
HOUSE BILL 1728

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Eddy, Rodne, Green, Goodman, Kagi, and Kenney

Read first time 02/01/11. Referred to Committee on Judiciary.

1 AN ACT Relating to requiring businesses where food for human
2 consumption is sold or served to allow persons with disabilities to
3 bring their service animals onto the business premises; amending RCW
4 9.91.170 and 49.60.215; reenacting and amending RCW 49.60.040; and
5 prescribing penalties.

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

7 **Sec. 1.** RCW 9.91.170 and 2003 c 53 s 52 are each amended to read
8 as follows:

9 (1)(a) Any person who:

10 (i) Has received notice that his or her behavior is interfering
11 with the use of a ~~((dog guide or))~~ service animal who continues with
12 reckless disregard to interfere with the use of a ~~((dog guide or))~~
13 service animal by obstructing, intimidating, or otherwise jeopardizing
14 the safety of the ~~((dog guide or))~~ service animal user or his or her
15 ~~((dog guide or))~~ service animal; or

16 (ii) Prevents a service animal user and his or her service animal
17 from entering a business where food for human consumption is sold or
18 served is guilty of a misdemeanor, except as provided in (b) of this
19 subsection.

1 (b) A second or subsequent violation of this subsection is a gross
2 misdemeanor.

3 (2)(a) Any person who, with reckless disregard, allows his or her
4 dog to interfere with the use of a ((~~dog guide or~~)) service animal by
5 obstructing, intimidating, or otherwise jeopardizing the safety of the
6 ((~~dog guide or~~)) service animal user or his or her ((~~dog guide or~~))
7 service animal is guilty of a misdemeanor, except as provided in (b) of
8 this subsection.

9 (b) A second or subsequent violation of this subsection is a gross
10 misdemeanor.

11 (3) Any person who, with reckless disregard, injures, disables, or
12 causes the death of a ((~~dog guide or~~)) service animal is guilty of a
13 gross misdemeanor.

14 (4) Any person who, with reckless disregard, allows his or her dog
15 to injure, disable, or cause the death of a ((~~dog guide or~~)) service
16 animal is guilty of a gross misdemeanor.

17 (5) Any person who intentionally injures, disables, or causes the
18 death of a ((~~dog guide or~~)) service animal is guilty of a class C
19 felony punishable according to chapter 9A.20 RCW.

20 (6) Any person who wrongfully obtains or exerts unauthorized
21 control over a ((~~dog guide or~~)) service animal with the intent to
22 deprive the ((~~dog guide or~~)) service animal user of his or her ((~~dog~~
23 ~~guide or~~)) service animal is guilty of theft in the first degree, RCW
24 9A.56.030.

25 (7)(a) In any case in which the defendant is convicted of a
26 violation of this section, he or she shall also be ordered to make full
27 restitution for all damages, including incidental and consequential
28 expenses incurred by the ((~~dog guide or~~)) service animal user and the
29 ((~~dog guide or~~)) service animal which arise out of or are related to
30 the criminal offense.

31 (b) Restitution for a conviction under this section shall include,
32 but is not limited to:

33 (i) The value of the replacement of an incapacitated or deceased
34 ((~~dog guide or~~)) service animal, the training of a replacement ((~~dog~~
35 ~~guide or~~)) service animal, or retraining of the affected ((~~dog guide~~
36 ~~or~~)) service animal and all related veterinary and care expenses; and

37 (ii) Medical expenses of the ((~~dog guide or~~)) service animal user,

1 training of the (~~dog guide or~~) service animal user, and compensation
2 for wages or earned income lost by the (~~dog guide or~~) service animal
3 user.

4 (8) Nothing in this section shall affect any civil remedies
5 available for violation of this section.

6 (9) For purposes of this section, the following definitions apply:

7 (a) (~~"Dog guide" means a dog that is trained for the purpose of~~
8 ~~guiding blind persons or a dog trained for the purpose of assisting~~
9 ~~hearing impaired persons.~~

10 ~~(b))~~ "Service animal" means (~~an animal that is trained for the~~
11 ~~purposes of assisting or accommodating a disabled person's sensory,~~
12 ~~mental, or physical disability)~~ any dog that is individually trained
13 to do work or perform tasks for the benefit of an individual with a
14 disability, including a physical, sensory, psychiatric, intellectual,
15 or other mental disability. Other species of animals, whether wild or
16 domestic, trained or untrained, are not service animals. The work or
17 tasks performed by a service animal must be directly related to the
18 individual's disability. Examples of work or tasks include, but are
19 not limited to, assisting individuals who are blind or have low vision
20 with navigation and other tasks, alerting individuals who are deaf or
21 hard of hearing to the presence of people or sounds, providing
22 nonviolent protection or rescue work, pulling a wheelchair, assisting
23 an individual during a seizure, alerting individuals to the presence of
24 allergens, retrieving items such as medicine or the telephone,
25 providing physical support and assistance with balance and stability to
26 individuals with mobility disabilities, and helping persons with
27 psychiatric and neurological disabilities by preventing or interrupting
28 impulsive or destructive behaviors. The crime deterrent effects of an
29 animal's presence and the provision of emotional support, well-being,
30 comfort, or companionship do not constitute work or tasks.

31 ~~((e))~~ (b) "Notice" means a verbal or otherwise communicated
32 warning prescribing the behavior of another person and a request that
33 the person stop their behavior.

34 ~~((d))~~ (c) "Value" means the value to the (~~dog guide or~~) service
35 animal user and does not refer to cost or fair market value.

36 **Sec. 2.** RCW 49.60.040 and 2009 c 187 s 3 are each reenacted and
37 amended to read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Aggrieved person" means any person who: (a) Claims to have
4 been injured by an unfair practice in a real estate transaction; or (b)
5 believes that he or she will be injured by an unfair practice in a real
6 estate transaction that is about to occur.

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

36 (3) "Commission" means the Washington state human rights
37 commission.

1 (4) "Complainant" means the person who files a complaint in a real
2 estate transaction.

3 (5) "Covered multifamily dwelling" means: (a) Buildings consisting
4 of four or more dwelling units if such buildings have one or more
5 elevators; and (b) ground floor dwelling units in other buildings
6 consisting of four or more dwelling units.

7 (6) "Credit transaction" includes any open or closed end credit
8 transaction, whether in the nature of a loan, retail installment
9 transaction, credit card issue or charge, or otherwise, and whether for
10 personal or for business purposes, in which a service, finance, or
11 interest charge is imposed, or which provides for repayment in
12 scheduled payments, when such credit is extended in the regular course
13 of any trade or commerce, including but not limited to transactions by
14 banks, savings and loan associations or other financial lending
15 institutions of whatever nature, stock brokers, or by a merchant or
16 mercantile establishment which as part of its ordinary business permits
17 or provides that payment for purchases of property or service therefrom
18 may be deferred.

19 (7)(a) "Disability" means the presence of a sensory, mental, or
20 physical impairment that:

21 (i) Is medically cognizable or diagnosable; or

22 (ii) Exists as a record or history; or

23 (iii) Is perceived to exist whether or not it exists in fact.

24 (b) A disability exists whether it is temporary or permanent,
25 common or uncommon, mitigated or unmitigated, or whether or not it
26 limits the ability to work generally or work at a particular job or
27 whether or not it limits any other activity within the scope of this
28 chapter.

29 (c) For purposes of this definition, "impairment" includes, but is
30 not limited to:

31 (i) Any physiological disorder, or condition, cosmetic
32 disfigurement, or anatomical loss affecting one or more of the
33 following body systems: Neurological, musculoskeletal, special sense
34 organs, respiratory, including speech organs, cardiovascular,
35 reproductive, digestive, genitor-urinary, hemic and lymphatic, skin,
36 and endocrine; or

37 (ii) Any mental, developmental, traumatic, or psychological

1 disorder, including but not limited to cognitive limitation, organic
2 brain syndrome, emotional or mental illness, and specific learning
3 disabilities.

4 (d) Only for the purposes of qualifying for reasonable
5 accommodation in employment, an impairment must be known or shown
6 through an interactive process to exist in fact and:

7 (i) The impairment must have a substantially limiting effect upon
8 the individual's ability to perform his or her job, the individual's
9 ability to apply or be considered for a job, or the individual's access
10 to equal benefits, privileges, or terms or conditions of employment; or

11 (ii) The employee must have put the employer on notice of the
12 existence of an impairment, and medical documentation must establish a
13 reasonable likelihood that engaging in job functions without an
14 accommodation would aggravate the impairment to the extent that it
15 would create a substantially limiting effect.

16 (e) For purposes of (d) of this subsection, a limitation is not
17 substantial if it has only a trivial effect.

18 ~~(8) ("Dog guide" means a dog that is trained for the purpose of~~
19 ~~guiding blind persons or a dog that is trained for the purpose of~~
20 ~~assisting hearing impaired persons.~~

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

26 ~~((10))~~ (9) "Employee" does not include any individual employed by
27 his or her parents, spouse, or child, or in the domestic service of any
28 person.

29 ~~((11))~~ (10) "Employer" includes any person acting in the interest
30 of an employer, directly or indirectly, who employs eight or more
31 persons, and does not include any religious or sectarian organization
32 not organized for private profit.

33 ~~((12))~~ (11) "Employment agency" includes any person undertaking
34 with or without compensation to recruit, procure, refer, or place
35 employees for an employer.

36 ~~((13))~~ (12) "Families with children status" means one or more
37 individuals who have not attained the age of eighteen years being
38 domiciled with a parent or another person having legal custody of such

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

7 ((+14)) (13) "Full enjoyment of" includes the right to purchase
8 any service, commodity, or article of personal property offered or sold
9 on, or by, any establishment to the public, and the admission of any
10 person to accommodations, advantages, facilities, or privileges of any
11 place of public resort, accommodation, assemblage, or amusement,
12 without acts directly or indirectly causing persons of any particular
13 race, creed, color, sex, sexual orientation, national origin, or with
14 any sensory, mental, or physical disability, or the use of a trained
15 (~~dog guide or~~) service animal by a person with a disability, to be
16 treated as not welcome, accepted, desired, or solicited.

17 ((+15)) (14) "Honorably discharged veteran or military status"
18 means a person who is:

19 (a) A veteran, as defined in RCW 41.04.007; or

20 (b) An active or reserve member in any branch of the armed forces
21 of the United States, including the national guard, coast guard, and
22 armed forces reserves.

23 ((+16)) (15) "Labor organization" includes any organization which
24 exists for the purpose, in whole or in part, of dealing with employers
25 concerning grievances or terms or conditions of employment, or for
26 other mutual aid or protection in connection with employment.

27 ((+17)) (16) "Marital status" means the legal status of being
28 married, single, separated, divorced, or widowed.

29 ((+18)) (17) "National origin" includes "ancestry."

30 ((+19)) (18) "Person" includes one or more individuals,
31 partnerships, associations, organizations, corporations, cooperatives,
32 legal representatives, trustees and receivers, or any group of persons;
33 it includes any owner, lessee, proprietor, manager, agent, or employee,
34 whether one or more natural persons; and further includes any political
35 or civil subdivisions of the state and any agency or instrumentality of
36 the state or of any political or civil subdivision thereof.

37 ((+20)) (19) "Premises" means the interior or exterior spaces,

1 parts, components, or elements of a building, including individual
2 dwelling units and the public and common use areas of a building.

3 ~~((+21+))~~ (20) "Real estate transaction" includes the sale,
4 appraisal, brokering, exchange, purchase, rental, or lease of real
5 property, transacting or applying for a real estate loan, or the
6 provision of brokerage services.

7 ~~((+22+))~~ (21) "Real property" includes buildings, structures,
8 dwellings, real estate, lands, tenements, leaseholds, interests in real
9 estate cooperatives, condominiums, and hereditaments, corporeal and
10 incorporeal, or any interest therein.

11 ~~((+23+))~~ (22) "Respondent" means any person accused in a complaint
12 or amended complaint of an unfair practice in a real estate
13 transaction.

14 ~~((+24+))~~ (23) "Service animal" means ~~((an animal that is trained
15 for the purpose of assisting or accommodating a sensory, mental, or
16 physical disability of a person with a disability))~~ any dog that is
17 individually trained to do work or perform tasks for the benefit of an
18 individual with a disability, including a physical, sensory,
19 psychiatric, intellectual, or other mental disability. Other species
20 of animals, whether wild or domestic, trained or untrained, are not
21 service animals. The work or tasks performed by a service animal must
22 be directly related to the individual's disability. Examples of work
23 or tasks include, but are not limited to, assisting individuals who are
24 blind or have low vision with navigation and other tasks, alerting
25 individuals who are deaf or hard of hearing to the presence of people
26 or sounds, providing nonviolent protection or rescue work, pulling a
27 wheelchair, assisting an individual during a seizure, alerting
28 individuals to the presence of allergens, retrieving items such as
29 medicine or the telephone, providing physical support and assistance
30 with balance and stability to individuals with mobility disabilities,
31 and helping persons with psychiatric and neurological disabilities by
32 preventing or interrupting impulsive or destructive behaviors. The
33 crime deterrent effects of an animal's presence and the provision of
34 emotional support, well-being, comfort, or companionship do not
35 constitute work or tasks.

36 ~~((+25+))~~ (24) "Sex" means gender.

37 ~~((+26+))~~ (25) "Sexual orientation" means heterosexuality,
38 homosexuality, bisexuality, and gender expression or identity. As used

1 in this definition, "gender expression or identity" means having or
2 being perceived as having a gender identity, self-image, appearance,
3 behavior, or expression, whether or not that gender identity, self-
4 image, appearance, behavior, or expression is different from that
5 traditionally associated with the sex assigned to that person at birth.

6 **Sec. 3.** RCW 49.60.215 and 2009 c 164 s 2 are each amended to read
7 as follows:

8 (1) It shall be an unfair practice for any person or the person's
9 agent or employee to commit an act which directly or indirectly results
10 in any distinction, restriction, or discrimination, or the requiring of
11 any person to pay a larger sum than the uniform rates charged other
12 persons, or the refusing or withholding from any person the admission,
13 patronage, custom, presence, frequenting, dwelling, staying, or lodging
14 in any place of public resort, accommodation, assemblage, or amusement,
15 except for conditions and limitations established by law and applicable
16 to all persons, regardless of race, creed, color, national origin,
17 sexual orientation, sex, honorably discharged veteran or military
18 status, status as a mother breastfeeding her child, the presence of any
19 sensory, mental, or physical disability, or the use of a trained (~~dog~~
20 ~~guide~~ or) service animal by a person with a disability: PROVIDED,
21 That this section shall not be construed to require structural changes,
22 modifications, or additions to make any place accessible to a person
23 with a disability except as otherwise required by law: PROVIDED, That
24 behavior or actions constituting a risk to property or other persons
25 can be grounds for refusal and shall not constitute an unfair practice.

26 (2) For the purposes of this section, "public resort,
27 accommodation, assemblage, or amusement" includes, but is not limited
28 to, businesses where food for human consumption is sold or served.

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