8 49.60.176 relating to unfair practices in credit transactions; or

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

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

15 (a) A refusal to permit, at the expense of the disabled  
16 person, reasonable modifications of existing ((dwelling)) premises  
17 occupied or to be occupied by such person if such modifications may  
18 be necessary to afford such person full enjoyment of the dwelling,  
19 except that, in the case of a rental, the landlord may, where it is  
20 reasonable to do so, condition permission for a modification on the  
21 renter agreeing to restore the interior of the dwelling to the  
22 condition that existed before the modification, reasonable wear and  
23 tear excepted;

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

30 (c) To fail to design and construct covered multifamily  
31 dwellings and premises in conformance with the federal fair housing  
32 amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other  
33 applicable laws or regulations pertaining to access by persons with

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

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

12 Nothing in (a) or (b) of this subsection shall apply to: (i)  
13 a single-family house rented or leased by the owner if the owner  
14 does not own or have an interest in the proceeds of the rental or  
15 lease of more than three such single-family houses at one time, the  
16 rental or lease occurred without the use of a real estate broker or  
17 salesperson, as defined in RCW 18.85.010, and the rental or lease  
18 occurred without the publication, posting, or mailing of any  
19 advertisement, sign, or statement in violation of subsection (1)(g)  
20 of this section; or (ii) rooms or units in dwellings containing  
21 living quarters occupied or intended to be occupied by no more than  
22 four families living independently of each other if the owner  
23 maintains and occupies one of the rooms or units as his or her  
24 residence.

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

31 (4) Except pursuant to subsection (2)(a) of this section, this  
32 section shall not be construed to require structural changes,  
33 modifications, or additions to make facilities accessible to a

1 disabled person except as otherwise required by law. Nothing in  
2 this section affects the rights, responsibilities, and remedies of  
3 landlords and tenants pursuant to chapter 59.18 or 59.20 RCW,  
4 including the right to post and enforce reasonable rules of conduct  
5 and safety for all tenants and their guests, provided that chapters  
6 59.18 and 59.20 RCW are only affected to the extent they are  
7 inconsistent with the nondiscrimination requirements of this  
8 chapter. Nothing in this section limits the applicability of any  
9 reasonable federal, state, or local restrictions regarding the  
10 maximum number of occupants permitted to occupy a dwelling.

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

18 (6) Nothing in this chapter prohibiting discrimination based  
19 on families with children status applies to housing for older  
20 persons as defined by the federal fair housing amendments act of  
21 1988, 42 U.S.C. Sec. 3607(b)(1) through (3). Nothing in this  
22 chapter authorizes requirements for housing for older persons  
23 different than the requirements in the federal fair housing  
24 amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3).

25  
26 **Sec. 4.** RCW 49.60.225 and 1993 c 510 s 20 and 1993 c 69 s 9  
27 are each reenacted and amended to read as follows:

28 (1) When a reasonable cause determination has been made under  
29 RCW 49.60.240 that an unfair practice in a real estate transaction  
30 has been committed and a finding has been made that the respondent  
31 has engaged in any unfair practice under RCW 49.60.250, the  
32 administrative law judge shall promptly issue an order for such  
33 relief suffered by the aggrieved person as may be appropriate,

1 which may include actual damages as provided by (~~Title VIII of the~~  
2 ~~United States civil rights act of 1964, as amended, and~~) the  
3 federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et  
4 seq.), and injunctive or other equitable relief. Such order may,  
5 to further the public interest, assess a civil penalty against the  
6 respondent:

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

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

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

1 occurred. All civil penalties assessed under this section shall be  
2 paid into the state treasury and credited to the general fund.

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

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

11  
12 **Sec. 5.** RCW 49.60.240 and 1993 c 510 s 22 and 1993 c 69 s 12  
13 are each reenacted and amended to read as follows:

14 After the filing of any complaint, the chairperson of the  
15 commission shall refer it to the appropriate section of the  
16 commission's staff for prompt investigation and ascertainment of  
17 the facts alleged in the complaint. The investigation shall be  
18 limited to the alleged facts contained in the complaint. The  
19 results of the investigation shall be reduced to written findings  
20 of fact, and a finding shall be made that there is or that there is  
21 not reasonable cause for believing that an unfair practice has been  
22 or is being committed. A copy of said findings shall be provided  
23 to the complainant and to the person named in such complaint,  
24 hereinafter referred to as the respondent.

25 If the finding is made that there is reasonable cause for  
26 believing that an unfair practice has been or is being committed,  
27 the commission's staff shall immediately endeavor to eliminate the  
28 unfair practice by conference, conciliation, and persuasion.

29 If an agreement is reached for the elimination of such unfair  
30 practice as a result of such conference, conciliation, and  
31 persuasion, the agreement shall be reduced to writing and signed by  
32 the respondent, and an order shall be entered by the commission  
33 setting forth the terms of said agreement. No order shall be

1 entered by the commission at this stage of the proceedings except  
2 upon such written agreement, except that during the period  
3 beginning with the filing of complaints alleging an unfair practice  
4 with respect to real estate transactions pursuant to RCW 49.60.222  
5 through 49.60.225, and ending with the filing of a finding of  
6 reasonable cause or a dismissal by the commission, the commission  
7 staff shall, to the extent feasible, engage in conciliation with  
8 respect to such complaint. Any conciliation agreement arising out  
9 of conciliation efforts by the commission shall be an agreement  
10 between the respondent and the complainant and shall be subject to  
11 the approval of the commission. Each conciliation agreement shall  
12 be made public unless the complainant and respondent otherwise  
13 agree and the commission determines that disclosure is not required  
14 to further the purposes of this chapter.

15 If no such agreement can be reached, a finding to that effect  
16 shall be made and reduced to writing, with a copy thereof provided  
17 to the complainant and the respondent.

18 The commission may adopt rules, including procedural time  
19 requirements, for processing complaints alleging an unfair practice  
20 with respect to real estate transactions pursuant to RCW 49.60.222  
21 through 49.60.225 and which may be consistent with the federal fair  
22 housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.), but  
23 which in no case shall exceed or be more restrictive than the  
24 requirements or standards of such act.

25  
26 **Sec. 6.** RCW 49.60.260 and 1993 c 69 s 15 are each amended to  
27 read as follows:

28 (1) The commission or any person entitled to relief of a final  
29 order may petition the court within the county wherein any unfair  
30 practice occurred or wherein any person charged with an unfair  
31 practice resides or transacts business for the enforcement of any  
32 final order which is not complied with and is issued by the  
33 commission or an administrative law judge under the provisions of

1 this chapter and for appropriate temporary relief or a restraining  
2 order, and shall certify and file in court the final order sought  
3 to be enforced. Within five days after filing such petition in  
4 court, the commission or any person entitled to relief of a final  
5 order shall cause a notice of the petition to be sent by certified  
6 mail to all parties or their representatives.

7 (2) If within sixty days after the date the administrative law  
8 judge's order concerning an unfair practice in a real estate  
9 transaction is entered, no petition has been filed under subsection  
10 (1) of this section and the commission has not sought enforcement  
11 of the final order under this section, any person entitled to  
12 relief under the final order may petition for a decree enforcing  
13 the order in the superior courts of the state of Washington for the  
14 county in which the unfair practice in a real estate transaction  
15 under RCW 49.60.222 through 49.60.224 is alleged to have occurred.

16 (3) From the time the petition is filed, the court shall have  
17 jurisdiction of the proceedings and of the questions determined  
18 thereon, and shall have the power to grant such temporary relief or  
19 restraining order as it deems just and suitable.

20 (4) If the petition shows that there is a final order issued  
21 by the commission or administrative law judge under RCW 49.60.240  
22 or 49.60.250 and that the order has not been complied with in whole  
23 or in part, the court shall issue an order directing the person who  
24 is alleged to have not complied with the administrative order to  
25 appear in court at a time designated in the order, not less than  
26 ten days from the date thereof, and show cause why the  
27 administrative order should not be enforced according to the terms.  
28 The commission or any person entitled to relief of any final order  
29 shall immediately serve the noncomplying party with a copy of the  
30 court order and the petition.

31 (5) The administrative order shall be enforced by the court if  
32 the person does not appear, or if the person appears and the court  
33 finds that:

- 1 (a) The order is regular on its face;
- 2 (b) The order has not been complied with; and
- 3 (c) The person's answer discloses no valid reason why the
- 4 order should not be enforced, or that the reason given in the
- 5 person's answer could have been raised by review under RCW
- 6 34.05.510 through 34.05.598, and the person has given no valid
- 7 excuse for failing to use that remedy.
- 8 (6) The jurisdiction of the court shall be exclusive and its
- 9 judgment and decree shall be final, except that the same shall be
- 10 subject to appellate review by the supreme court or the court of
- 11 appeals, on appeal, by either party, irrespective of the nature of
- 12 the decree or judgment. The review shall be taken and prosecuted
- 13 in the same manner and form and with the same effect as is provided
- 14 in other cases.

15  
16 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of  
18 the state government and its existing public institutions, and  
19 shall take effect July 1, 1995."

**EFFECT:** Changes the definitions of "aggrieved person,"  
"complainant," and "respondent" and deletes the definition of  
"dwelling unit." Limits the requirement to design and  
construct new buildings in conformance with the federal fair  
housing amendments to "covered multifamily dwellings" and  
"premises." Provides that the commission may not adopt rules  
for processing complaints that exceed or are more restrictive  
than the requirements of the federal fair housing amendments  
act. Provides exemptions from the provisions making it an  
unfair practice to refuse to allow a disabled person to make  
reasonable modifications to a dwelling or premises or to  
refuse to make accommodations in rules or policies needed to  
allow a disabled person equal use and enjoyment of the  
dwelling. These exemptions are: (1) the rental or lease of  
a single-family house by the owner, as long as the rental or  
lease occurred without the use of a broker and the owner has  
no more than three such single-family houses at one time; and  
(2) units in dwellings containing no more than four units if  
the owner maintains one of the units as his or her residence.