
HOUSE BILL 1855

State of Washington

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By Representatives Cody, Clements, Conway, O'Brien, Murray, Cairnes, Keiser, Lantz, Wolfe, Kenney, Hatfield, Santos, Wood, Ogden, Rockefeller, Regala, McIntire, Stensen, Dickerson, Kessler and Gombosky

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1 AN ACT Relating to breastfeeding; amending RCW 9A.88.010,
2 49.60.040, and 49.60.215; adding a new section to chapter 49.60 RCW;
3 and adding a new section to chapter 49.12 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.60 RCW
6 to read as follows:

7 The legislature declares that the promotion of family values and
8 child health demands putting an end to the unfortunate cycle of
9 embarrassment and ignorance that constricts women and men alike on the
10 subject of breastfeeding. The legislature finds that:

11 (1) The American academy of pediatrics recommends exclusive
12 breastfeeding for the first six months and breastfeeding with solids to
13 continue for at least twelve months. The American academy of
14 pediatrics recommends that mothers begin breastfeeding within the first
15 hour after delivery and recommends that arrangements be made to provide
16 expressed breast milk if the mother and child must separate during the
17 first year;

18 (2) Breast milk contains all the nutrients a child needs for ideal
19 growth and development, many of which can only be found in breast milk.

1 Breast milk is easy to digest and helps guard against juvenile
2 diabetes, lymphomas, Crohn's disease, and a number of chronic liver
3 diseases;

4 (3) Studies show that children who are not breastfed have higher
5 rates of death, meningitis, childhood leukemia and other cancers,
6 diabetes, respiratory illnesses, bacterial and viral infections,
7 diarrheal diseases, allergies, obesity, and developmental delays;

8 (4) Breastfeeding may help reduce the mother's risk of breast and
9 ovarian cancer and osteoporosis;

10 (5) Breastfeeding releases oxytocin, a hormone in a woman's body
11 that causes her uterus to return to its normal size and shape more
12 quickly after birth. Breastfeeding also releases prolactin, a hormone
13 which promotes closeness between a mother and her child;

14 (6) Women with children are the fastest growing segment of today's
15 labor force;

16 (7) At least fifty percent of women who are employed when they
17 become pregnant return to the work force by the time their children are
18 three months old;

19 (8) Women who wish to continue breastfeeding after returning to
20 work have relatively few and simple needs: Availability of suitable,
21 dependable, efficient breast pumps; a convenient, sanitary, safe,
22 private, and comfortable location at the workplace; and the ability
23 during the work shift to express milk from her breasts and safely store
24 it;

25 (9) Women who are allowed to breastfeed in their place of
26 employment benefit their employers because these women have higher
27 morale, higher self-esteem, increased productivity, more company
28 loyalty, and lower health care costs;

29 (10) Although the pregnancy discrimination act, enacted by Congress
30 in 1978, prohibits discrimination on the basis of pregnancy,
31 childbirth, or related medical condition, courts have not interpreted
32 the pregnancy discrimination act to include breastfeeding.

33 **Sec. 2.** RCW 9A.88.010 and 1990 c 3 s 904 are each amended to read
34 as follows:

35 (1) A person is guilty of indecent exposure if he or she
36 intentionally makes any open and obscene exposure of his or her person
37 or the person of another knowing that such conduct is likely to cause

1 reasonable affront or alarm. The act of breastfeeding or expressing
2 breast milk is not indecent exposure.

3 (2) Indecent exposure is a misdemeanor unless such person exposes
4 himself or herself to a person under the age of fourteen years in which
5 case indecent exposure is a gross misdemeanor on the first offense and,
6 if such person has previously been convicted under this subsection or
7 of a sex offense as defined in RCW 9.94A.030, then such person is
8 guilty of a class C felony punishable under chapter 9A.20 RCW.

9 **Sec. 3.** RCW 49.60.040 and 1997 c 271 s 3 are each amended to read
10 as follows:

11 As used in this chapter:

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

19 (2) "Commission" means the Washington state human rights
20 commission;

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

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

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

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

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

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

1 (9) "Full enjoyment of" includes the right to purchase any service,
2 commodity, or article of personal property offered or sold on, or by,
3 any establishment to the public, and the admission of any person to
4 accommodations, advantages, facilities, or privileges of any place of
5 public resort, accommodation, assemblage, or amusement, without acts
6 directly or indirectly causing persons of any particular race, creed,
7 color, sex, national origin, or with any sensory, mental, or physical
8 disability, or the use of a trained dog guide or service animal by a
9 disabled person, to be treated as not welcome, accepted, desired, or
10 solicited;

11 (10) "Any place of public resort, accommodation, assemblage, or
12 amusement" includes, but is not limited to, any place, licensed or
13 unlicensed, kept for gain, hire, or reward, or where charges are made
14 for admission, service, occupancy, or use of any property or
15 facilities, whether conducted for the entertainment, housing, or
16 lodging of transient guests, or for the benefit, use, or accommodation
17 of those seeking health, recreation, or rest, or for the burial or
18 other disposition of human remains, or for the sale of goods,
19 merchandise, services, or personal property, or for the rendering of
20 personal services, or for public conveyance or transportation on land,
21 water, or in the air, including the stations and terminals thereof and
22 the garaging of vehicles, or where food or beverages of any kind are
23 sold for consumption on the premises, or where public amusement,
24 entertainment, sports, or recreation of any kind is offered with or
25 without charge, or where medical service or care is made available, or
26 where the public gathers, congregates, or assembles for amusement,
27 recreation, or public purposes, or public halls, public elevators, and
28 public washrooms of buildings and structures occupied by two or more
29 tenants, or by the owner and one or more tenants, or any public library
30 or educational institution, or schools of special instruction, or
31 nursery schools, or day care centers or children's camps: PROVIDED,
32 That nothing contained in this definition shall be construed to include
33 or apply to any institute, bona fide club, or place of accommodation,
34 which is by its nature distinctly private, including fraternal
35 organizations, though where public use is permitted that use shall be
36 covered by this chapter; nor shall anything contained in this
37 definition apply to any educational facility, columbarium, crematory,
38 mausoleum, or cemetery operated or maintained by a bona fide religious
39 or sectarian institution;

1 (11) "Real property" includes buildings, structures, dwellings,
2 real estate, lands, tenements, leaseholds, interests in real estate
3 cooperatives, condominiums, and hereditaments, corporeal and
4 incorporeal, or any interest therein;

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

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

14 (14) "Sex" means gender;

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

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

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

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

35 (19) "Nursing mother status" means a woman who is breastfeeding or
36 who is expressing breast milk;

37 (20) "Families with children status" means one or more individuals
38 who have not attained the age of eighteen years being domiciled with a
39 parent or another person having legal custody of such individual or

1 individuals, or with the designee of such parent or other person having
2 such legal custody, with the written permission of such parent or other
3 person. Families with children status also applies to any person who
4 is pregnant or is in the process of securing legal custody of any
5 individual who has not attained the age of eighteen years;

6 ((+20)) (21) "Covered multifamily dwelling" means: (a) Buildings
7 consisting of four or more dwelling units if such buildings have one or
8 more elevators; and (b) ground floor dwelling units in other buildings
9 consisting of four or more dwelling units;

10 ((+21)) (22) "Premises" means the interior or exterior spaces,
11 parts, components, or elements of a building, including individual
12 dwelling units and the public and common use areas of a building;

13 ((+22)) (23) "Dog guide" means a dog that is trained for the
14 purpose of guiding blind persons or a dog that is trained for the
15 purpose of assisting hearing impaired persons;

16 ((+23)) (24) "Service animal" means an animal that is trained for
17 the purpose of assisting or accommodating a disabled person's sensory,
18 mental, or physical disability.

19 **Sec. 4.** RCW 49.60.215 and 1997 c 271 s 13 are each amended to read
20 as follows:

21 (1) Except as provided in this section, it (~~shall be~~) is an
22 unfair practice for any person or the person's agent or employee to
23 commit an act which directly or indirectly results in any distinction,
24 restriction, or discrimination, or the requiring of any person to pay
25 a larger sum than the uniform rates charged other persons, or the
26 refusing or withholding from any person the admission, patronage,
27 custom, presence, frequenting, dwelling, staying, or lodging in any
28 place of public resort, accommodation, assemblage, or amusement, except
29 for conditions and limitations established by law and applicable to all
30 persons, regardless of race, creed, color, national origin, sex,
31 nursing mother status, the presence of any sensory, mental, or physical
32 disability, or the use of a trained dog guide or service animal by a
33 disabled person: PROVIDED, That this section shall not be construed to
34 require structural changes, modifications, or additions to make any
35 place accessible to a disabled person except as otherwise required by
36 law: PROVIDED, That behavior or actions constituting a risk to
37 property or other persons can be grounds for refusal and shall not
38 constitute an unfair practice.

1 (2) It is not an unfair practice for:

2 (a) A business that is not a public resort, accommodation,
3 assemblage, or amusement to designate a specific area of the business,
4 other than a rest room, for a nursing mother to use so as not to
5 disrupt normal business operations; or

6 (b) An employer to designate a specific room or other location in
7 the workplace for an employee to use as provided under section 5 of
8 this act.

9 NEW SECTION. Sec. 5. A new section is added to chapter 49.12 RCW
10 to read as follows:

11 (1) Except where reasonable safety or security considerations
12 require other options, an employer must make reasonable efforts to
13 provide a convenient, sanitary, safe, and private room or other
14 location, in close proximity to the work area, where the employee can
15 express her milk in privacy. Providing a clean lavatory designed for
16 women or a clean lavatory with a locking door meets this requirement.

17 (2) An employer may use the designation "baby-friendly" on its
18 promotional materials if the employer has an approved workplace
19 breastfeeding policy addressing at least the following:

20 (a) Flexible work scheduling, including scheduling breaks and
21 permitting work patterns that provide time for expression of breast
22 milk;

23 (b) Convenient, sanitary, safe, and private locations allowing
24 privacy for breastfeeding or expressing breast milk;

25 (c) A convenient clean and safe water source with facilities for
26 washing hands and rinsing breast-pumping equipment; and

27 (d) A convenient hygienic refrigerator in the workplace for the
28 mother's breast milk.

29 (3) Employers seeking approval of a workplace breastfeeding policy
30 must submit the policy to the department of health. The department of
31 health shall review and approve those policies that meet the
32 requirements of this section.

33 (4) For the purposes of this section, "employer" includes those
34 employers defined in RCW 49.12.005 and also includes the state, state
35 institutions, state agencies, political subdivisions of the state, and
36 municipal corporations or quasi-municipal corporations.

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