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**SENATE BILL 5226**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Kuderer, Conway, and Keiser

AN ACT Relating to the off-duty conduct of an employee or a prospective employee; and adding a new section to chapter 49.60 RCW.

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

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

(1) Except as provided in subsections (2) through (4) of this section, it is an unfair practice for any employer to fail or refuse to hire an individual; to discharge or bar any person from employment; or to discriminate against any person in compensation or in other terms or conditions of employment, because the prospective employee or the employee participates in or has participated in any activity lawful under state law or activity in furtherance of the exercise of the employee's constitutional rights of free speech, peaceful assembly, or any other rights guaranteed by the first amendment of the Constitution of the United States or Article I, section 5 of the Washington state Constitution for a public employer, if the activity occurs off the premises of the employer during nonworking hours.

(2) It is not a violation of subsection (1) of this section for an employer to restrict an employee's participation in activities during nonworking hours if the employer's restriction:

(a)(i) Relates to a bona fide occupational requirement, or (ii) is reasonably and rationally related to the employment activities and responsibilities of a particular employee or a particular group of employees, rather than to all employees of the employer; or

(b) Is necessary to avoid a conflict of interest with any responsibilities to the employer or the appearance of such a conflict of interest.

(3) Subsection (1) of this section does not apply to any employer that is a nonprofit organization with a primary purpose or objective that conflicts with the employee's participation in an activity otherwise protected under subsection (1) of this section.

(4) This section does not apply to a general or limited authority Washington law enforcement agency as defined in RCW 10.93.020 or a criminal justice agency as defined in RCW 10.97.030.

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