

HOUSE BILL REPORT

SHB 1809

As Passed House:

February 16, 2004

Title: An act relating to the jurisdiction of the Washington human rights commission.

Brief Description: Expanding the jurisdiction of the human rights commission.

Sponsors: By House Committee on State Government (originally sponsored by Representatives Murray, Hankins, Grant, Mastin, McDermott, Jarrett, Linville, Upthegrove, Quall, Moeller, Tom, Kessler, Lovick, Hunter, Schual-Berke, Ruderman, Dickerson, Santos, Hudgins, Haigh, Hunt, Pettigrew, Rockefeller, G. Simpson, Cody and Kenney; by request of Governor Locke).

Brief History:

Committee Activity:

State Government: 2/25/03, 3/4/03 [DPS].

Floor Activity:

Passed House: 3/17/03, 59-39.

Floor Activity:

Passed House: 2/16/04, 59-39.

Brief Summary of Substitute Bill

- Amends the law against discrimination to prohibit discrimination based on a person's sexual orientation.
- Authorizes the Human Rights Commission to charge fees to participants to cover the costs of educational programs, seminars, and training.
- Defines "sexual orientation" and "creed."

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Haigh, Chair; Miloscia, Vice Chair; Shabro, Assistant Ranking Minority Member; Hunt, McDermott, Nixon, Tom and Wallace.

Minority Report: Do not pass. Signed by 1 member: Representative Armstrong,

Ranking Minority Member.

Staff: Anne Warwick (786-7291) and Katie Blinn (786-7114).

Background:

In addition to federal civil rights protections, the state's laws against discrimination provide that every person has a right to: be free based on race, color, creed, national origin, sex, or the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal. This right applies to employment, public accommodations, real estate transactions, credit transactions, insurance, and commerce. Additionally, discrimination on the basis of age or marital status is prohibited in some circumstances. Currently 13 states prohibit employment discrimination based on sexual orientation. The following nine Washington municipalities have civil rights ordinances, policies or proclamations prohibiting discrimination based on sexual orientation: Clallam County; Clark County; King County; Olympia; Pullman; Seattle; Spokane; Tumwater; and Vancouver.

The Human Rights Commission (Commission) is responsible for administering and enforcing the state's law against discrimination. The Commission receives and investigates complaints by persons alleging unfair (discriminatory) practices. If the Commission finds that there is reasonable cause to believe discrimination has occurred, the Commission must try to eliminate the unfair practice through a process of conference and conciliation. If this process fails, the Commission must appoint an administrative law judge to hear the complaint through a formal process. One of the functions and duties of the Commission is to foster good relations between minority and majority groups through seminars, conferences, and educational programs. The Commission provides a number of free training and educational seminars throughout the state.

A provision of the insurance code prohibits a person in the insurance business from refusing to issue or renew an insurance contract or canceling an insurance contract because of the insured's sex or marital status, or the presence of any sensory, mental or physical handicap.

Summary of Substitute Bill:

The law against discrimination is amended to prohibit discrimination on a person's sexual orientation.

The definition section is amended to include both sexual orientation and creed. "Sexual orientation" is defined as heterosexuality, homosexuality, bisexuality and gender expression or identity. "Creed" is defined as a system of religious beliefs and religious expressions, including moral and ethical beliefs and expressions about right and wrong

that are sincerely held with the strength of traditional religious views. The Commission may charge fees to participants to cover the costs of seminars, conferences, and educational programs provided by the Commission. The provision of the insurance code that prohibits a person in the insurance business from refusing to issue or renew an insurance contract or canceling an insurance contract because of the insured's sex or marital status, or the presence of any handicap, is amended to include sexual orientation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: By amending the current statute on anti-discrimination laws, the Legislature will send a clear message that Washington State has created a level playing field and will treat all residents equally. The legislation will result in a better business climate, a higher rate of investment by companies currently located in Washington, and new investment by companies located outside Washington. These changes will generate greater tax revenues. The bill deserves full support and passage because it ensures that Washington will be a state where diversity is not only tolerated but supported, because it ensures that the state is capable of competing in the 21st century economy, understanding that job candidates and successful businesses are intolerant of bigotry, and because it is the right moral and political thing to do. Hewlett Packard supports the bill because it supports creativity, diversity, and inclusion. The Washington State Association of Plumbers, Pipefitters, and Steamfitters opposes discrimination because discrimination is wrong.

No one should be denied the opportunity to live life to the fullest and to live a life free from discrimination. It is time to add sexual orientation to the anti-discrimination laws. All humans deserve free and full access to every possibility available. Regardless of whether sexual orientation is a matter of biology or a matter of choice, there is no more justification for discrimination based on sexual orientation than there is on the basis of religion. A modern day Jesus would testify on behalf of the rights of gay, lesbian, bi and trans-gendered people, just as he would for the rights of all marginalized people.

It is time for a change. It is time for simple justice and simple equality. It is necessary to protect those who cannot protect themselves. Currently there are only certain jurisdictions which are safe for those who are gay or lesbian. Gays and lesbians are an active part of the community. This bill will change the ways in which a gay person can live on a day to day basis. Gays and lesbians will be able to place pictures of their partners in their offices, and be free from discrimination when qualifying for a loan or renting an apartment.

Testimony Against: The small business community has concerns with the current statute in regards to businesses with fewer than eight employees. The concern is based on the Supreme Court decision, Roberts v. Dudley, 140 Wn.2d 58 (2000), in which the court applied the current statute to a small business even though small businesses are exempt in the definition section. This created a significant hardship on the small business involved in the case, and would be devastating to any small business in a similar situation. We would like the language in statute clarified so that it is clear that the current anti-discrimination laws apply only to employers with eight or more employees. We would like the current language strengthened.

This state is forthcoming in the area of sexual orientation. Washington has four legislators who are openly gay, and California has only five. The Christian Coalition has two concerns with the bill: the fee increase for educational information and the definition of sexual orientation. Many people suffer from gender confusion. This bill will open the door to identity issues which can be harmful to businesses. Twenty years ago the gay community just wanted to get out of the closet; now they have an aggressive homosexual agenda.

Testified: (In support) Representative Murray, prime sponsor; Clayton Lewis, Onvia; Steve Davis, Corbis Corporation; Sally Clark, Fairness Lobby; Dan Coyne, Hewlett-Packard Company; Julie Watts, Washington Association of Churches; Rev. Tom Thresher, Suquamish Community Congregational United Churches of Christ; Rev. Paul Benz, Lutheran Public Policy Office; Karen Loran; Marsha Botzer, Seattle Commission for Sexual Minorities; Dave Kaplan, Log Cabin Republicans of Washington; Jana La Gansa; Fred Swanson, Gay City Health Project; Dan Sexton, Washington State Association of Plumbers and Pipefitters; Fritz Hofstetter; and Robby Stern and Randy Loomans, Washington State Labor Council.

(With concerns) Gary Smith, Independent Business Association; and Carolyn Logue, National Federation of Independent Business.

(Opposed) Rick Forcier, Christian Coalition; and Bob Higley, Washington Evangelical Religious Community.