
ENGROSSED SUBSTITUTE SENATE BILL 5295

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Labor & Workforce Development (originally sponsored by Senators Costa, Prentice, Kohl-Welles, Thibaudeau, Fraser, Fairley and Heavey)

Read first time 02/18/1999.

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 vicious cycle of
9 embarrassment and ignorance that constricts women and men alike on the
10 subject of breastfeeding and represents cultural hostility to mothers
11 and children that is based on archaic and outdated moral taboos. The
12 legislature finds that:

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

1 (2) Breast milk contains all the nutrients a child needs for ideal
2 growth and development, many of which can only be found in breast milk.
3 Breast milk is easy to digest and helps guard against juvenile
4 diabetes, lymphomas, Crohn's disease, and a number of chronic liver
5 diseases;

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

10 (4) In 1997, the United States had one of the lowest breastfeeding
11 rates of all industrialized nations, and one of the highest rates of
12 infant mortality;

13 (5) Breastfeeding may help reduce the mother's risk of breast and
14 ovarian cancer and osteoporosis;

15 (6) Breastfeeding releases oxytocin, a hormone in a woman's body
16 that causes her uterus to return to its normal size and shape more
17 quickly after birth. Breastfeeding also releases prolactin, a hormone
18 which promotes closeness between a mother and her child;

19 (7) Women with children are the fastest growing segment of today's
20 labor force;

21 (8) At least fifty percent of women who are employed when they
22 become pregnant return to the work force by the time their children are
23 three months old;

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

30 (10) Women who are allowed to breastfeed in their place of
31 employment benefit their employers because these women have higher
32 morale, higher self-esteem, increased productivity, more company
33 loyalty, and lower health care costs;

34 (11) Childhood illness is a frequent cause of absenteeism among
35 employed parents. Work programs that aim to improve infant health may
36 also bring about a reduction in employee absenteeism;

37 (12) Lower incidents of illness in the breastfed infant allows the
38 parents more time for attention to siblings and other family duties and
39 reduces parental absence from work and lost income;

1 (13) Although the pregnancy discrimination act, enacted by Congress
2 in 1978, prohibits discrimination on the basis of pregnancy,
3 childbirth, or related medical condition, courts have not interpreted
4 the pregnancy discrimination act to include breastfeeding.

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

7 (1) A person is guilty of indecent exposure if he or she
8 intentionally makes any open and obscene exposure of his or her person
9 or the person of another knowing that such conduct is likely to cause
10 reasonable affront or alarm. The act of breastfeeding or expressing
11 breast milk is not indecent exposure.

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

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

20 As used in this chapter:

21 (1) "Person" includes one or more individuals, partnerships,
22 associations, organizations, corporations, cooperatives, legal
23 representatives, trustees and receivers, or any group of persons; it
24 includes any owner, lessee, proprietor, manager, agent, or employee,
25 whether one or more natural persons; and further includes any political
26 or civil subdivisions of the state and any agency or instrumentality of
27 the state or of any political or civil subdivision thereof;

28 (2) "Commission" means the Washington state human rights
29 commission;

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

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

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

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

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

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

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

21 (10) "Any place of public resort, accommodation, assemblage, or
22 amusement" includes, but is not limited to, any place, licensed or
23 unlicensed, kept for gain, hire, or reward, or where charges are made
24 for admission, service, occupancy, or use of any property or
25 facilities, whether conducted for the entertainment, housing, or
26 lodging of transient guests, or for the benefit, use, or accommodation
27 of those seeking health, recreation, or rest, or for the burial or
28 other disposition of human remains, or for the sale of goods,
29 merchandise, services, or personal property, or for the rendering of
30 personal services, or for public conveyance or transportation on land,
31 water, or in the air, including the stations and terminals thereof and
32 the garaging of vehicles, or where food or beverages of any kind are
33 sold for consumption on the premises, or where public amusement,
34 entertainment, sports, or recreation of any kind is offered with or
35 without charge, or where medical service or care is made available, or
36 where the public gathers, congregates, or assembles for amusement,
37 recreation, or public purposes, or public halls, public elevators, and
38 public washrooms of buildings and structures occupied by two or more
39 tenants, or by the owner and one or more tenants, or any public library

1 or educational institution, or schools of special instruction, or
2 nursery schools, or day care centers or children's camps: PROVIDED,
3 That nothing contained in this definition shall be construed to include
4 or apply to any institute, bona fide club, or place of accommodation,
5 which is by its nature distinctly private, including fraternal
6 organizations, though where public use is permitted that use shall be
7 covered by this chapter; nor shall anything contained in this
8 definition apply to any educational facility, columbarium, crematory,
9 mausoleum, or cemetery operated or maintained by a bona fide religious
10 or sectarian institution;

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

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

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

24 (14) "Sex" means gender;

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

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

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

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

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

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

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

16 (~~((20))~~) (21) "Covered multifamily dwelling" means: (a) Buildings
17 consisting of four or more dwelling units if such buildings have one or
18 more elevators; and (b) ground floor dwelling units in other buildings
19 consisting of four or more dwelling units;

20 (~~((21))~~) (22) "Premises" means the interior or exterior spaces,
21 parts, components, or elements of a building, including individual
22 dwelling units and the public and common use areas of a building;

23 (~~((22))~~) (23) "Restroom" means a room containing one or more
24 toilets, but not an adjoining and separate room with easily accessible
25 electrical outlets;

26 (24) "Dog guide" means a dog that is trained for the purpose of
27 guiding blind persons or a dog that is trained for the purpose of
28 assisting hearing impaired persons;

29 (~~((23))~~) (25) "Service animal" means an animal that is trained for
30 the purpose of assisting or accommodating a disabled person's sensory,
31 mental, or physical disability.

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

34 (~~((It shall be))~~) (1) Except as provided in this section, it is an
35 unfair practice for any person or the person's agent or employee to
36 commit an act which directly or indirectly results in any distinction,
37 restriction, or discrimination, or the requiring of any person to pay
38 a larger sum than the uniform rates charged other persons, or the

1 refusing or withholding from any person the admission, patronage,
2 custom, presence, frequenting, dwelling, staying, or lodging in any
3 place of public resort, accommodation, assemblage, or amusement, except
4 for conditions and limitations established by law and applicable to all
5 persons, regardless of race, creed, color, national origin, sex,
6 nursing mother status, the presence of any sensory, mental, or physical
7 disability, or the use of a trained dog guide or service animal by a
8 disabled person: PROVIDED, That this section shall not be construed to
9 require structural changes, modifications, or additions to make any
10 place accessible to a disabled person or to provide a room or other
11 location for a nursing mother to breastfeed or express breast milk
12 except as otherwise required by law: PROVIDED, That behavior or
13 actions constituting a risk to property or other persons can be grounds
14 for refusal and shall not constitute an unfair practice.

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

16 (a) A business that is not a public resort, accommodation,
17 assemblage, or amusement to offer a specific area of the business,
18 other than a restroom, for a nursing mother to use, so long as the
19 business makes the availability of such an area known only by posting
20 a sign in a prominent location or by responding to an inquiry from a
21 nursing mother; or

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

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

27 (1) Except where reasonable safety or security considerations
28 require other options, or where structural changes or additions would
29 be required, an employer must make reasonable efforts to provide a
30 convenient, sanitary, safe, private, and comfortable room or other
31 location, in close proximity to the work area, other than a restroom,
32 where the employee can express her milk in privacy.

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

36 (a) Flexible work scheduling, including scheduling breaks and
37 permitting work patterns that provide time for expression of breast
38 milk;

1 (b) Convenient, sanitary, safe, private, and comfortable locations
2 allowing privacy for breastfeeding or expressing breast milk;

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

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

7 (3) Employers seeking approval of a workplace breastfeeding policy
8 must submit the policy to the department of health. The department of
9 health shall review and approve those policies that meet the
10 requirements of this section.

11 (4) The definitions in this subsection apply throughout this
12 section unless the context clearly requires otherwise.

13 (a) "Employer" includes those employers defined in RCW 49.12.005
14 and also includes the state, state institutions, state agencies,
15 political subdivisions of the state, and municipal corporations or
16 quasi-municipal corporations; and

17 (b) "Restroom" includes a room containing one or more toilets, but
18 not an adjoining and separate room with easily accessible electrical
19 outlets.

--- END ---