

**2006 CHARTER REVIEW COMMISSION
BRIEFING PAPER
UPDATE NONDISCRIMINATION
JUNE 21, 2006**

**Prepared by
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The Issue

Update Non-Discrimination. Bring non-discrimination language in charter in line with state law

Current Charter Language

Section 9.05 Nondiscrimination

In the exercise of its powers and in the performance of its duties, the county shall ensure that no person is discriminated against because of race, creed, color, sex, age, handicap, or any other basis not reasonably related to the accomplishment of a legitimate governmental purpose and shall take whatever action necessary to accomplish this purpose as defined in the state and federal constitutions and applicable court interpretations.

(Added during General Election, Nov. 5, 1996, Eff date Nov. 30, 1996).

Current State Law

ESHB 2661 signed into law by the governor added sexual orientation to RCW 49.60. 49.60 also includes "use of a trained dog guide or service animal by disabled person" and uses disability rather than handicap.

Sexual orientation is defined as follows:

"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 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 transitionally associated with the sex assigned to that person at birth."¹

HB 2564 which did not pass out of the legislature would have included veterans or military status to the list of protected groups in RCW 49.60.

Veteran or military status" means a person who is:

- A veteran as defined in RCW 41.04.007 o
- 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.²

¹ ESHB 2661, 59th Legislature 2006 Regular Session, Page 6

² HB 2564 59th Legislature 2006 Regular Session, Page 7

Other Home Rule Counties

County	Clause
Whatcom	None
San Juan	None
Calallam	None
Pierce	<p>In the exercise of its powers or in the performance of its duties the County shall ensure that no person is discriminated against because of race, creed, color, sex, age, handicap or any other basis not reasonably related to the accomplishment of a legitimate governmental purpose and after consideration of veterans' preference, shall take whatever affirmative action necessary to accomplish this purpose as defined in the State and Federal constitutions and applicable court interpretations. In addition there is a section that requires the county to adopt a veterans policy.</p>
King	<p>There shall be no discrimination in employment or compensation of county officers or employees on account of sex, race, color, national origin, religious affiliation or age except by minimum age and retirement provisions; and the county shall not enter into any contract with any person, firm, organization or corporation which discriminates on the basis of sex, race, color, national origin, religious affiliation or age except by minimum age and retirement provisions.</p>

Options

1. Maintain Current Chart Language
2. Add new state language related to sexual orientation and update related to trained animals and disability
3. Add 2 plus Veteran or military status.s

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2661

59th Legislature
2006 Regular Session

Passed by the House January 20, 2006
Yeas 60 Nays 37

Speaker of the House of Representatives

Passed by the Senate January 27, 2006
Yeas 25 Nays 23

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 2661 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 2661

AS AMENDED BY THE SENATE

Passed Legislature - 2006 Regular Session

State of Washington

59th Legislature

2006 Regular Session

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Murray, Hankins, Pettigrew, Jarrett, McDermott, Grant, Lovick, Haigh, Moeller, Shabro, Santos, Kessler, Upthegrove, Tom, Hunter, Hasegawa, Walsh, Fromhold, Springer, Appleton, McCoy, Chase, Hudgins, Kenney, Lantz, Hunt, Darneille, Quall, Takko, Sommers, Williams, Sells, Green, Schual-Berke, Simpson, Clibborn, Conway, Linville, Cody, Kagi, B. Sullivan, McIntire, Dickerson, Miloscia, Roberts and Ormsby; by request of Governor Gregoire)

READ FIRST TIME 01/19/06.

1 AN ACT Relating to the jurisdiction of the Washington human rights
2 commission; amending RCW 49.60.010, 49.60.020, 49.60.030, 49.60.040,
3 49.60.120, 49.60.130, 49.60.175, 49.60.176, 49.60.178, 49.60.180,
4 49.60.190, 49.60.200, 49.60.215, 49.60.223, 49.60.224, 49.60.225, and
5 48.30.300; and reenacting and amending RCW 49.60.222.

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

7 **Sec. 1.** RCW 49.60.010 and 1997 c 271 s 1 are each amended to read
8 as follows:

9 This chapter shall be known as the "law against
10 discrimination((^u))." It is an exercise of the police power of the
11 state for the protection of the public welfare, health, and peace of
12 the people of this state, and in fulfillment of the provisions of the
13 Constitution of this state concerning civil rights. The legislature
14 hereby finds and declares that practices of discrimination against any
15 of its inhabitants because of race, creed, color, national origin,
16 families with children, sex, marital status, sexual orientation, age,
17 or the presence of any sensory, mental, or physical disability or the
18 use of a trained dog guide or service animal by a disabled person are
19 a matter of state concern, that such discrimination threatens not only

1 the rights and proper privileges of its inhabitants but menaces the
2 institutions and foundation of a free democratic state. A state agency
3 is herein created with powers with respect to elimination and
4 prevention of discrimination in employment, in credit and insurance
5 transactions, in places of public resort, accommodation, or amusement,
6 and in real property transactions because of race, creed, color,
7 national origin, families with children, sex, marital status, sexual
8 orientation, age, or the presence of any sensory, mental, or physical
9 disability or the use of a trained dog guide or service animal by a
10 disabled person; and the commission established hereunder is hereby
11 given general jurisdiction and power for such purposes.

12 **Sec. 2.** RCW 49.60.020 and 1993 c 510 s 2 are each amended to read
13 as follows:

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

28 **Sec. 3.** RCW 49.60.030 and 1997 c 271 s 2 are each amended to read
29 as follows:

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

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

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

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

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

9 (e) The right to engage in insurance transactions or transactions
10 with health maintenance organizations without discrimination:
11 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
12 48.44.220, or 48.46.370 does not constitute an unfair practice for the
13 purposes of this subparagraph; and

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

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

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

11 **Sec. 4.** RCW 49.60.040 and 1997 c 271 s 3 are each amended to read
12 as follows:

13 ~~((As used in this chapter:))~~ The definitions in this section apply
14 throughout this chapter unless the context clearly requires otherwise.

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

22 (2) "Commission" means the Washington state human rights
23 commission;

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

28 (4) "Employee" does not include any individual employed by his or
29 her parents, spouse, or child, or in the domestic service of any
30 person;

31 (5) "Labor organization" includes any organization which exists for
32 the purpose, in whole or in part, of dealing with employers concerning
33 grievances or terms or conditions of employment, or for other mutual
34 aid or protection in connection with employment;

35 (6) "Employment agency" includes any person undertaking with or
36 without compensation to recruit, procure, refer, or place employees for
37 an employer;

1 (7) "Marital status" means the legal status of being married,
2 single, separated, divorced, or widowed;

3 (8) "National origin" includes "ancestry";

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

14 (10) "Any place of public resort, accommodation, assemblage, or
15 amusement" includes, but is not limited to, any place, licensed or
16 unlicensed, kept for gain, hire, or reward, or where charges are made
17 for admission, service, occupancy, or use of any property or
18 facilities, whether conducted for the entertainment, housing, or
19 lodging of transient guests, or for the benefit, use, or accommodation
20 of those seeking health, recreation, or rest, or for the burial or
21 other disposition of human remains, or for the sale of goods,
22 merchandise, services, or personal property, or for the rendering of
23 personal services, or for public conveyance or transportation on land,
24 water, or in the air, including the stations and terminals thereof and
25 the garaging of vehicles, or where food or beverages of any kind are
26 sold for consumption on the premises, or where public amusement,
27 entertainment, sports, or recreation of any kind is offered with or
28 without charge, or where medical service or care is made available, or
29 where the public gathers, congregates, or assembles for amusement,
30 recreation, or public purposes, or public halls, public elevators, and
31 public washrooms of buildings and structures occupied by two or more
32 tenants, or by the owner and one or more tenants, or any public library
33 or educational institution, or schools of special instruction, or
34 nursery schools, or day care centers or children's camps: PROVIDED,
35 That nothing contained in this definition shall be construed to include
36 or apply to any institute, bona fide club, or place of accommodation,
37 which is by its nature distinctly private, including fraternal
38 organizations, though where public use is permitted that use shall be

1 covered by this chapter; nor shall anything contained in this
2 definition apply to any educational facility, columbarium, crematory,
3 mausoleum, or cemetery operated or maintained by a bona fide religious
4 or sectarian institution;

5 (11) "Real property" includes buildings, structures, dwellings,
6 real estate, lands, tenements, leaseholds, interests in real estate
7 cooperatives, condominiums, and hereditaments, corporeal and
8 incorporeal, or any interest therein;

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

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

18 (14) "Sex" means gender;

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

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

30 (~~(16)~~) (17) "Complainant" means the person who files a complaint
31 in a real estate transaction;

32 (~~(17)~~) (18) "Respondent" means any person accused in a complaint
33 or amended complaint of an unfair practice in a real estate
34 transaction;

35 (~~(18)~~) (19) "Credit transaction" includes any open or closed end
36 credit transaction, whether in the nature of a loan, retail installment
37 transaction, credit card issue or charge, or otherwise, and whether for
38 personal or for business purposes, in which a service, finance, or

1 interest charge is imposed, or which provides for repayment in
2 scheduled payments, when such credit is extended in the regular course
3 of any trade or commerce, including but not limited to transactions by
4 banks, savings and loan associations or other financial lending
5 institutions of whatever nature, stock brokers, or by a merchant or
6 mercantile establishment which as part of its ordinary business permits
7 or provides that payment for purchases of property or service therefrom
8 may be deferred;

9 ~~((19))~~ (20) "Families with children status" means one or more
10 individuals who have not attained the age of eighteen years being
11 domiciled with a parent or another person having legal custody of such
12 individual or individuals, or with the designee of such parent or other
13 person having such legal custody, with the written permission of such
14 parent or other person. Families with children status also applies to
15 any person who is pregnant or is in the process of securing legal
16 custody of any individual who has not attained the age of eighteen
17 years;

18 ~~((20))~~ (21) "Covered multifamily dwelling" means: (a) Buildings
19 consisting of four or more dwelling units if such buildings have one or
20 more elevators; and (b) ground floor dwelling units in other buildings
21 consisting of four or more dwelling units;

22 ~~((21))~~ (22) "Premises" means the interior or exterior spaces,
23 parts, components, or elements of a building, including individual
24 dwelling units and the public and common use areas of a building;

25 ~~((22))~~ (23) "Dog guide" means a dog that is trained for the
26 purpose of guiding blind persons or a dog that is trained for the
27 purpose of assisting hearing impaired persons;

28 ~~((23))~~ (24) "Service animal" means an animal that is trained for
29 the purpose of assisting or accommodating a disabled person's sensory,
30 mental, or physical disability.

31 **Sec. 5.** RCW 49.60.120 and 1997 c 271 s 4 are each amended to read
32 as follows:

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

34 (1) To appoint an executive director and chief examiner, and such
35 investigators, examiners, clerks, and other employees and agents as it
36 may deem necessary, fix their compensation within the limitations
37 provided by law, and prescribe their duties.

1 (2) To obtain upon request and utilize the services of all
2 governmental departments and agencies.

3 (3) To adopt, (~~promulgate~~) amend, and rescind suitable rules
4 (~~and regulations~~) to carry out the provisions of this chapter, and
5 the policies and practices of the commission in connection therewith.

6 (4) To receive, impartially investigate, and pass upon complaints
7 alleging unfair practices as defined in this chapter.

8 (5) To issue such publications and (~~such~~) results of
9 investigations and research as in its judgment will tend to promote
10 good will and minimize or eliminate discrimination because of sex,
11 sexual orientation, race, creed, color, national origin, marital
12 status, age, or the presence of any sensory, mental, or physical
13 disability, or the use of a trained dog guide or service animal by a
14 disabled person.

15 (6) To make such technical studies as are appropriate to effectuate
16 the purposes and policies of this chapter and to publish and distribute
17 the reports of such studies.

18 (7) To cooperate and act jointly or by division of labor with the
19 United States or other states, with other Washington state agencies,
20 commissions, and other government entities, and with political
21 subdivisions of the state of Washington and their respective human
22 rights agencies to carry out the purposes of this chapter. However,
23 the powers which may be exercised by the commission under this
24 subsection permit investigations and complaint dispositions only if the
25 investigations are designed to reveal, or the complaint deals only
26 with, allegations which, if proven, would constitute unfair practices
27 under this chapter. The commission may perform such services for these
28 agencies and be reimbursed therefor.

29 (8) To foster good relations between minority and majority
30 population groups of the state through seminars, conferences,
31 educational programs, and other intergroup relations activities.

32 **Sec. 6.** RCW 49.60.130 and 1997 c 271 s 5 are each amended to read
33 as follows:

34 The commission has power to create such advisory agencies and
35 conciliation councils, local, regional, or statewide, as in its
36 judgment will aid in effectuating the purposes of this chapter. The
37 commission may empower them to study the problems of discrimination in

1 all or specific fields of human relationships or in specific instances
2 of discrimination because of sex, race, creed, color, national origin,
3 marital status, sexual orientation, age, or the presence of any
4 sensory, mental, or physical disability or the use of a trained dog
5 guide or service animal by a disabled person; to foster through
6 community effort or otherwise good will, cooperation, and conciliation
7 among the groups and elements of the population of the state, and to
8 make recommendations to the commission for the development of policies
9 and procedures in general and in specific instances, and for programs
10 of formal and informal education which the commission may recommend to
11 the appropriate state agency.

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

20 **Sec. 7.** RCW 49.60.175 and 1997 c 271 s 7 are each amended to read
21 as follows:

22 It shall be an unfair practice to use the sex, race, creed, color,
23 national origin, marital status, sexual orientation, or the presence of
24 any sensory, mental, or physical disability of any person, or the use
25 of a trained dog guide or service animal by a disabled person,
26 concerning an application for credit in any credit transaction to
27 determine the credit worthiness of an applicant.

28 **Sec. 8.** RCW 49.60.176 and 1997 c 271 s 8 are each amended to read
29 as follows:

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

36 (a) To deny credit to any person;

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

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

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

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

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

15 **Sec. 9.** RCW 49.60.178 and 1997 c 271 s 9 are each amended to read
16 as follows:

17 It is an unfair practice for any person whether acting for himself,
18 herself, or another in connection with an insurance transaction or
19 transaction with a health maintenance organization to cancel or fail or
20 refuse to issue or renew insurance or a health maintenance agreement to
21 any person because of sex, marital status, sexual orientation, race,
22 creed, color, national origin, or the presence of any sensory, mental,
23 or physical disability or the use of a trained dog guide or service
24 animal by a disabled person: PROVIDED, That a practice which is not
25 unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not
26 constitute an unfair practice for the purposes of this section. For
27 the purposes of this section, "insurance transaction" is defined in RCW
28 48.01.060, health maintenance agreement is defined in RCW 48.46.020,
29 and "health maintenance organization" is defined in RCW 48.46.020.

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

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

1 **Sec. 10.** RCW 49.60.180 and 1997 c 271 s 10 are each amended to
2 read as follows:

3 It is an unfair practice for any employer:

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

14 (2) To discharge or bar any person from employment because of age,
15 sex, marital status, sexual orientation, race, creed, color, national
16 origin, or the presence of any sensory, mental, or physical disability
17 or the use of a trained dog guide or service animal by a disabled
18 person.

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

30 (4) To print, or circulate, or cause to be printed or circulated
31 any statement, advertisement, or publication, or to use any form of
32 application for employment, or to make any inquiry in connection with
33 prospective employment, which expresses any limitation, specification,
34 or discrimination as to age, sex, marital status, sexual orientation,
35 race, creed, color, national origin, or the presence of any sensory,
36 mental, or physical disability or the use of a trained dog guide or
37 service animal by a disabled person, or any intent to make any such

1 limitation, specification, or discrimination, unless based upon a bona
2 fide occupational qualification: PROVIDED, Nothing contained herein
3 shall prohibit advertising in a foreign language.

4 **Sec. 11.** RCW 49.60.190 and 1997 c 271 s 11 are each amended to
5 read as follows:

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

7 (1) To deny membership and full membership rights and privileges to
8 any person because of age, sex, marital status, sexual orientation,
9 race, creed, color, national origin, or the presence of any sensory,
10 mental, or physical disability or the use of a trained dog guide or
11 service animal by a disabled person.

12 (2) To expel from membership any person because of age, sex,
13 marital status, sexual orientation, race, creed, color, national
14 origin, or the presence of any sensory, mental, or physical disability
15 or the use of a trained dog guide or service animal by a disabled
16 person.

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

23 **Sec. 12.** RCW 49.60.200 and 1997 c 271 s 12 are each amended to
24 read as follows:

25 It is an unfair practice for any employment agency to fail or
26 refuse to classify properly or refer for employment, or otherwise to
27 discriminate against, an individual because of age, sex, marital
28 status, sexual orientation, race, creed, color, national origin, or the
29 presence of any sensory, mental, or physical disability or the use of
30 a trained dog guide or service animal by a disabled person, or to print
31 or circulate, or cause to be printed or circulated any statement,
32 advertisement, or publication, or to use any form of application for
33 employment, or to make any inquiry in connection with prospective
34 employment, which expresses any limitation, specification or
35 discrimination as to age, sex, race, sexual orientation, creed, color,
36 or national origin, or the presence of any sensory, mental, or physical

1 disability or the use of a trained dog guide or service animal by a
2 disabled person, or any intent to make any such limitation,
3 specification, or discrimination, unless based upon a bona fide
4 occupational qualification: PROVIDED, Nothing contained herein shall
5 prohibit advertising in a foreign language.

6 **Sec. 13.** RCW 49.60.215 and 1997 c 271 s 13 are each amended to
7 read as follows:

8 It shall be an unfair practice for any person or the person's agent
9 or employee to commit an act which directly or indirectly results in
10 any distinction, restriction, or discrimination, or the requiring of
11 any person to pay a larger sum than the uniform rates charged other
12 persons, or the refusing or withholding from any person the admission,
13 patronage, custom, presence, frequenting, dwelling, staying, or lodging
14 in any place of public resort, accommodation, assemblage, or amusement,
15 except for conditions and limitations established by law and applicable
16 to all persons, regardless of race, creed, color, national origin,
17 sexual orientation, sex, the presence of any sensory, mental, or
18 physical disability, or the use of a trained dog guide or service
19 animal by a disabled person: PROVIDED, That this section shall not be
20 construed to require structural changes, modifications, or additions to
21 make any place accessible to a disabled person except as otherwise
22 required by law: PROVIDED, That behavior or actions constituting a
23 risk to property or other persons can be grounds for refusal and shall
24 not constitute an unfair practice.

25 **Sec. 14.** RCW 49.60.222 and 1997 c 400 s 3 and 1997 c 271 s 14 are
26 each reenacted and amended to read as follows:

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

33 (a) To refuse to engage in a real estate transaction with a person;

34 (b) To discriminate against a person in the terms, conditions, or
35 privileges of a real estate transaction or in the furnishing of
36 facilities or services in connection therewith;

1 (c) To refuse to receive or to fail to transmit a bona fide offer
2 to engage in a real estate transaction from a person;

3 (d) To refuse to negotiate for a real estate transaction with a
4 person;

5 (e) To represent to a person that real property is not available
6 for inspection, sale, rental, or lease when in fact it is so available,
7 or to fail to bring a property listing to his or her attention, or to
8 refuse to permit the person to inspect real property;

9 (f) To discriminate in the sale or rental, or to otherwise make
10 unavailable or deny a dwelling, to any person; or to a person residing
11 in or intending to reside in that dwelling after it is sold, rented, or
12 made available; or to any person associated with the person buying or
13 renting;

14 (g) To make, print, circulate, post, or mail, or cause to be so
15 made or published a statement, advertisement, or sign, or to use a form
16 of application for a real estate transaction, or to make a record or
17 inquiry in connection with a prospective real estate transaction, which
18 indicates, directly or indirectly, an intent to make a limitation,
19 specification, or discrimination with respect thereto;

20 (h) To offer, solicit, accept, use, or retain a listing of real
21 property with the understanding that a person may be discriminated
22 against in a real estate transaction or in the furnishing of facilities
23 or services in connection therewith;

24 (i) To expel a person from occupancy of real property;

25 (j) To discriminate in the course of negotiating, executing, or
26 financing a real estate transaction whether by mortgage, deed of trust,
27 contract, or other instrument imposing a lien or other security in real
28 property, or in negotiating or executing any item or service related
29 thereto including issuance of title insurance, mortgage insurance, loan
30 guarantee, or other aspect of the transaction. Nothing in this section
31 shall limit the effect of RCW 49.60.176 relating to unfair practices in
32 credit transactions; or

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

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

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

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

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

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

35 (3) Notwithstanding any other provision of this chapter, it shall
36 not be an unfair practice or a denial of civil rights for any public or
37 private educational institution to separate the sexes or give

1 preference to or limit use of dormitories, residence halls, or other
2 student housing to persons of one sex or to make distinctions on the
3 basis of marital or families with children status.

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

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

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

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

1 **Sec. 15.** RCW 49.60.223 and 1997 c 271 s 15 are each amended to
2 read as follows:

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

11 **Sec. 16.** RCW 49.60.224 and 1997 c 271 s 16 are each amended to
12 read as follows:

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

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

30 **Sec. 17.** RCW 49.60.225 and 1997 c 271 s 17 are each amended to
31 read as follows:

32 (1) When a reasonable cause determination has been made under RCW
33 49.60.240 that an unfair practice in a real estate transaction has been
34 committed and a finding has been made that the respondent has engaged
35 in any unfair practice under RCW 49.60.250, the administrative law
36 judge shall promptly issue an order for such relief suffered by the

1 aggrieved person as may be appropriate, which may include actual
2 damages as provided by the federal fair housing amendments act of 1988
3 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable
4 relief. Such order may, to further the public interest, assess a civil
5 penalty against the respondent;

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

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

13 (c) In an amount up to fifty thousand dollars if the respondent has
14 been determined to have committed two or more unfair practices in a
15 real estate transaction during the seven-year period ending on the date
16 of the filing of this charge, for loss of the right secured by RCW
17 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as
18 now or hereafter amended, to be free from discrimination in real
19 property transactions because of sex, marital status, race, creed,
20 color, national origin, sexual orientation, families with children
21 status, or the presence of any sensory, mental, or physical disability
22 or the use of a trained dog guide or service animal by a blind, deaf,
23 or physically disabled person. Enforcement of the order and appeal
24 therefrom by the complainant or respondent may be made as provided in
25 RCW 49.60.260 and 49.60.270. If acts constituting the unfair practice
26 in a real estate transaction that is the object of the charge are
27 determined to have been committed by the same natural person who has
28 been previously determined to have committed acts constituting an
29 unfair practice in a real estate transaction, then the civil penalty of
30 up to fifty thousand dollars may be imposed without regard to the
31 period of time within which any subsequent unfair practice in a real
32 estate transaction occurred. All civil penalties assessed under this
33 section shall be paid into the state treasury and credited to the
34 general fund.

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

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

4 **Sec. 18.** RCW 48.30.300 and 2005 c 223 s 19 are each amended to
5 read as follows:

6 Notwithstanding any provision contained in Title 48 RCW to the
7 contrary:

8 A person or entity engaged in the business of insurance in this
9 state may not refuse to issue any contract of insurance or cancel or
10 decline to renew such contract because of the sex ~~((or))~~, marital
11 status, or sexual orientation as defined in RCW 49.60.040, or the
12 presence of any sensory, mental, or physical handicap of the insured or
13 prospective insured. The amount of benefits payable, or any term,
14 rate, condition, or type of coverage may not be restricted, modified,
15 excluded, increased, or reduced on the basis of the sex ~~((or))~~, marital
16 status, or sexual orientation, or be restricted, modified, excluded, or
17 reduced on the basis of the presence of any sensory, mental, or
18 physical handicap of the insured or prospective insured. This
19 subsection does not prohibit fair discrimination on the basis of sex,
20 or marital status, or the presence of any sensory, mental, or physical
21 handicap when bona fide statistical differences in risk or exposure
22 have been substantiated.

--- END ---

HB 2661-S.E - DIGEST

(DIGEST AS ENACTED)

Expands the jurisdiction of the human rights commission to include cases of discrimination because of a person's sexual orientation.

Provides that this act shall not be construed to require an employer to establish employment goals or quotas based on sexual orientation.

Provides that inclusion of sexual orientation in chapter 49.60 RCW shall not be construed to modify or supersede state law relating to marriage.