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**SENATE BILL 5226**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senator Kuderer

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

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.60  
5 RCW to read as follows:

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

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

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

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

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

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

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