

SHB 2307 - H AMD 603

By Representative Farrell

WITHDRAWN 02/04/2016

1 Strike everything after the enacting clause and insert the
2 following:

3

4 "Sec. 1. RCW 49.60.030 and 2009 c 164 s 1 are each amended to
5 read as follows:

6 (1) The right to be free from discrimination because of race,
7 creed, color, national origin, sex, honorably discharged veteran or
8 military status, sexual orientation, or the presence of any sensory,
9 mental, or physical disability or the use of a trained dog guide or
10 service animal by a person with a disability is recognized as and
11 declared to be a civil right. This right shall include, but not be
12 limited to:

13 (a) The right to obtain and hold employment without
14 discrimination;

15 (b) The right to the full enjoyment of any of the
16 accommodations, advantages, facilities, or privileges of any place
17 of public resort, accommodation, assemblage, or amusement;

18 (c) The right to engage in real estate transactions without
19 discrimination, including discrimination against families with
20 children;

21 (d) The right to engage in credit transactions without
22 discrimination;

23 (e) The right to engage in insurance transactions or
24 transactions with health maintenance organizations without
25 discrimination: PROVIDED, That a practice which is not unlawful
26 under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an
27 unfair practice for the purposes of this subparagraph;

1 (f) The right to engage in commerce free from any discriminatory
2 boycotts or blacklists. Discriminatory boycotts or blacklists for
3 purposes of this section shall be defined as the formation or
4 execution of any express or implied agreement, understanding, policy
5 or contractual arrangement for economic benefit between any persons
6 which is not specifically authorized by the laws of the United
7 States and which is required or imposed, either directly or
8 indirectly, overtly or covertly, by a foreign government or foreign
9 person in order to restrict, condition, prohibit, or interfere with
10 or in order to exclude any person or persons from any business
11 relationship on the basis of race, color, creed, religion, sex,
12 honorably discharged veteran or military status, sexual orientation,
13 the presence of any sensory, mental, or physical disability, or the
14 use of a trained dog guide or service animal by a person with a
15 disability, or national origin or lawful business relationship:
16 PROVIDED HOWEVER, That nothing herein contained shall prohibit the
17 use of boycotts as authorized by law pertaining to labor disputes
18 and unfair labor practices; (~~and~~)

19 (g) The right of a mother to breastfeed her child in any place
20 of public resort, accommodation, assemblage, or amusement; and

21 (h) The right to receive reasonable accommodation in employment
22 for pregnancy, childbirth, or pregnancy-related health conditions.

23 (2) Any person deeming himself or herself injured by any act in
24 violation of this chapter shall have a civil action in a court of
25 competent jurisdiction to enjoin further violations, or to recover
26 the actual damages sustained by the person, or both, together with
27 the cost of suit including reasonable attorneys' fees or any other
28 appropriate remedy authorized by this chapter or the United States
29 Civil Rights Act of 1964 as amended, or the Federal Fair Housing
30 Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.).

31 (3) Except for any unfair practice committed by an employer
32 against an employee or a prospective employee, or any unfair
33 practice in a real estate transaction which is the basis for relief
34 specified in the amendments to RCW 49.60.225 contained in chapter

1 69, Laws of 1993, any unfair practice prohibited by this chapter
2 which is committed in the course of trade or commerce as defined in
3 the Consumer Protection Act, chapter 19.86 RCW, is, for the purpose
4 of applying that chapter, a matter affecting the public interest, is
5 not reasonable in relation to the development and preservation of
6 business, and is an unfair or deceptive act in trade or commerce.

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8 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.60
9 RCW to read as follows:

10 (1) In addition to the unfair practices under RCW 49.60.180, it
11 is an unfair practice for any employer:

12 (a) To fail or refuse to make reasonable accommodation for an
13 employee for pregnancy, childbirth, or a pregnancy-related health
14 condition including, but not limited to, the need to express breast
15 milk, unless the employer can demonstrate that doing so would impose
16 an undue hardship on the employer's program, enterprise, or
17 business, subject to subsection (2) of this section;

18 (b) To take adverse action against an employee who requests or
19 uses an accommodation under this section that affects the terms,
20 conditions, or privileges of employment;

21 (c) To deny employment opportunities to an otherwise qualified
22 employee if such denial is based on the employer's need to make
23 reasonable accommodation required by this section;

24 (d) To require an employee to take leave if another reasonable
25 accommodation can be provided for the employee's pregnancy,
26 childbirth, or pregnancy-related health condition, unless the
27 employee declines to accept the accommodation offered in lieu of
28 taking leave; or

29 (e) To require an employee who is pregnant, has a condition
30 related to childbirth, or has a pregnancy-related health condition
31 to accept an accommodation that the person chooses not to accept.

32 (2)(a) Except as provided in (b) of this subsection, an employer
33 may request that the employee provide written certification from her
34 treating health care professional regarding the need for reasonable

1 accommodation if the need for reasonable accommodation is not
2 apparent to a reasonable person.

3 (b) An employer may not require an employee to provide written
4 certification, and the employer may not claim undue hardship, for
5 the following accommodations:

6 (i) Longer, more frequent, or flexible restroom, food, or water
7 breaks;

8 (ii) Seating;

9 (iii) Limits on lifting over twenty pounds; and

10 (iv) Flexible scheduling to accommodate for prenatal and
11 postnatal health care visits.

12 (3) For the purposes of this section, "reasonable accommodation"
13 means measures that enable the proper performance of the particular
14 job held or desired and enable the enjoyment of equal benefits,
15 privileges, or terms and conditions of employment. "Reasonable
16 accommodation" includes, but is not limited to:

17 (a) Allowing for time off to recover from childbirth;

18 (b) Acquiring or modifying equipment or an employee's work
19 station;

20 (c) Providing for a temporary transfer to a less strenuous or
21 less hazardous position;

22 (d) Providing assistance with manual labor; and

23 (e) Modifying work schedules.

24 (4)(a) This section does not require an employer to create
25 additional employment that the employer would not otherwise have
26 created, unless the employer does so or would do so for other
27 classes of employees who need accommodation.

28 (b) This section does not require an employer to discharge any
29 employee, transfer any employee with more seniority, or promote any
30 employee who is not qualified to perform the job, unless the
31 employer does so or would do so to accommodate other classes of
32 employees who need accommodation.

33 (5) This section does not preempt, limit, diminish, or otherwise
34 affect any other provision of law relating to sex discrimination or

1 pregnancy, or in any way diminish or limit the coverage for a
2 condition related to pregnancy, childbirth, or a pregnancy-related
3 health condition.

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5 **Sec. 3.** RCW 49.60.180 and 2007 c 187 s 9 are each amended to
6 read as follows:

7 It is an unfair practice for any employer:

8 (1) To refuse to hire any person because of age, sex, marital
9 status, sexual orientation, race, creed, color, national origin,
10 honorably discharged veteran or military status, or the presence of
11 any sensory, mental, or physical disability or the use of a trained
12 dog guide or service animal by a person with a disability, unless
13 based upon a bona fide occupational qualification: PROVIDED, That
14 the prohibition against discrimination because of such disability
15 shall not apply if the particular disability prevents the proper
16 performance of the particular worker involved: PROVIDED, That this
17 section shall not be construed to require an employer to establish
18 employment goals or quotas based on sexual orientation.

19 (2) To discharge or bar any person from employment because of
20 age, sex, marital status, sexual orientation, race, creed, color,
21 national origin, honorably discharged veteran or military status, or
22 the presence of any sensory, mental, or physical disability or the
23 use of a trained dog guide or service animal by a person with a
24 disability.

25 (3) To discriminate against any person in compensation or in
26 other terms or conditions of employment because of age, sex, marital
27 status, sexual orientation, race, creed, color, national origin,
28 honorably discharged veteran or military status, or the presence of
29 any sensory, mental, or physical disability or the use of a trained
30 dog guide or service animal by a person with a disability: PROVIDED,
31 That it shall not be an unfair practice for an employer to segregate
32 washrooms or locker facilities on the basis of sex, or to base other
33 terms and conditions of employment on the sex of employees where the
34 commission by regulation or ruling in a particular instance has

1 found the employment practice to be appropriate for the practical
2 realization of equality of opportunity between the sexes.

3 (4) To print, or circulate, or cause to be printed or circulated
4 any statement, advertisement, or publication, or to use any form of
5 application for employment, or to make any inquiry in connection
6 with prospective employment, which expresses any limitation,
7 specification, or discrimination as to age, sex, marital status,
8 sexual orientation, race, creed, color, national origin, honorably
9 discharged veteran or military status, or the presence of any
10 sensory, mental, or physical disability or the use of a trained dog
11 guide or service animal by a person with a disability, or any intent
12 to make any such limitation, specification, or discrimination,
13 unless based upon a bona fide occupational qualification: PROVIDED,
14 Nothing contained herein shall prohibit advertising in a foreign
15 language.

16 (5) To violate any provision of section 2 of this act."

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EFFECT: (1) Provides that an employer may request an employee
to provide written certification from her treating health care
professional regarding the need for reasonable accommodation if the
need for reasonable accommodation is not apparent to a reasonable
person; (2) Provides that the employer may not require written
certification, and may not claim undue hardship, for the following
accommodations:

- longer, more frequent or flexible restroom, food, or water
breaks;
- seating;
- limits on lifting over 20 pounds; and
- flexible scheduling to accommodate prenatal and postnatal health
care visits.

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