
SUBSTITUTE HOUSE BILL 2307

State of Washington

64th Legislature

2016 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Farrell, Senn, Riccelli, Appleton, Wylie, Robinson, Tarleton, Goodman, Ormsby, Tharinger, Gregerson, Pollet, Sullivan, Stanford, Jinkins, Kuderer, Ortiz-Self, S. Hunt, Blake, Lytton, Kilduff, Fitzgibbon, Kagi, Sells, Reykdal, Walkinshaw, Rossetti, Sawyer, Orwall, Peterson, Van De Wege, McBride, Kirby, Fey, Santos, Cody, Hudgins, Bergquist, Moscoso, and Frame)

1 AN ACT Relating to providing reasonable accommodations in the
2 workplace for pregnant women; amending RCW 49.60.030 and 49.60.180;
3 and adding a new section to chapter 49.60 RCW.

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

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

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

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

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

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

1 (d) The right to engage in credit transactions without
2 discrimination;

3 (e) The right to engage in insurance transactions or transactions
4 with health maintenance organizations without discrimination:
5 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
6 48.44.220, or 48.46.370 does not constitute an unfair practice for
7 the purposes of this subparagraph;

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

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

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

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

38 (3) Except for any unfair practice committed by an employer
39 against an employee or a prospective employee, or any unfair practice
40 in a real estate transaction which is the basis for relief specified

1 in the amendments to RCW 49.60.225 contained in chapter 69, Laws of
2 1993, any unfair practice prohibited by this chapter which is
3 committed in the course of trade or commerce as defined in the
4 Consumer Protection Act, chapter 19.86 RCW, is, for the purpose of
5 applying that chapter, a matter affecting the public interest, is not
6 reasonable in relation to the development and preservation of
7 business, and is an unfair or deceptive act in trade or commerce.

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 business;

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

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

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

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

31 (2) For the purposes of this section, "reasonable accommodation"
32 means measures that enable the proper performance of the particular
33 job held or desired and enable the enjoyment of equal benefits,
34 privileges, or terms and conditions of employment. "Reasonable
35 accommodation" includes, but is not limited to:

36 (a) Providing more frequent, longer, or flexible restroom breaks;

37 (b) Modifying a no food or drink policy;

38 (c) Allowing for time off to recover from childbirth;

1 (d) Acquiring or modifying equipment or an employee's work
2 station;

3 (e) Providing seating or allowing the employee to sit more
4 frequently if her job requires her to stand;

5 (f) Providing for a temporary transfer to a less strenuous or
6 less hazardous position;

7 (g) Providing assistance with manual labor; and

8 (h) Modifying work schedules.

9 (3)(a) This section does not require an employer to create
10 additional employment that the employer would not otherwise have
11 created, unless the employer does so or would do so for other classes
12 of employees who need accommodation.

13 (b) This section does not require an employer to discharge any
14 employee, transfer any employee with more seniority, or promote any
15 employee who is not qualified to perform the job, unless the employer
16 does so or would do so to accommodate other classes of employees who
17 need accommodation.

18 (4) This section does not preempt, limit, diminish, or otherwise
19 affect any other provision of law relating to sex discrimination or
20 pregnancy, or in any way diminish or limit the coverage for a
21 condition related to pregnancy, childbirth, or a pregnancy-related
22 health condition.

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

25 It is an unfair practice for any employer:

26 (1) To refuse to hire any person 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, unless
31 based upon a bona fide occupational qualification: PROVIDED, That the
32 prohibition against discrimination because of such disability shall
33 not apply if the particular disability prevents the proper
34 performance of the particular worker involved: PROVIDED, That this
35 section shall not be construed to require an employer to establish
36 employment goals or quotas based on sexual orientation.

37 (2) To discharge or bar any person from employment because of
38 age, sex, marital status, sexual orientation, race, creed, color,
39 national origin, honorably discharged veteran or military status, or

1 the presence of any sensory, mental, or physical disability or the
2 use of a trained dog guide or service animal by a person with a
3 disability.

4 (3) To discriminate against any person in compensation or in
5 other terms or conditions of employment because of age, sex, marital
6 status, sexual orientation, race, creed, color, national origin,
7 honorably discharged veteran or military status, or the presence of
8 any sensory, mental, or physical disability or the use of a trained
9 dog guide or service animal by a person with a disability: PROVIDED,
10 That it shall not be an unfair practice for an employer to segregate
11 washrooms or locker facilities on the basis of sex, or to base other
12 terms and conditions of employment on the sex of employees where the
13 commission by regulation or ruling in a particular instance has found
14 the employment practice to be appropriate for the practical
15 realization of equality of opportunity between the sexes.

16 (4) To print, or circulate, or cause to be printed or circulated
17 any statement, advertisement, or publication, or to use any form of
18 application for employment, or to make any inquiry in connection with
19 prospective employment, which expresses any limitation,
20 specification, or discrimination as to age, sex, marital status,
21 sexual orientation, race, creed, color, national origin, honorably
22 discharged veteran or military status, or the presence of any
23 sensory, mental, or physical disability or the use of a trained dog
24 guide or service animal by a person with a disability, or any intent
25 to make any such limitation, specification, or discrimination, unless
26 based upon a bona fide occupational qualification: PROVIDED, Nothing
27 contained herein shall prohibit advertising in a foreign language.

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

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