



**CITY OF STANWOOD  
CITY COUNCIL  
FINANCE COMMITTEE STAFF REPORT**

<b>SUBJECT: Job Protected Family Leave Laws</b>	<b>FOR AGENDA OF: April 25, 2013</b>  <b>DEPARTMENT OF ORIGIN: Finance</b>  <b>DATE SUBMITTED: April 23, 2013</b>
<b>ATTACHMENT(S):</b>  <b>Attachment A – Proposed Language Change to the Personnel Policy Manual</b>  <b>Attachment B – Washington State Department of Labor &amp; Industries Job Protected Family Leave Laws</b>  <b>Attachment C – Chapter 49.60 RCW – Washington Law Against Discrimination</b>	<b>CLEARANCES: (check box)</b> <input type="checkbox"/> City Attorney _____ <input type="checkbox"/> City Clerk/HR _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Fire _____ <input type="checkbox"/> Finance _____ <input type="checkbox"/> Police _____ <input type="checkbox"/> Public Works _____  <b>APPROVED FOR SUBMITTAL BY THE CITY ADMINISTRATOR: _____</b>
<b>COST OF PROPOSAL: N/A</b>	<b>AMOUNT BUDGETED: N/A</b>

**ISSUE**

Whether the City’s current Personnel Policy Manual, adopted by Council on May 28, 2009 fully complies with the Washington Law Against Discrimination and other applicable job protected leave laws.

**SUMMARY STATEMENT**

The proposed personnel policy language changes have been reviewed and approved by the City Attorney to ensure that they comply with federal and state laws. If the Finance Committee concurs, this proposed change will be brought back to full Council on May 9<sup>th</sup> in the form of a resolution for its consideration and approval.

The City received a request from an employee for two (2) weeks of sick leave to care for his spouse following the birth of their first child. City staff checked the personnel

policies and found the City's policies didn't address the requirement under the Family Care Act (RCW 49.12.265 and WAC 296.130) to allow sick leave for the short term care of a pregnant spouse or registered domestic partner, during or after childbirth for such period of time as determined by the healthcare provider based on the spouse's/domestic partner's condition.

### **DISCUSSION**

City staff recommend adding a new subsection (6) to Section 902 – Sick Leave, as follows:

6. Pursuant to the Family Care Act, in addition to vacation leave, holiday leave and compensatory time, an employee may use sick leave for the short term care of a pregnant spouse or registered domestic partner, during or after childbirth for such period of time as determined by healthcare provider based on said spouse's/domestic partner's condition.

### **FISCAL IMPACT**

None.

### **RECOMMENDATION**

Recommend Council adopt a resolution to amend the City's personnel policy to include language that addresses this issue as set forth in Attachment A.

## 902 Sick Leave

All full-time regular employees accrue sick leave benefits at the rate of one workday for each calendar month of continuous employment. Regular part-time employees may accrue sick leave benefits on a pro-rata basis according to hours worked. Temporary employees do not earn sick leave benefits. Employees do not accrue sick leave benefits during a leave without pay. Sick leave shall not be accrued above a six hundred and forty (640) hour (80 day) maximum.

### *Allowable Uses of Sick Leave*

Sick leave covers those situations in which an employee is absent from work due to:

1. Employee's own health condition (illness, injury, physical or mental disability, including disability due to pregnancy or childbirth);
2. The need to care for a dependent child whose condition requires treatment or supervision.
3. The need to care for a spouse, parent, parent-in-law, or grandparent with a serious medical condition or an emergency condition.

Medical or dental appointments for the employee or dependent child provided that the employee must make a reasonable effort to schedule such appointments at times which have the least interference with the work day;

4. Exposure to a contagious disease where on the job presence of the employee would jeopardize the health of others;
5. Use of a prescription drug which impairs job performance or safety;

6. Pursuant to the Family Care Act, in addition to vacation leave, holiday leave and compensatory time, an employee may use sick leave for the short term care of a pregnant spouse or registered domestic partner, during or after childbirth for such period of time as determined by healthcare provider based on said spouse's/domestic partner's condition.

A doctor's certificate may be required when an employee requests sick leave or returns to work.

Employees may be sent home and be required to use sick leave if a Department Head or designee, or the City Administrator, determines that an employee's performance is negatively affected by their health conditions.

Employees will be paid thirty-three percent (33%) for unused sick leave only upon their retirement from the City, or death.



Job Protected Family Leave Laws August 2010

State Laws – Labor and Industries

Family Care Act (RCW 49.12.265; WAC 296-130)

- Can use paid leave, such as sick leave, vacation, holiday, PTO, and some short-term disability plans
- Use paid leave to care for sick family members: spouse, registered domestic partner, child, parent, parent-in-law, grandparent with a serious health condition
- Includes care of a child <18 with a routine childhood illness or needed preventative care; also for disability of an adult child
- Includes short-term care of pregnant spouse or registered domestic partner, during or after childbirth, as needed
- All employers who provide a paid leave benefit

Add new 902 (6) Sick leave to include short-term care pregnant spouse

doesn't apply

Family Leave Act (FLA) (RCW 49.78)

- At this time, L&I enforces only the additional leave benefits for women who are pregnant, leave for registered domestic partners, or Family Leave that remains after FMLA has been exhausted for an exigent deployment reason or as a military caregiver.
- Those elements that are identical to FMLA will be enforced by US Department of Labor
- Covers employers with ≥ 50 employees within 75 mile radius, in Washington State
  - employees with 1,250 hours in past 12 months
- Is typically unpaid leave unless employer policy covers employee for paid leave
- FLA – In the case of a pregnancy the 12 weeks of FLA is in addition to any pregnancy disability leave.
  - pregnancy disability leave is typically 6-8 weeks → determined by healthcare provider based on individual's condition
  - could include period of time before childbirth
  - see Human Rights Commission (they have jurisdiction over pregnancy disability leave)

Leave for Victims of Domestic Violence, Sexual Assault, & Stalking (RCW 49.76)

- Victims of domestic violence, sexual assault or stalking
  - to take reasonable leave from work for legal or law-enforcement assistance, medical treatment or counseling work with a domestic violence shelter or rape crisis program, or for safety and relocation issues.
- Family members may also take reasonable leave to help a victim obtain needed treatment or services.
- Leave is with or without pay (unless the employee has paid leave to substitute for the unpaid leave).
- Family member includes child, spouse, parent, parent-in-law, grandparent, or person the employee is dating.
- All employers, public and private, are covered regardless of size.
- An employee must give advance notice, when possible – but in an emergency they must give notice no later than the end of the first day of the leave.

Attachment B

Leave for Spouses of Deployed Military Personnel (RCW 49.77)

- Spouses or registered domestic partners of military personnel (National Guard, active duty, or reservists) deployed or on leave from deployment during times of military conflict may take 15 days unpaid leave from work per deployment.
  - This leave does not apply at the end of a deployment.
- Leave is without pay, but accrued leave may be substituted at the choice of the employee.
- All employers, public and private, are covered, regardless of size.
- An employee is one who works on average  $\geq 20$  hours a week.

See web page: [www.lni.wa.gov/WorkplaceRights/LeaveBenefits/FamilyCare](http://www.lni.wa.gov/WorkplaceRights/LeaveBenefits/FamilyCare)

Leave for Certain Emergency Services Personnel – RCW 49.12.460

Provides for job protection for volunteer firefighters, reserve peace officers, and Civil Air Patrol members if:

- They get called to a fire, an emergency, or an emergency services operation and
- They are asked to remain on the scene by the incident commander, and
- They miss work or are late for work
- Violations of the law must be reported within 90 days of occurrence.

(Note: volunteer firefighters are only covered if they get call to an emergency call or fire scene while they are away from their jobs)

**Other State Law – Washington State Human Rights Commission (1-800-233-3247)**

Protection from Discrimination (RCW 49.60; WAC 162-30)

- Covers employers with  $\geq 8$  employees that are not religious non-profit organizations.
- Pregnancy Disability Leave – this is the leave from work ordered off by the attending health care provider for a temporary disability created by the pregnancy and childbirth.

See web page: [Human Rights Commission](#)

**Other Federal Law - Family Medical and Leave Act [FMLA] – U.S. Department of Labor (1-866-487-9243)**

- Employers with  $\geq 50$  employees within 75 mile radius; employees with 1,250 hours in past year.
- Unpaid leave – 12 weeks care of self or family member with serious health condition: includes spouse, child, or parent.

See web page: [U. S. Department of Labor](#)

State Laws	Jurisdiction	Paid Leave [sick, vacation, holiday, disability]	Unpaid Leave	Family Members Covered	Leave Allowed	Employer-Employee Criteria
Family Care Act	Labor and Industries (L&I) <u>RCW 49.12.265</u> <u>WAC 296-130</u>	X		Child, spouse, registered domestic partner, parent-in- parent, parent-in- law, grandparent	Use of paid leave for care of a sick family member	No size requirement; Employee must have a paid leave benefit
Family Leave Act <i>superseded by the FMLA where identical</i>	L&I <u>RCW 49.78</u>	X May substitute earned paid leave or employer may force the use of earned paid leave	X At present, applies to additional leave for pregnant employees or registered domestic partners	Child, parent, spouse or registered domestic partner	The state FLA is in addition to pregnancy disability leave.	≥ 50 employees in 75 miles If employee worked 1,250 hours in previous 12 months
Leave for Victims or Family Members of Victims of Domestic Violence, Sexual Assault, or Stalking	L&I <u>RCW 49.76</u>	X Leave is normally unpaid but employee may choose to substitute earned paid leave	X Reasonable leave for one of five specific purposes	child, spouse, parent, parent-in- law, grandparent, or person the employee is dating	For legal, or law legal or law enforcement assistance, medical treatment, counseling, work with victim advocate, safety, or relocation	All employers and employees; no eligibility requirements
Leave for Spouses of Military Personnel	L&I <u>RCW 49.77</u>	X Employees choice to use earned paid leave	X Allowed 15 days per deployment	Spouse of all military personnel	Allows for leave prior to deployment or when spouse on leave from deployment	All employers; Employees working ≥ 20 hours a week
Leave for Certain Emergency Services Personnel	L&I <u>RCW 49.12.460</u>		X unpaid	Self	Allows for late arrival or missed work	All employers and any employee who is a volunteer firefighter, a reserve peace officer, or a Civil Air Patrol member

Attachment C



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[RCWs](#) > [Title 49](#) > [Chapter 49.60](#)

## Chapter 49.60 RCW DISCRIMINATION — HUMAN RIGHTS COMMISSION

[Chapter Listing](#) | [RCW Dispositions](#)

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- [49.60.010](#) Purpose of chapter.
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- [49.60.130](#) May create advisory agencies and conciliation councils.
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- [49.60.170](#) Witness fees -- Deposition fees.
- [49.60.172](#) Unfair practices with respect to HIV or hepatitis C infection.
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- [49.60.175](#) Unfair practices of financial institutions.
- [49.60.176](#) Unfair practices with respect to credit transactions.
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- practice -- Retaliation against whistleblower.
- 49.60.215 Unfair practices of places of public resort, accommodation, assemblage, amusement -- Trained dog guides and service animals.
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- 49.60.220 Unfair practice to aid violation.
- 49.60.222 Unfair practices with respect to real estate transactions, facilities, or services.
- 49.60.223 Unfair practice to induce sale or rental of real property by representations regarding entry into neighborhood of persons of particular race, disability, etc.
- 49.60.2235 Unfair practice to coerce, intimidate, threaten, or interfere regarding secured real estate transaction rights.
- 49.60.224 Real property contract provisions restricting conveyance, encumbrance, occupancy, or use to persons of particular race, disability, etc., void -- Unfair practice.
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- 49.60.310 Misdemeanor to interfere with or resist commission.
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- 49.60.360 Refueling services for disabled drivers -- Violation -- Investigation -- Intentional display of plate or placard invalid or not legally issued prohibited -- Fine -- Notice to disabled persons.
- 49.60.370 Liability for killing or injuring dog guide or service animal -- Penalty in addition to other remedies or penalties -- Recovery of attorneys' fees and costs--No duty to investigate.
- 49.60.380 License waiver for dog guide and service animals.
- 49.60.390 Rule-making authority--Deadline--1997 c 271.
- 49.60.400 Discrimination, preferential treatment prohibited.
- 49.60.401 Short title -- 1999 c 3.

49.60.500 Community athletics programs -- Sex discrimination prohibited -- Definitions.

49.60.505 Community athletics programs -- Nondiscrimination policy required.

**Notes:**

Annual report on programs to reduce racial disproportionality: RCW 13.06.050.

Application forms -- Licenses -- Mention of race or religion prohibited -- Penalty: RCW 43.01.100.

Denial of civil rights: RCW 9.91.010.

Dog guide or service animal, interfering with: RCW 9.91.170.

Gender equality in higher education: Chapter 28B.110 RCW.

Individuals with disabilities, discrimination in public employment prohibited: RCW 70.84.080.

Interscholar athletic and other extracurricular activities for students, discrimination prohibited: RCW 28A.600.200.

Malicious harassment because of a person's race, color, religion, ancestry, or national origin -- Criminal penalty -- Civil cause of action: RCW 9A.36.080.

Militia, organized, discrimination prohibited: RCW 38.40.110.

Sexual equality: State Constitution Art. 31 §§ 1, 2 (Amendment 61).

Sexual equality mandated for public schools: Chapter 28A.640 RCW.

Unfit buildings, discrimination prohibited: RCW 35.80.040.

**49.60.010**

**Purpose of chapter.**

This chapter shall be known as the "law against discrimination." It is an exercise of the police power of the state for the protection of the public welfare, health, and peace of the people of this state, and in fulfillment of the provisions of the Constitution of this state concerning civil rights. The legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability are a matter of state concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. A state agency is herein created with powers with respect to elimination and prevention of discrimination in employment, in credit and insurance transactions, in places of public resort, accommodation, or amusement, and in real property transactions because of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

[2007 c 187 § 1; 2006 c 4 § 1; 1997 c 271 § 1; 1995 c 259 § 1; 1993 c 510 § 1; 1985 c 185 § 1; 1973 1st ex.s. c 214 § 1; 1973 c 141 § 1; 1969 ex.s. c 167 § 1; 1957 c 37 § 1; 1949 c 183 § 1; Rem. Supp. 1949 § 7614-20.]

**Notes:**

**Effective date -- 1995 c 259:** "This act is necessary for the immediate

preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 259 § 7.]

**Severability -- 1993 c 510:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 510 § 26.]

**Severability -- 1969 ex.s. c 167:** "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 167 § 10.]

**Severability -- 1957 c 37:** "If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the remainder of such act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby." [1957 c 37 § 27.]

**Severability -- 1949 c 183:** "If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the remainder of such act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby." [1949 c 183 § 13.]

Community renewal law -- Discrimination prohibited: RCW [35.81.170](#).

#### **49.60.020**

##### **Construction of chapter — Election of other remedies.**

The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of any other law of this state relating to discrimination because of race, color, creed, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability, other than a law which purports to require or permit doing any act which is an unfair practice under this chapter. Nor shall anything herein contained be construed to deny the right to any person to institute any action or pursue any civil or criminal remedy based upon an alleged violation of his or her civil rights. This chapter shall not be construed to endorse any specific belief, practice, behavior, or orientation. Inclusion of sexual orientation in this chapter shall not be construed to modify or supersede state law relating to marriage.

[2007 c 187 § 2; 2006 c 4 § 2; 1993 c 510 § 2; 1973 1st ex.s. c 214 § 2; 1973 c 141 § 2; 1957 c 37 § 2; 1949 c 183 § 12; Rem. Supp. 1949 § 7614-30.]

##### **Notes:**

**Severability -- 1993 c 510:** See note following RCW [49.60.010](#).

#### **49.60.030**

##### **Freedom from discrimination — Declaration of civil rights.**

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

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

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

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

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

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

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

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

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

(3) Except for any unfair practice committed by an employer against an employee or a prospective employee, or any unfair practice in a real estate transaction which is the basis for relief specified in the amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any unfair practice prohibited by this chapter which is committed in the course of trade or commerce as defined in the Consumer Protection Act, chapter 19.86 RCW, is, for the purpose of applying that chapter, a matter affecting the public interest, is not reasonable in relation to the development and preservation of business, and is an unfair or deceptive act in trade or commerce.

[2009 c 164 § 1; 2007 c 187 § 3; 2006 c 4 § 3; 1997 c 271 § 2; 1995 c 135 § 3. Prior: 1993 c 510 § 3; 1993 c 69 § 1; 1984 c 32 § 2; 1979 c 127 § 2; 1977 ex.s. c 192 § 1; 1974 ex.s. c 32 § 1; 1973 1st ex.s. c 214 § 3; 1973 c 141 § 3; 1969 ex.s. c 167 § 2; 1957 c 37 § 3; 1949 c 183 § 2; Rem. Supp. 1949 § 7614-21.]

**Notes:**

**Intent -- 1995 c 135:** See note following RCW 29A.08.760.

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

**Severability -- 1993 c 69:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 69 § 17.]

**Severability -- 1969 ex.s. c 167:** See note following RCW 49.60.010.

**Severability -- 1957 c 37:** See note following RCW 49.60.010.

**Severability -- 1949 c 183:** See note following RCW 49.60.010.

**49.60.040****Definitions.**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur.

(2) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution.

(3) "Commission" means the Washington state human rights commission.

(4) "Complainant" means the person who files a complaint in a real estate transaction.

(5) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units.

(6) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred.

(7)(a) "Disability" means the presence of a sensory, mental, or physical impairment that:

(i) Is medically cognizable or diagnosable; or

(ii) Exists as a record or history; or

(iii) Is perceived to exist whether or not it exists in fact.

(b) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

(c) For purposes of this definition, "impairment" includes, but is not limited to:

(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive,

genitor-urinary, hemic and lymphatic, skin, and endocrine; or

(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(d) Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:

(i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or

(ii) The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

(e) For purposes of (d) of this subsection, a limitation is not substantial if it has only a trivial effect.

(8) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons.

(9) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(10) "Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person.

(11) "Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit.

(12) "Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer.

(13) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.

(14) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual orientation, national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, to be treated as not welcome, accepted, desired, or solicited.

(15) "Honorably discharged veteran or military status" means a person who is:

(a) A veteran, as defined in RCW 41.04.007; or

(b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

(16) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(17) "Marital status" means the legal status of being married, single, separated, divorced, or widowed.

(18) "National origin" includes "ancestry."

(19) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof.

(20) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building.

(21) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services.

(22) "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

(23) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction.

(24) "Service animal" means an animal that is trained for the purpose of assisting or accommodating a sensory, mental, or physical disability of a person with a disability.

(25) "Sex" means gender.

(26) "Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

[2009 c 187 § 3; Prior: 2007 c 317 § 2; 2007 c 187 § 4; 2006 c 4 § 4; 1997 c 271 § 3; 1995 c 259 § 2; prior: 1993 c 510 § 4; 1993 c 69 § 3; prior: 1985 c 203 § 2; 1985 c 185 § 2; 1979 c 127 § 3; 1973 c 141 § 4; 1969 ex.s. c 167 § 3; 1961 c 103 § 1; 1957 c 37 § 4; 1949 c 183 § 3; Rem. Supp. 1949 § 7614-22.]

**Notes:**

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

**Finding -- 2007 c 317:** "The legislature finds that the supreme court, in its opinion in *McClarty v. Totem Electric*, 157 Wn.2d 214, 137 P.3d 844 (2006), failed to recognize that the law against discrimination affords to state residents protections that are wholly independent of those afforded by the federal Americans with disabilities act of 1990, and that the law against discrimination has provided such protections for many years prior to passage of the federal act." [2007 c 317 § 1.]

**Retroactive application -- 2007 c 317:** "This act is remedial and retroactive, and applies to all causes of action occurring before July 6, 2006, and to all causes of action occurring on or after July 22, 2007." [2007 c 317 § 3.]

**Effective date -- 1995 c 259:** See note following RCW 49.60.010.

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

**Severability -- 1993 c 69:** See note following RCW 49.60.030.

**Severability -- 1969 ex.s. c 167:** See note following RCW 49.60.010.

**Construction -- 1961 c 103:** "Nothing herein shall be construed to render any person or corporation liable for breach of preexisting contracts by reason of compliance by such person or corporation with this act." [1961 c 103 § 4.]

**Severability -- 1957 c 37:** See note following RCW 49.60.010.

**Severability -- 1949 c 183:** See note following RCW 49.60.010.

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#### **49.60.050**

##### **Commission created.**

There is created the "Washington state human rights commission," which shall be composed of five members to be appointed by the governor with the advice and consent of the senate, one of whom shall be designated as chairperson by the governor.

[1985 c 185 § 3; 1981 c 338 § 9; 1957 c 37 § 5; 1955 c 270 § 2. Prior: 1949 c 183 § 4, part; Rem. Supp. 1949 § 7614-23, part.]

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#### **49.60.051**

##### **Board name changed to Washington State Human Rights Commission.**

From and after August 9, 1971 the "Washington State Board Against Discrimination" shall be known and designated as the "Washington State Human Rights Commission".

[1971 ex.s. c 52 § 2.]

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#### **49.60.060**

##### **Membership of commission.**

One of the original members of the commission shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom the individual succeeds.

A member shall be eligible for reappointment.

A vacancy in the commission shall be filled within thirty days, the remaining members to exercise all powers of the commission.

Any member of the commission may be removed by the governor for inefficiency, neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard thereon.

[1985 c 185 § 4; 1955 c 270 § 3. Prior: 1949 c 183 § 4, part; Rem. Supp. 1949 § 7614-23, part.]

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#### **49.60.070**

##### **Compensation and reimbursement for travel expenses of commission members.**

Each member of the commission shall be compensated in accordance with RCW 43.03.250

and, while in session or on official business, shall receive reimbursement for travel expenses incurred during such time in accordance with RCW 43.03.050 and 43.03.060.

[1985 c 185 § 5; 1984 c 287 § 98; 1975-'76 2nd ex.s. c 34 § 145; 1955 c 270 § 4. Prior: 1949 c 183 § 4, part; Rem. Supp. 1949 § 7614-23, part.]

**Notes:**

**Legislative findings -- Severability -- Effective date -- 1984 c 287:** See notes following RCW 43.03.220.

**Effective date -- Severability -- 1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

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#### **49.60.080**

##### **Official seal.**

The commission shall adopt an official seal, which shall be judicially noticed.

[1985 c 185 § 6; 1955 c 270 § 5. Prior: (i) 1949 c 183 § 4, part; Rem. Supp. 1949 § 7614-23, part. (ii) 1949 c 183 § 6, part; Rem. Supp. 1949 § 7614-25, part.]

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#### **49.60.090**

##### **Offices of commission.**

The principal office of the commission shall be in the city of Olympia, but it may meet and exercise any or all of its powers at any other place in the state, and may establish such district offices as it deems necessary.

[1985 c 185 § 7; 1957 c 37 § 6; 1955 c 270 § 6. Prior: (i) 1949 c 183 § 4, part; Rem. Supp. 1949 § 7614-23, part. (ii) 1949 c 183 § 6, part; Rem. Supp. 1949 § 7614-25, part.]

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#### **49.60.100**

##### **Reports of commission.**

Subject to RCW 40.07.040, the commission, each biennium, shall report to the governor, describing the investigations, proceedings, and hearings it has conducted and their outcome, the decisions it has rendered, the recommendations it has issued, and the other work performed by it, and shall make such recommendations for further legislation as may appear desirable. The commission may present its reports to the legislature; the commission's reports shall be made available upon request.

[1987 c 505 § 55; 1985 c 185 § 8; 1977 c 75 § 74; 1955 c 270 § 7. Prior: 1949 c 183 § 4, part; Rem. Supp. 1949 § 7614-23, part.]

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#### **49.60.110**

##### **Commission to formulate policies.**

The commission shall formulate policies to effectuate the purposes of this chapter and may make recommendations to agencies and officers of the state or local subdivisions of government in aid of such policies and purposes.

[1985 c 185 § 9; 1949 c 183 § 5; Rem. Supp. 1949 § 7614-24.]

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### **49.60.120**

#### **Certain powers and duties of commission.**

The commission shall have the functions, powers, and duties:

- (1) To appoint an executive director and chief examiner, and such investigators, examiners, clerks, and other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.
- (2) To obtain upon request and utilize the services of all governmental departments and agencies.
- (3) To adopt, amend, and rescind suitable rules to carry out the provisions of this chapter, and the policies and practices of the commission in connection therewith.
- (4) To receive, impartially investigate, and pass upon complaints alleging unfair practices as defined in this chapter.
- (5) To issue such publications and results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of sex, sexual orientation, race, creed, color, national origin, marital status, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability.
- (6) To make such technical studies as are appropriate to effectuate the purposes and policies of this chapter and to publish and distribute the reports of such studies.
- (7) To cooperate and act jointly or by division of labor with the United States or other states, with other Washington state agencies, commissions, and other government entities, and with political subdivisions of the state of Washington and their respective human rights agencies to carry out the purposes of this chapter. However, the powers which may be exercised by the commission under this subsection permit investigations and complaint dispositions only if the investigations are designed to reveal, or the complaint deals only with, allegations which, if proven, would constitute unfair practices under this chapter. The commission may perform such services for these agencies and be reimbursed therefor.
- (8) To foster good relations between minority and majority population groups of the state through seminars, conferences, educational programs, and other intergroup relations activities.

[2007 c 187 § 5; 2006 c 4 § 5; 1997 c 271 § 4. Prior: 1993 c 510 § 6; 1993 c 69 § 4; 1985 c 185 § 10; 1973 1st ex.s. c 214 § 4; 1973 c 141 § 7; 1971 ex.s. c 81 § 1; 1957 c 37 § 7; 1955 c 270 § 8; prior: 1949 c 183 § 6, part; Rem. Supp. 1949 § 7614-25, part.]

#### **Notes:**

**Severability -- 1993 c 510:** See note following RCW [49.60.010](#).

**Severability -- 1993 c 69:** See note following RCW [49.60.030](#).

**Effective date -- 1971 ex.s. c 81:** "The effective date of this act shall be July 1, 1971." [1971 ex.s. c 81 § 6.]

Human rights commission to investigate unlawful use of refueling services for individuals with disabilities: RCW [49.60.360](#).

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### **49.60.130**

#### **May create advisory agencies and conciliation councils.**

The commission has power to create such advisory agencies and conciliation councils, local, regional, or statewide, as in its judgment will aid in effectuating the purposes of this chapter. The commission may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of sex, race, creed, color, national origin, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability; to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the state, and to make recommendations to the commission for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education which the commission may recommend to the appropriate state agency.

Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but with reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and the commission may make provision for technical and clerical assistance to such agencies and councils and for the expenses of such assistance. The commission may use organizations specifically experienced in dealing with questions of discrimination.

[2007 c 187 § 6; 2006 c 4 § 6; 1997 c 271 § 5; 1993 c 510 § 7; 1985 c 185 § 11; 1975-'76 2nd ex.s. c 34 § 146; 1973 1st ex.s. c 214 § 5; 1973 c 141 § 8; 1971 ex.s. c 81 § 2; 1955 c 270 § 9. Prior: 1949 c 183 § 6, part; Rem. Supp. 1949 § 7614-25, part.]

**Notes:**

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

**Effective date -- Severability -- 1975-'76 2nd ex.s. c 34:** See notes following RCW 2.08.115.

**Effective date -- 1971 ex.s. c 81:** See note following RCW 49.60.120.

#### **49.60.140**

##### **Commission may hold hearings and subpoena witnesses.**

The commission has power to hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the commission. The commission may make rules as to the issuance of subpoenas by individual members, as to service of complaints, decisions, orders, recommendations and other process or papers of the commission, its member, agent, or agency, either personally or by registered mail, return receipt requested, or by leaving a copy thereof at the principal office or place of business of the person required to be served. The return post office receipt, when service is by registered mail, shall be proof of service of the same.

[1985 c 185 § 12; 1955 c 270 § 10. Prior: 1949 c 183 § 6, part; Rem. Supp. 1949 § 7614-25, part.]

#### **49.60.150**

##### **Witnesses compelled to testify.**

No person shall be excused from attending and testifying or from producing records, correspondence, documents or other evidence in obedience to the subpoena of the commission or of any individual member, on the ground that the testimony or evidence required of the person may tend to incriminate or subject the person to a penalty or forfeiture, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which the person is compelled, after having claimed the privilege against self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so

testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

[1985 c 185 § 13; 1955 c 270 § 11. Prior: 1949 c 183 § 6, part; Rem. Supp. 1949 § 7614-25, part.]

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#### **49.60.160**

##### **Refusals may be punished as contempt of court.**

In case of contumacy or refusal to obey a subpoena issued to any person, the superior court of any county within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commission shall have jurisdiction to issue to such person an order requiring such person to appear before the commission, its member, agent, or agency, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

[1985 c 185 § 14; 1955 c 270 § 12. Prior: 1949 c 183 § 6, part; Rem. Supp. 1949 § 7614-25, part.]

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#### **49.60.170**

##### **Witness fees — Deposition fees.**

Witnesses before the commission, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of this state. Witnesses whose depositions are taken and the person taking the same shall be entitled to same fees as are paid for like services in the courts of the state.

[1985 c 185 § 15; 1955 c 270 § 13. Prior: 1949 c 183 § 6, part; Rem. Supp. 1949 § 7614-25, part.]

##### **Notes:**

Courts of record -- Witnesses: Chapter 2.40 RCW.

Discovery and depositions: Title 5 RCW; see also **Rules of Court**, CR 26 through 37.

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#### **49.60.172**

##### **Unfair practices with respect to HIV or hepatitis C infection.**

(1) No person may require an individual to take an HIV test, as defined in chapter 70.24 RCW, or hepatitis C test, as a condition of hiring, promotion, or continued employment unless the absence of HIV or hepatitis C infection is a bona fide occupational qualification for the job in question.

(2) No person may discharge or fail or refuse to hire any individual, or segregate or classify any individual in any way which would deprive or tend to deprive that individual of employment opportunities or adversely affect his or her status as an employee, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of the results of an HIV test or hepatitis C test unless the absence of HIV or hepatitis C infection is a bona fide occupational qualification of the job in question.

(3) The absence of HIV or hepatitis C infection as a bona fide occupational qualification exists when performance of a particular job can be shown to present a significant risk, as defined by the board of health by rule, of transmitting HIV or hepatitis C infection to other persons, and there exists no means of eliminating the risk by restructuring the job.

(4) For the purpose of this chapter, any person who is actually infected with HIV or hepatitis C, but is not disabled as a result of the infection, shall not be eligible for any benefits under the affirmative action provisions of chapter 49.74 RCW solely on the basis of such infection.

(5) Employers are immune from civil action for damages arising out of transmission of HIV or hepatitis C to employees or to members of the public unless such transmission occurs as a result of the employer's gross negligence.

[2003 c 273 § 2; 1988 c 206 § 903.]

**Notes:**

**Severability -- 1988 c 206:** See RCW 70.24.900.

### **49.60.174**

#### **Evaluation of claim of discrimination — Actual or perceived HIV or hepatitis C infection.**

(1) For the purposes of determining whether an unfair practice under this chapter has occurred, claims of discrimination based on actual or perceived HIV or hepatitis C infection shall be evaluated in the same manner as other claims of discrimination based on sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a disabled person.

(2) Subsection (1) of this section shall not apply to transactions with insurance entities, health service contractors, or health maintenance organizations subject to RCW 49.60.030(1)(e) or 49.60.178 to prohibit fair discrimination on the basis of actual HIV or actual hepatitis C infection status when bona fide statistical differences in risk or exposure have been substantiated.

(3) For the purposes of this chapter:

(a) "HIV" means the human immunodeficiency virus, and includes all HIV and HIV-related viruses which damage the cellular branch of the human immune system and leave the infected person immunodeficient; and

(b) "Hepatitis C" means the hepatitis C virus of any genotype.

[2003 c 273 § 3; 1997 c 271 § 6; 1993 c 510 § 8; 1988 c 206 § 902.]

**Notes:**

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

**Severability -- 1988 c 206:** See RCW 70.24.900.

### **49.60.175**

#### **Unfair practices of financial institutions.**

It shall be an unfair practice to use the sex, race, creed, color, national origin, marital status, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability of any person, or the use of a trained dog guide or service animal by a person with a disability, concerning an application for credit in any credit transaction to determine the creditworthiness of an applicant.

[2007 c 187 § 7; 2006 c 4 § 7; 1997 c 271 § 7; 1993 c 510 § 9; 1979 c 127 § 4; 1977 ex.s. c 301 § 14; 1973 c 141 § 9; 1959 c 68 § 1.]

**Notes:**

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

Fairness in lending act: RCW 30.04.500 through 30.04.515.

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**49.60.176****Unfair practices with respect to credit transactions.**

(1) It is an unfair practice for any person whether acting for himself, herself, or another in connection with any credit transaction because of race, creed, color, national origin, sex, marital status, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability:

(a) To deny credit to any person;

(b) To increase the charges or fees for or collateral required to secure any credit extended to any person;

(c) To restrict the amount or use of credit extended or to impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto;

(d) To attempt to do any of the unfair practices defined in this section.

(2) Nothing in this section shall prohibit any party to a credit transaction from considering the credit history of any individual applicant.

(3) Further, nothing in this section shall prohibit any party to a credit transaction from considering the application of the community property law to the individual case or from taking reasonable action thereon.

[2007 c 187 § 8; 2006 c 4 § 8; 1997 c 271 § 8; 1993 c 510 § 10; 1979 c 127 § 5; 1973 c 141 § 5.]

**Notes:**

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

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**49.60.178****Unfair practices with respect to insurance transactions.**

It is an unfair practice for any person whether acting for himself, herself, or another in connection with an insurance transaction or transaction with a health maintenance organization to cancel or fail or refuse to issue or renew insurance or a health maintenance agreement to any person because of sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person: PROVIDED, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this section. For the purposes of this section, "insurance transaction" is defined in RCW 48.01.060, health maintenance agreement is defined in RCW 48.46.020, and "health maintenance organization" is defined in RCW 48.46.020.

The fact that such unfair practice may also be a violation of chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an action brought under this section.

The insurance commissioner, under RCW 48.30.300, and the human rights commission, under chapter 49.60 RCW, shall have concurrent jurisdiction under this section and shall enter into a working agreement as to procedure to be followed in complaints under this section.

[2006 c 4 § 9; 1997 c 271 § 9; 1993 c 510 § 11; 1984 c 32 § 1; 1979 c 127 § 6; 1974 ex.s. c 32 § 2; 1973 c 141 § 6.]

**Notes:**

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

**49.60.180****Unfair practices of employers.**

It is an unfair practice for any employer:

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

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

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

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

[2007 c 187 § 9; 2006 c 4 § 10; 1997 c 271 § 10; 1993 c 510 § 12; 1985 c 185 § 16; 1973 1st ex.s. c 214 § 6; 1973 c 141 § 10; 1971 ex.s. c 81 § 3; 1961 c 100 § 1; 1957 c 37 § 9. Prior: 1949 c 183 § 7, part; Rem. Supp. 1949 § 7614-26, part.]

**Notes:**

**Severability -- 1993 c 510:** See note following RCW [49.60.010](#).

**Effective date -- 1971 ex.s. c 81:** See note following RCW [49.60.120](#).

Element of age not to affect apprenticeship agreements: RCW [49.04.910](#).

Employment rights of persons serving in uniformed services: RCW [73.16.032](#).

Labor -- Prohibited practices: Chapter [49.44](#) RCW.

Unfair practices in employment because of age of employee or applicant: RCW [49.44.090](#).

**49.60.190****Unfair practices of labor unions.**

It is an unfair practice for any labor union or labor organization:

(1) To deny membership and full membership rights and privileges to any person because of age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

(2) To expel from membership any person because of age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

(3) To discriminate against any member, employer, employee, or other person to whom a duty of representation is owed because of age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

[2007 c 187 § 10; 2006 c 4 § 11; 1997 c 271 § 11; 1993 c 510 § 13; 1985 c 185 § 17; 1973 1st ex.s. c 214 § 8; 1973 c 141 § 11; 1971 ex.s. c 81 § 4; 1961 c 100 § 2; 1957 c 37 § 10. Prior: 1949 c 183 § 7, part; Rem. Supp. 1949 § 7614-26, part.]

**Notes:**

**Severability -- 1993 c 510:** See note following RCW [49.60.010](#).

**Effective date -- 1971 ex.s. c 81:** See note following RCW [49.60.120](#).

Element of age not to affect apprenticeship agreements: RCW [49.04.910](#).

## **49.60.200**

### **Unfair practices of employment agencies.**

It is an unfair practice for any employment agency to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against, an individual because of age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, or to print or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification or discrimination as to age, sex, race, sexual orientation, creed, color, or national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification: PROVIDED, Nothing contained herein shall prohibit advertising in a foreign language.

[2007 c 187 § 11; 2006 c 4 § 12; 1997 c 271 § 12; 1993 c 510 § 14; 1973 1st ex.s. c 214 § 9; 1973 c 141 § 12; 1971 ex.s. c 81 § 5; 1961 c 100 § 3; 1957 c 37 § 11. Prior: 1949 c 183 § 7, part; Rem. Supp. 1949 § 7614-26, part.]

**Notes:**

**Severability -- 1993 c 510:** See note following RCW [49.60.010](#).

**Effective date -- 1971 ex.s. c 81:** See note following RCW [49.60.120](#).

Element of age not to affect apprenticeship agreements: RCW [49.04.910](#).

Fraud by employment agent: RCW [49.44.050](#).

**49.60.205****Age discrimination — Limitation.**

No person shall be considered to have committed an unfair practice on the basis of age discrimination unless the practice violates RCW 49.44.090. It is a defense to any complaint of an unfair practice of age discrimination that the practice does not violate RCW 49.44.090.

[1993 c 510 § 15; 1985 c 185 § 28.]

**Notes:**

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

**49.60.210****Unfair practices — Discrimination against person opposing unfair practice — Retaliation against whistleblower.**

(1) It is an unfair practice for any employer, employment agency, labor union, or other person to discharge, expel, or otherwise discriminate against any person because he or she has opposed any practices forbidden by this chapter, or because he or she has filed a charge, testified, or assisted in any proceeding under this chapter.

(2) It is an unfair practice for a government agency or government manager or supervisor to retaliate against a whistleblower as defined in chapter 42.40 RCW.

(3) It is an unfair practice for any employer, employment agency, labor union, government agency, government manager, or government supervisor to discharge, expel, discriminate, or otherwise retaliate against an individual assisting with an office of fraud and accountability investigation under RCW 74.04.012, unless the individual has willfully disregarded the truth in providing information to the office.

[2011 1st sp.s. c 42 § 25; 1992 c 118 § 4; 1985 c 185 § 18; 1957 c 37 § 12. Prior: 1949 c 183 § 7, part; Rem. Supp. 1949 § 7614-26, part.]

**Notes:**

**Findings -- Intent -- Effective date -- 2011 1st sp.s. c 42:** See notes following RCW 74.08A.260.

**Finding -- 2011 1st sp.s. c 42:** See note following RCW 74.04.004.

**49.60.215****Unfair practices of places of public resort, accommodation, assemblage, amusement — Trained dog guides and service animals.**

(1) It shall be an unfair practice for any person or the person's agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination, or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement, except for conditions and limitations established by law and applicable to all persons, regardless of race, creed, color, national origin, sexual orientation, sex, honorably discharged veteran or military status, status as a mother breastfeeding her child, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability: PROVIDED, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a person with a disability except as otherwise required by law: PROVIDED, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice.

(2) This section does not apply to food establishments, as defined in RCW 49.60.218, with respect to the use of a trained dog guide or service animal by a person with a disability. Food establishments are subject to RCW 49.60.218 with respect to trained dog guides and service animals.

[2011 c 237 § 1; 2009 c 164 § 2; 2007 c 187 § 12; 2006 c 4 § 13; 1997 c 271 § 13; 1993 c 510 § 16. Prior: 1985 c 203 § 1; 1985 c 90 § 6; 1979 c 127 § 7; 1957 c 37 § 14.]

**Notes:**

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

Denial of civil rights: RCW 9.91.010.

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**49.60.218**

**Use of dog guide or service animal — Unfair practice — Definitions.**

(1) It shall be an unfair practice for any person or the person's agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination, or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any food establishment, except for conditions and limitations established by law and applicable to all persons, on the basis of the use of a dog guide or service animal by a person with a disability: PROVIDED, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a person with a disability except as otherwise required by law: PROVIDED, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice.

(2) A food establishment shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability in accordance with subsection (1) of this section if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a facility, a food establishment shall act in accordance with all applicable laws and regulations.

(3) For the purposes of this section:

(a) "Service animal" means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Except as provided in subsection (2) of this section, other species of animals, whether wild or domestic, trained or untrained, are not service animals. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks.

(b) "Food establishment" means a place of business that sells or serves food for human consumption with a North American industry classification system code within "445110," "445120," "445210," "445220," "445230," "445291," "445292," "445299," "452910," "722110," "722211," "722212," "722213," or "722410."

[2011 c 237 § 2.]

**49.60.220****Unfair practice to aid violation.**

It is an unfair practice for any person to aid, abet, encourage, or incite the commission of any unfair practice, or to attempt to obstruct or prevent any other person from complying with the provisions of this chapter or any order issued thereunder.

[1957 c 37 § 13. Prior: 1949 c 183 § 7, part; Rem. Supp. 1949 § 7614-26, part.]

**49.60.222****Unfair practices with respect to real estate transactions, facilities, or services.**

(1) It is an unfair practice for any person, whether acting for himself, herself, or another, because of sex, marital status, sexual orientation, race, creed, color, national origin, families with children status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability:

- (a) To refuse to engage in a real estate transaction with a person;
- (b) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (c) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (d) To refuse to negotiate for a real estate transaction with a person;
- (e) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit the person to inspect real property;
- (f) To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling, to any person; or to a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or to any person associated with the person buying or renting;
- (g) To make, print, circulate, post, or mail, or cause to be so made or published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;
- (h) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (i) To expel a person from occupancy of real property;
- (j) To discriminate in the course of negotiating, executing, or financing a real estate transaction whether by mortgage, deed of trust, contract, or other instrument imposing a lien or other security in real property, or in negotiating or executing any item or service related thereto including issuance of title insurance, mortgage insurance, loan guarantee, or other aspect of the transaction. Nothing in this section shall limit the effect of RCW 49.60.176 relating to unfair practices in credit transactions; or
- (k) To attempt to do any of the unfair practices defined in this section.

(2) For the purposes of this chapter discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled includes:

(a) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the dwelling, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted;

(b) To refuse to make reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford a person with the presence of any sensory, mental, or physical disability and/or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled equal opportunity to use and enjoy a dwelling; or

(c) To fail to design and construct covered multifamily dwellings and premises in conformance with the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws or regulations pertaining to access by persons with any sensory, mental, or physical disability or use of a trained dog guide or service animal. Whenever the requirements of applicable laws or regulations differ, the requirements which require greater accessibility for persons with any sensory, mental, or physical disability shall govern.

Nothing in (a) or (b) of this subsection shall apply to: (i) A single-family house rented or leased by the owner if the owner does not own or have an interest in the proceeds of the rental or lease of more than three such single-family houses at one time, the rental or lease occurred without the use of a real estate broker or salesperson, as defined in "RCW 18.85.010, and the rental or lease occurred without the publication, posting, or mailing of any advertisement, sign, or statement in violation of subsection (1)(g) of this section; or (ii) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the rooms or units as his or her residence.

(3) Notwithstanding any other provision of this chapter, it shall not be an unfair practice or a denial of civil rights for any public or private educational institution to separate the sexes or give preference to or limit use of dormitories, residence halls, or other student housing to persons of one sex or to make distinctions on the basis of marital or families with children status.

(4) Except pursuant to subsection (2)(a) of this section, this section shall not be construed to require structural changes, modifications, or additions to make facilities accessible to a person with a disability except as otherwise required by law. Nothing in this section affects the rights, responsibilities, and remedies of landlords and tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to post and enforce reasonable rules of conduct and safety for all tenants and their guests, provided that chapters 59.18 and 59.20 RCW are only affected to the extent they are inconsistent with the nondiscrimination requirements of this chapter. Nothing in this section limits the applicability of any reasonable federal, state, or local restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(5) Notwithstanding any other provision of this chapter, it shall not be an unfair practice for any public establishment providing for accommodations offered for the full enjoyment of transient guests as defined by RCW 9.91.010(1)(c) to make distinctions on the basis of families with children status. Nothing in this section shall limit the effect of RCW 49.60.215 relating to unfair practices in places of public accommodation.

(6) Nothing in this chapter prohibiting discrimination based on families with children status applies to housing for older persons as defined by the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995. Nothing in this chapter authorizes requirements for housing for older persons different than the requirements in the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.

(7) Nothing in this chapter shall apply to real estate transactions involving the sharing of a dwelling unit, or rental or sublease of a portion of a dwelling unit, when the dwelling unit is to be occupied by the owner or sublessor. For purposes of this section, "dwelling unit" has the same meaning as in RCW 59.18.030.

[2007 c 187 § 13; 2006 c 4 § 14. Prior: 1997 c 400 § 3; 1997 c 271 § 14; 1995 c 259 § 3; prior: 1993 c 510 § 17; 1993 c 69 § 5; 1989 c 61 § 1; 1979 c 127 § 8; 1975 1st ex.s. c 145 § 1; 1973 c 141 § 13; 1969 ex.s. c 167 § 4.]

**Notes:**

\***Reviser's note:** RCW 18.85.010 was recodified as RCW 18.85.011 pursuant to 2008 c 23 § 49; and RCW 18.85.010 was also amended by 2008 c 23 § 1, changing and/or removing the definitions of "real estate broker" and "salesperson," effective July 1, 2010.

**Effective date -- 1995 c 259:** See note following RCW 49.60.010.

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

**Severability -- 1993 c 69:** See note following RCW 49.60.030.

**Severability -- 1969 ex.s. c 167:** See note following RCW 49.60.010.

**49.60.223**

**Unfair practice to induce sale or rental of real property by representations regarding entry into neighborhood of persons of particular race, disability, etc.**

It is an unfair practice for any person, for profit, to induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, creed, color, sex, national origin, sexual orientation, families with children status, honorably discharged veteran or military status, or with any sensory, mental, or physical disability and/or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled.

[2007 c 187 § 14; 2006 c 4 § 15; 1997 c 271 § 15. Prior: 1993 c 510 § 18; 1993 c 69 § 6; 1979 c 127 § 9; 1969 ex.s. c 167 § 5.]

**Notes:**

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

**Severability -- 1993 c 69:** See note following RCW 49.60.030.

**Severability -- 1969 ex.s. c 167:** See note following RCW 49.60.010.

**49.60.2235**

**Unfair practice to coerce, intimidate, threaten, or interfere regarding secured real estate transaction rights.**

It is an unlawful practice to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, rights regarding real estate transactions secured by RCW 49.60.030, 49.60.040, and 49.60.222 through 49.60.224.

[1993 c 69 § 7.]

**Notes:**

**Severability -- 1993 c 69:** See note following RCW 49.60.030.

**49.60.224**

**Real property contract provisions restricting conveyance,**

**encumbrance, occupancy, or use to persons of particular race, disability, etc., void — Unfair practice.**

(1) Every provision in a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified race, creed, color, sex, national origin, sexual orientation, families with children status, honorably discharged veteran or military status, or with any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled, and every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, creed, color, sex, national origin, sexual orientation, families with children status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled is void.

(2) It is an unfair practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.

[2007 c 187 § 15; 2006 c 4 § 16; 1997 c 271 § 16; 1993 c 69 § 8; 1979 c 127 § 10; 1969 ex.s. c 167 § 6.]

**Notes:**

**Severability -- 1993 c 69:** See note following RCW [49.60.030](#).

**Severability -- 1969 ex.s. c 167:** See note following RCW [49.60.010](#).

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**49.60.225**

**Relief for unfair practice in real estate transaction — Damages — Penalty.**

(1) When a reasonable cause determination has been made under RCW [49.60.240](#) that an unfair practice in a real estate transaction has been committed and a finding has been made that the respondent has engaged in any unfair practice under RCW [49.60.250](#), the administrative law judge shall promptly issue an order for such relief suffered by the aggrieved person as may be appropriate, which may include actual damages as provided by the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable relief. Such order may, to further the public interest, assess a civil penalty against the respondent:

(a) In an amount up to ten thousand dollars if the respondent has not been determined to have committed any prior unfair practice in a real estate transaction;

(b) In an amount up to twenty-five thousand dollars if the respondent has been determined to have committed one other unfair practice in a real estate transaction during the five-year period ending on the date of the filing of this charge; or

(c) In an amount up to fifty thousand dollars if the respondent has been determined to have committed two or more unfair practices in a real estate transaction during the seven-year period ending on the date of the filing of this charge, for loss of the right secured by RCW [49.60.010](#), [49.60.030](#), [49.60.040](#), and [49.60.222](#) through [49.60.224](#), as now or hereafter amended, to be free from discrimination in real property transactions because of sex, marital status, race, creed, color, national origin, sexual orientation, families with children status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled. Enforcement of the order and appeal therefrom by the complainant or respondent may be made as provided in RCW [49.60.260](#) and [49.60.270](#). If acts constituting the unfair practice in a real estate transaction that is the object of the charge are determined to have been committed by the same natural person who has been previously determined to have committed acts constituting an unfair practice in a real estate transaction, then the civil penalty of up to fifty thousand dollars may be imposed without regard to the period of time within which any subsequent unfair practice in a real estate transaction occurred. All civil penalties assessed under this section shall be paid into the state treasury and credited to the general fund.

(2) Such order shall not affect any contract, sale, conveyance, encumbrance, or lease consummated before the issuance of an order that involves a bona fide purchaser, encumbrancer, or tenant who does not have actual notice of the charge filed under this chapter.

(3) Notwithstanding any other provision of this chapter, persons awarded damages under this section may not receive additional damages pursuant to RCW 49.60.250.

[2007 c 187 § 16; 2006 c 4 § 17; 1997 c 271 § 17; 1995 c 259 § 4. Prior: 1993 c 510 § 20; 1993 c 69 § 9; 1985 c 185 § 19; 1979 c 127 § 11; 1973 c 141 § 14; 1969 ex.s. c 167 § 7.]

**Notes:**

**Effective date -- 1995 c 259:** See note following RCW 49.60.010.

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

**Severability -- 1993 c 69:** See note following RCW 49.60.030.

**Severability -- 1969 ex.s. c 167:** See note following RCW 49.60.010.

#### **49.60.226**

#### **Cooperative agreements between units of government for processing complaints.**

The commission and units of local government administering ordinances with provisions similar to the real estate provisions of the law against discrimination are authorized and directed to enter into cooperative agreements or arrangements for receiving and processing complaints so that duplication of functions shall be minimized and multiple hearings avoided. No complainant may secure relief from more than one instrumentality of state, or local government, nor shall any relief be granted by any state or local instrumentality if relief has been granted or proceedings are continuing in any federal agency, court, or instrumentality, unless such proceedings have been deferred pending state action.

[1985 c 185 § 20; 1969 ex.s. c 167 § 8.]

**Notes:**

**Severability -- 1969 ex.s. c 167:** See note following RCW 49.60.010.

#### **49.60.227**

#### **Declaratory judgment action to strike discriminatory provision of real property contract.**

If a written instrument contains a provision that is void by reason of RCW 49.60.224, the owner, occupant, or tenant of the property which is subject to the provision or the homeowners' association board may cause the provision to be stricken from the public records by bringing an action in the superior court in the county in which the property is located. The action shall be an in rem, declaratory judgment action whose title shall be the description of the property. The necessary party to the action shall be the owner, occupant, or tenant of the property or any portion thereof. The person bringing the action shall pay a fee set under RCW 36.18.012.

If the court finds that any provisions of the written instrument are void under RCW 49.60.224, it shall enter an order striking the void provisions from the public records and eliminating the void provisions from the title or lease of the property described in the complaint.

[2006 c 58 § 3; 1995 c 292 § 18; 1993 c 69 § 10; 1987 c 56 § 2.]

**Notes:**

**Finding -- Intent -- 2006 c 58:** See note following RCW 64.38.028.

**Severability -- 1993 c 69:** See note following RCW [49.60.030](#).

**Intent -- 1987 c 56 § 2:** "The legislature finds that some real property deeds and other written instruments contain discriminatory covenants and restrictions that are contrary to public policy and are void. The continued existence of these covenants and restrictions is repugnant to many property owners and diminishes the free enjoyment of their property. It is the intent of RCW [49.60.227](#) to allow property owners to remove all remnants of discrimination from their deeds." [1987 c 56 § 1.]

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### 49.60.230

#### **Complaint may be filed with commission.**

(1) Who may file a complaint:

(a) Any person claiming to be aggrieved by an alleged unfair practice may, personally or by his or her attorney, make, sign, and file with the commission a complaint in writing under oath or by declaration. The complaint shall state the name of the person alleged to have committed the unfair practice and the particulars thereof, and contain such other information as may be required by the commission.

(b) Whenever it has reason to believe that any person has been engaged or is engaging in an unfair practice, the commission may issue a complaint.

(c) Any employer or principal whose employees, or agents, or any of them, refuse or threaten to refuse to comply with the provisions of this chapter may file with the commission a written complaint under oath or by declaration asking for assistance by conciliation or other remedial action.

(2) Any complaint filed pursuant to this section must be so filed within six months after the alleged act of discrimination except that complaints alleging an unfair practice in a real estate transaction pursuant to RCW [49.60.222](#) through [49.60.225](#) must be so filed within one year after the alleged unfair practice in a real estate transaction has occurred or terminated and a complaint alleging whistleblower retaliation must be filed within two years.

[2008 c 266 § 7, Prior: 1993 c 510 § 21; 1993 c 69 § 11; 1985 c 185 § 21; 1957 c 37 § 16; 1955 c 270 § 15; prior: 1949 c 183 § 8, part; Rem. Supp. 1949 § 7614-27, part.]

#### **Notes:**

**Findings -- Intent -- 2008 c 266:** See note following RCW [42.40.020](#).

**Application -- Severability -- 2008 c 266:** See RCW [42.40.910](#) and [42.40.901](#).

**Severability -- 1993 c 510:** See note following RCW [49.60.010](#).

**Severability -- 1993 c 69:** See note following RCW [49.60.030](#).

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### 49.60.240

#### **Complaint investigated — Procedure — Conference, conciliation — Agreement, findings — Rules.**

(1)(a) Except as provided for in (c) of this subsection, after the filing of any complaint, the chairperson of the commission shall refer it to the appropriate section of the commission's staff for prompt review and evaluation of the complaint. If the facts as stated in the complaint do not constitute an unfair practice under this chapter, a finding of no reasonable cause may be made without further investigation. If the facts as stated could constitute an unfair practice under this chapter, a full investigation and ascertainment of the facts shall be conducted.

(b) If the complainant has limitations related to language proficiency or cognitive or other

disability, as part of the review and evaluation under (a) of this subsection, the commission's staff must contact the complainant directly and make appropriate inquiry of the complainant as to the facts of the complaint.

(c) After the filing of a complaint alleging an unfair practice in a real estate transaction pursuant to RCW 49.60.222 through 49.60.225, the chairperson of the commission shall refer it to the appropriate section of the commission's staff for prompt investigation and ascertainment of the facts alleged in the complaint.

(2) The investigation shall be limited to the alleged facts contained in the complaint. The results of the investigation shall be reduced to written findings of fact, and a finding shall be made that there is or that there is not reasonable cause for believing that an unfair practice has been or is being committed. A copy of the findings shall be provided to the complainant and to the person named in such complaint, hereinafter referred to as the respondent.

(3) If the finding is made that there is reasonable cause for believing that an unfair practice has been or is being committed, the commission's staff shall immediately endeavor to eliminate the unfair practice by conference, conciliation, and persuasion.

If an agreement is reached for the elimination of such unfair practice as a result of such conference, conciliation, and persuasion, the agreement shall be reduced to writing and signed by the respondent, and an order shall be entered by the commission setting forth the terms of said agreement. No order shall be entered by the commission at this stage of the proceedings except upon such written agreement, except that during the period beginning with the filing of complaints alleging an unfair practice with respect to real estate transactions pursuant to RCW 49.60.222 through 49.60.225, and ending with the filing of a finding of reasonable cause or a dismissal by the commission, the commission staff shall, to the extent feasible, engage in conciliation with respect to such complaint. Any conciliation agreement arising out of conciliation efforts by the commission shall be an agreement between the respondent and the complainant and shall be subject to the approval of the commission. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this chapter.

If no such agreement can be reached, a finding to that effect shall be made and reduced to writing, with a copy thereof provided to the complainant and the respondent.

(4) The commission may adopt rules, including procedural time requirements, for processing complaints alleging an unfair practice with respect to real estate transactions pursuant to RCW 49.60.222 through 49.60.225 and which may be consistent with the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.), but which in no case shall exceed or be more restrictive than the requirements or standards of such act.

[2010 c 85 § 1; 1995 c 259 § 5. Prior: 1993 c 510 § 22; 1993 c 69 § 12; 1985 c 185 § 22; 1981 c 259 § 1; 1957 c 37 § 17; 1955 c 270 § 16; prior: 1949 c 183 § 8, part; Rem. Supp. 1949 § 7614-27, part.]

**Notes:**

**Effective date -- 1995 c 259:** See note following RCW 49.60.010.

**Severability -- 1993 c 510:** See note following RCW 49.60.010.

**Severability -- 1993 c 69:** See note following RCW 49.60.030.

RCW 49.60.240 through 49.60.280 applicable to complaints concerning unlawful use of refueling services for individuals with disabilities: RCW 49.60.360.

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**49.60.250**

**Hearing of complaint by administrative law judge — Limitation of relief — Penalties — Order — Arbitration.**

(1) In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to the chairperson of the commission. The chairperson of the

commission shall thereupon request the appointment of an administrative law judge under Title 34 RCW to hear the complaint and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before the administrative law judge, at a time and place to be specified in such notice.

(2) The place of any such hearing may be the office of the commission or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the commission: PROVIDED, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the commission who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall the member or employee participate in the deliberations of the administrative law judge in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine the complainant.

(4) The administrative law judge conducting any hearing may permit reasonable amendment to any complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

(5) If, upon all the evidence, the administrative law judge finds that the respondent has engaged in any unfair practice, the administrative law judge shall state findings of fact and shall issue and file with the commission and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair practice and to take such affirmative action, including, (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, an admission or restoration to full membership rights in any respondent organization, or to take such other action as, in the judgment of the administrative law judge, will effectuate the purposes of this chapter, including action that could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed twenty thousand dollars, and including a requirement for report of the matter on compliance. Relief available for violations of RCW 49.60.222 through 49.60.224 shall be limited to the relief specified in RCW 49.60.225.

(6) If a determination is made that retaliatory action, as defined in RCW 42.40.050, has been taken against a whistleblower, as defined in RCW 42.40.020, the administrative law judge may, in addition to any other remedy, require restoration of benefits, back pay, and any increases in compensation that would have occurred, with interest; impose a civil penalty upon the retaliator of up to five thousand dollars; and issue an order to the state employer to suspend the retaliator for up to thirty days without pay. At a minimum, the administrative law judge shall require that a letter of reprimand be placed in the retaliator's personnel file. No agency shall issue any nondisclosure order or policy, execute any nondisclosure agreement, or spend any funds requiring information that is public under the public records act, chapter 42.56 RCW, be kept confidential; except that nothing in this section shall affect any state or federal law requiring information be kept confidential. All penalties recovered shall be paid into the state treasury and credited to the general fund.

(7) The final order of the administrative law judge shall include a notice to the parties of the right to obtain judicial review of the order by appeal in accordance with the provisions of RCW 34.05.510 through 34.05.598, and that such appeal must be served and filed within thirty days after the service of the order on the parties.

(8) If, upon all the evidence, the administrative law judge finds that the respondent has not engaged in any alleged unfair practice, the administrative law judge shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

(9) An order dismissing a complaint may include an award of reasonable attorneys' fees in favor of the respondent if the administrative law judge concludes that the complaint was frivolous, unreasonable, or groundless.

(10) The commission shall establish rules of practice to govern, expedite, and effectuate the foregoing procedure.

(11) Instead of filing with the commission, a complainant may pursue arbitration conducted by the American arbitration association or another arbitrator mutually agreed by the parties, with the cost of arbitration shared equally by the complainant and the respondent.

c 293 § 1; 1981 c 259 § 2; 1957 c 37 § 18; 1955 c 270 § 17; prior: 1949 c 183 § 8, part; Rem. Supp. 1949 § 7614-27, part.]

**Notes:**

**Findings -- Intent -- 2008 c 266:** See note following RCW [42.40.020](#).

**Application -- Severability -- 2008 c 266:** See RCW [42.40.910](#) and [42.40.901](#).

**Severability -- 1993 c 510:** See note following RCW [49.60.010](#).

**Severability -- 1993 c 69:** See note following RCW [49.60.030](#).

**Effective date -- 1989 c 175:** See note following RCW [34.05.010](#).

**Effective date -- 1981 c 259:** "Sections 2, 3, 4 and 5 of this 1981 act shall take effect upon the enactment of House Bill 101, 1981 Regular Session." [1981 c 259 § 7.] Sections 2, 3, 4, and 5 of 1981 c 259 consist of amendments to RCW [49.60.250](#), [49.60.260](#), and [49.60.270](#) and the enactment of RCW [49.60.330](#), respectively. House Bill 101 was enacted as chapter 67, Laws of 1981. It was signed by the governor on April 25, 1981. Since chapter 67, Laws of 1981 took effect on July 1, 1982, the apparent intent is for sections 2, 3, 4, and 5 of 1981 c 259 to take effect on that date. For effective date of 1981 c 67, see note following RCW [34.12.010](#).

Assignment of administrative law judge for human rights commission proceedings: RCW [34.12.037](#).

## **49.60.260**

### **Enforcement of orders of administrative law judge — Appellate review of court order.**

(1) The commission or any person entitled to relief of a final order may petition the court within the county wherein any unfair practice occurred or wherein any person charged with an unfair practice resides or transacts business for the enforcement of any final order which is not complied with and is issued by the commission or an administrative law judge under the provisions of this chapter and for appropriate temporary relief or a restraining order, and shall certify and file in court the final order sought to be enforced. Within five days after filing such petition in court, the commission or any person entitled to relief of a final order shall cause a notice of the petition to be sent by certified mail to all parties or their representatives.

(2) If within sixty days after the date the administrative law judge's order concerning an unfair practice in a real estate transaction is entered, no petition has been filed under subsection (1) of this section and the commission has not sought enforcement of the final order under this section, any person entitled to relief under the final order may petition for a decree enforcing the order in the superior courts of the state of Washington for the county in which the unfair practice in a real estate transaction under RCW [49.60.222](#) through [49.60.224](#) is alleged to have occurred.

(3) From the time the petition is filed, the court shall have jurisdiction of the proceedings and of the questions determined thereon, and shall have the power to grant such temporary relief or restraining order as it deems just and suitable.

(4) If the petition shows that there is a final order issued by the commission or administrative law judge under RCW [49.60.240](#) or [49.60.250](#) and that the order has not been complied with in whole or in part, the court shall issue an order directing the person who is alleged to have not complied with the administrative order to appear in court at a time designated in the order, not less than ten days from the date thereof, and show cause why the administrative order should not be enforced according to the terms. The commission or any person entitled to relief of any final order shall immediately serve the noncomplying party with a copy of the court order and the petition.

(5) The administrative order shall be enforced by the court if the person does not appear, or

if the person appears and the court finds that:

- (a) The order is regular on its face;
  - (b) The order has not been complied with; and
  - (c) The person's answer discloses no valid reason why the order should not be enforced, or that the reason given in the person's answer could have been raised by review under RCW 34.05.510 through 34.05.598, and the person has given no valid excuse for failing to use that remedy.
- (6) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to appellate review by the supreme court or the court of appeals, on appeal, by either party, irrespective of the nature of the decree or judgment. The review shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases.

[1995 c 259 § 6; 1993 c 69 § 15; 1989 c 175 § 116; 1988 c 202 § 47; 1985 c 185 § 24; 1981 c 259 § 3; 1971 c 81 § 118; 1957 c 37 § 21. Prior: 1949 c 183 § 9, part; Rem Supp. 1949 § 7614-27A, part.]

**Notes:**

**Rules of court:** Cf. RAP 2.2, 18.22.

**Effective date -- 1995 c 259:** See note following RCW 49.60.010.

**Severability -- 1993 c 69:** See note following RCW 49.60.030.

**Effective date -- 1989 c 175:** See note following RCW 34.05.010.

**Severability -- 1988 c 202:** See note following RCW 2.24.050.

**Effective date -- 1981 c 259:** See note following RCW 49.60.250.

### **49.60.270**

#### **Appeal from orders of administrative law judge.**

Any respondent or complainant, including the commission, aggrieved by a final order of an administrative law judge may obtain judicial review of such order as provided under the administrative procedure act, chapter 34.05 RCW. From the time a petition for review is filed, the court has jurisdiction to grant to any party such temporary relief or restraining order as it deems just and suitable. If the court affirms the order, it shall enter a judgment and decree enforcing the order as affirmed.

[1985 c 185 § 25; 1981 c 259 § 4; 1957 c 37 § 22. Prior: 1949 c 183 § 9, part; Rem. Supp. 1949 § 7614-27A, part.]

**Notes:**

**Effective date -- 1981 c 259:** See note following RCW 49.60.250.

### **49.60.280**

#### **Court shall expeditiously hear and determine.**

Petitions filed under RCW 49.60.260 and 49.60.270 shall be heard expeditiously and determined upon the transcript filed, without requirement of printing. Hearings in the court under this chapter shall take precedence over all other matters, except matters of the same character.

[1957 c 37 § 23. Prior: 1949 c 183 § 9, part; Rem. Supp. 1949 § 7614-27A, part.]

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**49.60.310****Misdemeanor to interfere with or resist commission.**

Any person who wilfully resists, prevents, impedes, or interferes with the commission or any of its members or representatives in the performance of duty under this chapter, or who wilfully violates an order of the commission, is guilty of a misdemeanor; but procedure for the review of the order shall not be deemed to be such wilful conduct.

[1985 c 185 § 26; 1961 c 100 § 4; 1957 c 37 § 26; 1949 c 183 § 10; Rem. Supp. 1949 § 7614-28.]

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**49.60.320****Governor may act on orders against state or political subdivisions.**

In any case in which the commission shall issue an order against any political or civil subdivision of the state, or any agency, or instrumentality of the state or of the foregoing, or any officer or employee thereof, the commission shall transmit a copy of such order to the governor of the state. The governor shall take such action to secure compliance with such order as the governor deems necessary.

[1985 c 185 § 27; 1949 c 183 § 11; Rem. Supp. 1949 § 7614-29.]

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**49.60.330****First-class cities of over one hundred twenty-five thousand population — Administrative remedies authorized — Superior court jurisdiction.**

Any county or any city classified as a first-class city under RCW 35.01.010 with over one hundred twenty five thousand population may enact resolutions or ordinances consistent with this chapter to provide administrative and/or judicial remedies for any form of discrimination proscribed by this chapter. The imposition of such administrative remedies shall be subject to judicial review. The superior courts shall have jurisdiction to hear all matters relating to violation and enforcement of such resolutions or ordinances, including petitions for preliminary relief, the award of such remedies and civil penalties as are consistent with this chapter, and enforcement of any order of a county or city administrative law judge or hearing examiner pursuant to such resolution or ordinance. Any local resolution or ordinance not inconsistent with this chapter may provide, after a finding of reasonable cause to believe that discrimination has occurred, for the filing of an action in, or the removal of the matter to, the superior court.

[1993 c 69 § 16; 1983 c 5 § 2; 1981 c 259 § 5.]

**Notes:**

**Severability -- 1993 c 69:** See note following RCW [49.60.030](#).

**Effective date -- 1981 c 259:** See note following RCW [49.60.250](#).

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**49.60.340****Election for civil action in lieu of hearing — Relief.**

(1) Any complainant on whose behalf the reasonable cause finding was made, a respondent, or an aggrieved person may, with respect to real estate transactions pursuant to RCW [49.60.222](#)

through [49.60.225](#), elect to have the claims on which reasonable cause was found decided in a civil action under RCW [49.60.030\(2\)](#) in lieu of a hearing under RCW [49.60.250](#). This election must be made not later than twenty days after the service of the reasonable cause finding. The person making such election shall give notice of doing so to the commission and to all other complainants and respondents to whom the charge relates. Any reasonable cause finding issued by the commission pursuant to the procedures contained in this chapter shall become final twenty days after service of the reasonable cause finding unless a written notice of election is received by the commission within the twenty-day period.

(2) If an election is made under subsection (1) of this section, the commission shall authorize not later than thirty days after the election is made, and the attorney general shall commence, a civil action on behalf of the aggrieved person in a superior court of the state of Washington seeking relief under this section.

(3) Any aggrieved person with respect to the issues to be determined in a civil action under this section may intervene as of right in that civil action.

(4) In a civil action under this section, if the court finds that an unfair practice in a real estate transaction has occurred or is about to occur, the court may grant any relief that a court could grant with respect to such an unfair practice in a real estate transaction in a civil action under RCW [49.60.030\(2\)](#). If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(5) In any administrative proceeding under this section where the respondent is the prevailing party, a complainant who intervenes by filing a notice of independent appearance may be liable for reasonable attorneys' fees and costs only to the extent that the intervening participation in the administrative proceeding was frivolous or vexatious, or was for the purpose of harassment.

(6) In any administrative proceeding brought under RCW [49.60.225](#) or any court proceeding arising therefrom, or any civil action under this section, the administrative law judge or the court in its discretion may allow the prevailing party, other than the commission, reasonable attorneys' fees and costs.

[1993 c 69 § 13.]

**Notes:**

**Severability -- 1993 c 69:** See note following RCW [49.60.030](#).

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**49.60.350**

**Temporary or preliminary relief — Superior court jurisdiction —  
Petition of commission.**

(1) The superior courts of the state of Washington shall have jurisdiction upon petition of the commission, through the attorney general, to seek appropriate temporary or preliminary relief to enjoin any unfair practice in violation of RCW [49.60.222](#) through [49.60.225](#), from which prompt judicial action is necessary to carry out the purposes of this chapter.

(2) The commencement of a civil action under this section does not preclude the initiation or continuation of administrative proceedings under this chapter.

[1993 c 69 § 2.]

**Notes:**

**Severability -- 1993 c 69:** See note following RCW [49.60.030](#).

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**49.60.360**

**Refueling services for disabled drivers — Violation — Investigation —  
Intentional display of plate or placard invalid or not legally issued**

**prohibited — Fine — Notice to disabled persons.**

(1) Every person, firm, partnership, association, trustee, or corporation which operates a gasoline service station, or other facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility, shall provide, upon request, refueling service to disabled drivers, unaccompanied by passengers capable of safely providing refueling service, of vehicles which display a disabled person's license plate or placard issued by the department of licensing. The price charged for the motor vehicle fuel in such a case shall be no greater than that which the facility otherwise would charge the public generally to purchase motor vehicle fuel without refueling service. This section does not require a facility to provide disabled drivers with services, including but not limited to checking oil or cleaning windshields, other than refueling services.

(2) This section does not apply to:

(a) Exclusive self-service gas stations which have remotely controlled gas pumps and which never provide pump island service; and

(b) Convenience stores which sell gasoline, which have remotely controlled gas pumps and which never provide pump island service.

(3) Any person who, as a responsible managing individual setting service policy of a station or facility or as an employee acting independently against set service policy, acts in violation of this section is guilty of a misdemeanor. This subsection shall be enforced by the prosecuting attorney.

(4) The human rights commission shall, upon the filing of a verified written complaint by any person, investigate the actions of any person, firm, partnership, association, trustee, or corporation alleged to have violated this section. The complaint shall be in the form prescribed by the commission. The commission may, upon its own motion, issue complaints and conduct investigations of alleged violations of this section.

RCW 49.60.240 through 49.60.280 shall apply to complaints under this section.

(5) In addition to those matters referred pursuant to subsection (3) of this section, the prosecuting attorney may investigate and prosecute alleged violations of this section.

(6) Any person who intentionally displays a license plate or placard which is invalid, or which was not lawfully issued to that person, for the purpose of obtaining refueling service under subsection (1) of this section shall be subject to a civil fine of one hundred dollars for each such violation.

(7) A notice setting forth the provisions of this section shall be provided by the department of licensing to every person, firm, partnership, association, trustee, or corporation which operates a gasoline service station, or other facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility.

(8) A notice setting forth the provisions of this section shall be provided by the department of licensing to every person who is issued a disabled person's license plate or placard.

(9) For the purposes of this section, "refueling service" means the service of pumping motor vehicle fuel into the fuel tank of a motor vehicle.

(10) Nothing in this section limits or restricts the rights or remedies provided under chapter 49.60 RCW.

[1994 c 262 § 17; 1985 c 309 § 1. Formerly RCW 70.84.090.]

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**49.60.370**

**Liability for killing or injuring dog guide or service animal — Penalty in addition to other remedies or penalties — Recovery of attorneys' fees and costs — No duty to investigate.**

(1) A person who negligently or maliciously kills or injures a dog guide or service animal is liable for a penalty of one thousand dollars, to be paid to the user of the animal. The penalty shall be in addition to and not in lieu of any other remedies or penalties, civil or criminal, provided by law.

(2) A user or owner of a dog guide or service animal, whose animal is negligently or maliciously injured or killed, is entitled to recover reasonable attorneys' fees and costs incurred in pursuing any civil remedy.

(3) The commission has no duty to investigate any negligent or malicious acts referred to under this section.

[1997 c 271 § 23; 1988 c 89 § 1. Formerly RCW 70.84.100.]

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#### **49.60.380**

##### **License waiver for dog guide and service animals.**

A county, city, or town shall honor a request by a blind person or hearing impaired person not to be charged a fee to license his or her dog guide, or a request by a physically disabled person not to be charged a fee to license his or her service animal.

[1997 c 271 § 24; 1989 c 41 § 1. Formerly RCW 70.84.120.]

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#### **49.60.390**

##### **Rule-making authority — Deadline — 1997 c 271.**

The Washington state human rights commission shall adopt rules implementing chapter 271, Laws of 1997 no later than March 1, 1998.

[1997 c 271 § 25.]

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#### **49.60.400**

##### **Discrimination, preferential treatment prohibited.**

(1) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(2) This section applies only to action taken after December 3, 1998.

(3) This section does not affect any law or governmental action that does not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin.

(4) This section does not affect any otherwise lawful classification that:

(a) Is based on sex and is necessary for sexual privacy or medical or psychological treatment; or

(b) Is necessary for undercover law enforcement or for film, video, audio, or theatrical casting; or

(c) Provides for separate athletic teams for each sex.

(5) This section does not invalidate any court order or consent decree that is in force as of December 3, 1998.

(6) This section does not prohibit action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state.

(7) For the purposes of this section, "state" includes, but is not necessarily limited to, the state itself, any city, county, public college or university, community college, school district, special district, or other political subdivision or governmental instrumentality of or within the state.

(8) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of Washington antidiscrimination law.

(9) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the section shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington state Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

[1999 c 3 § 1 (Initiative Measure No. 200, approved November 3, 1998).]

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#### **49.60.401**

##### **Short title — 1999 c 3.**

RCW 49.60.400 shall be known and cited as the Washington State Civil Rights Act.

[1999 c 3 § 2 (Initiative Measure No. 200, approved November 3, 1998).]

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#### **49.60.500**

##### **Community athletics programs — Sex discrimination prohibited — Definitions.**

(1) No city, town, county, or district may discriminate against any person on the basis of sex in the operation, conduct, or administration of community athletics programs for youth or adults. A third party receiving a lease or permit from a city, town, county, district, or a school district, for a community athletics program also may not discriminate against any person on the basis of sex in the operation, conduct, or administration of community athletics programs for youth or adults.

(2) The definitions in this subsection apply throughout this section.

(a) "Community athletics program" means any athletic program that is organized for the purposes of training for and engaging in athletic activity and competition and that is in any way operated, conducted, administered, or supported by a city, town, county, district, or school district other than those offered by the school and created solely for the students by the school.

(b) "District" means any metropolitan park district, park and recreation service area, or park and recreation district.

[2009 c 467 § 2.]

##### **Notes:**

**Findings -- Declarations -- 2009 c 467:** "The legislature finds and declares:

On June 23, 1972, President Richard Nixon signed into law Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act. This landmark

legislation provides that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...." Title IX has expanded opportunities for males as well as females in educational programs and activities, including ensuring access to athletic opportunities for girls and women in educational institutions and to male and female staff to coaching and athletics administrative positions in educational institutions. The dramatic increases in participation rates at both the high school and college levels since Title IX was passed show that when doors are opened to women and girls, they will participate.

Further, ensuring equality in the state of Washington, the legislature passed an amendment to the state Constitution, ratified by the voters in November 1972, providing "Equality of rights and responsibilities under the law shall not be denied or abridged on account of sex." In 1975, Washington continued to be at the forefront of this issue by adopting legislation that established our own statutory version of the federal Title IX law that prohibited "inequality in the educational opportunities afforded women and girls at all levels of the public schools in Washington state."

Athletic opportunities provide innumerable benefits to participants, including greater academic success, better physical and psychological health, responsible social behaviors, and enhanced interpersonal skills. Athletic scholarships make it possible for some young people to attend college. The Washington state legislature, recognizing the importance of full participation in athletics, has passed numerous bills directed at achieving equity and eliminating discrimination in intercollegiate athletics in the state's institutions of higher education.

Despite advances in educational settings and efforts by some local agencies to expand opportunities in community athletics programs, discrimination still exists that limits these opportunities. It is the intent of the legislature to expand and support equal participation in athletics programs, and provide all sports programs equal access to facilities administered by cities, towns, counties, metropolitan park districts, park and recreation service areas, or park and recreation districts.

Nothing in this act is intended to affect the holding in the Washington state supreme court's ruling in *Darrin v. Gould*, 85 Wn.2d 859, 540 P.2d 882 (1975) and its progeny that held it is not acceptable to discriminate in contact sports on the basis of sex." [2009 c 467 § 1.]

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#### **49.60.505**

#### **Community athletics programs — Nondiscrimination policy required.**

(1) By January 1, 2010, each city, town, county, or district operating a community athletics program or issuing permission to a third party for the operation of such program on its facilities shall adopt a policy that specifically prohibits discrimination against any person on the basis of sex in the operation, conduct, or administration of community athletics programs for youth or adults.

(2) It is the responsibility of each city, town, county, or district operating a community athletics program or issuing permission to a third party for the operation of such program on its facilities to publish and disseminate this policy. At a minimum, the nondiscrimination policy should be included in any publication that includes information about the entity's own athletics programs, or about obtaining a permit for operating athletics programs and on the appropriate city, town, county, or district web site.

(3) School districts issuing permission to a third party for the operation of a community athletics program on its facilities shall also follow the provisions of this section but may modify and use existing school district policies and procedures to the extent that is possible. Nothing in this section may be construed to require school districts to monitor compliance, investigate complaints, or otherwise enforce school district policies as to third parties using school district facilities.

(4) Every city, town, county, or district covered by this section should also publish the name, office address, and office telephone number of the employee or employees responsible for its efforts to comply with and carry out its responsibilities under chapter 467, Laws of 2009.

[2009 c 467 § 3.]

**Notes:**

**Findings -- Declarations -- 2009 c 467:** See note following RCW 49.60.500.