

**SHB 1795** - H AMD **867**

By Representative Mosbrucker

**NOT ADOPTED 02/09/2022**

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

3 "Sec. 1. RCW 49.44.210 and 2018 c 117 s 1 are each amended to  
4 read as follows:

5 (1) Except for settlement agreements under subsection (4) of  
6 this section, an employer may not require an employee, as a  
7 condition of employment, to sign a nondisclosure agreement, waiver,  
8 or other document that prevents the employee from disclosing  
9 harassment, discrimination, sexual harassment, or sexual assault  
10 occurring in the workplace, at work-related events coordinated by or  
11 through the employer, (~~(or)~~) between employees, or between an  
12 employer and an employee(~~(s)~~) off the employment premises.

13 (2) Except for settlement agreements under subsection (4) of  
14 this section, any nondisclosure agreement, waiver, or other document  
15 signed by an employee as a condition of employment that has the  
16 purpose or effect of preventing the employee from disclosing or  
17 discussing harassment, discrimination, sexual harassment, or sexual  
18 assault occurring in the workplace, at work-related events  
19 coordinated by or through the employer, (~~(or)~~) between employees, or  
20 between an employer and an employee(~~(s)~~) off the employment premises  
21 is against public policy and is void and unenforceable.

22 (3) It is an unfair practice under chapter 49.60 RCW for an  
23 employer to discharge or otherwise retaliate against an employee for  
24 disclosing or discussing harassment, discrimination, sexual  
25 harassment, or sexual assault occurring in the workplace, at work-  
26 related events coordinated by or through the employer, (~~(or)~~)  
27

1 between employees, or between an employer and an employee((7)) off  
2 the employment premises.

3 (4) This section does not prohibit a settlement agreement  
4 between an employee or former employee alleging sexual harassment  
5 and an employer from containing confidentiality provisions.

6 (5) For the purposes of this section:

7 (a) "Sexual assault" means any type of sexual contact or  
8 behavior that occurs without the explicit consent of the recipient.

9 (b) "Sexual contact" has the same meaning as in RCW 9A.44.010.

10 (c) "Sexual harassment" has the same meaning as in RCW 28A.  
11 640.020.

12 (d) "Employee" does not include human resources staff,  
13 supervisors, or managers when they are expected to maintain  
14 confidentiality as part of their assigned job duties. It also does  
15 not include individuals who are notified and asked to participate in  
16 an open and ongoing investigation into alleged sexual harassment and  
17 requested to maintain confidentiality during the pendency of that  
18 investigation.

19 (e) "Harassment" has the same meaning as in RCW 9A.46.020.

20 (f) "Discrimination" means employment discrimination prohibited  
21 by chapter 49.60 RCW."

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23 Correct the title.

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EFFECT: Strikes the underlying bill and instead adds harassment  
and discrimination to the existing statute on nondisclosure of  
sexual harassment and sexual assault.

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