
SENATE BILL 5529

State of Washington

68th Legislature

2023 Regular Session

By Senators Trudeau and Saldaña

1 AN ACT Relating to removing the exclusion of certain domestic
2 workers from certain worker protections; amending RCW 51.12.020;
3 reenacting and amending RCW 49.60.040; and adding a new section to
4 chapter 49.60 RCW.

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

6 **Sec. 1.** RCW 49.60.040 and 2020 c 85 s 1 are each reenacted and
7 amended to read as follows:

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

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

14 (2) "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
20 accommodation of those seeking health, recreation, or rest, or for
21 the burial or other disposition of human remains, or for the sale of

1 goods, merchandise, services, or personal property, or for the
2 rendering of personal services, or for public conveyance or
3 transportation on land, water, or in the air, including the stations
4 and terminals thereof and the garaging of vehicles, or where food or
5 beverages of any kind are sold for consumption on the premises, or
6 where public amusement, entertainment, sports, or recreation of any
7 kind is offered with or without charge, or where medical service or
8 care is made available, or where the public gathers, congregates, or
9 assembles for amusement, recreation, or public purposes, or public
10 halls, public elevators, and public washrooms of buildings and
11 structures occupied by two or more tenants, or by the owner and one
12 or more tenants, or any public library or educational institution, or
13 schools of special instruction, or nursery schools, or day care
14 centers or children's camps: PROVIDED, That nothing contained in this
15 definition shall be construed to include or apply to any institute,
16 bona fide club, or place of accommodation, which is by its nature
17 distinctly private, including fraternal organizations, though where
18 public use is permitted that use shall be covered by this chapter;
19 nor shall anything contained in this definition apply to any
20 educational facility, columbarium, crematory, mausoleum, or cemetery
21 operated or maintained by a bona fide religious or sectarian
22 institution.

23 (3) "Casual labor" means work that is irregular, uncertain, and
24 incidental in nature and duration and is different in nature from the
25 type of paid work in which the worker is customarily engaged in.

26 (4) "Commission" means the Washington state human rights
27 commission.

28 ((4)) (5) "Complainant" means the person who files a complaint
29 in a real estate transaction.

30 ((5)) (6) "Covered multifamily dwelling" means: (a) Buildings
31 consisting of four or more dwelling units if such buildings have one
32 or more elevators; and (b) ground floor dwelling units in other
33 buildings consisting of four or more dwelling units.

34 ((6)) (7) "Credit transaction" includes any open or closed end
35 credit transaction, whether in the nature of a loan, retail
36 installment transaction, credit card issue or charge, or otherwise,
37 and whether for personal or for business purposes, in which a
38 service, finance, or interest charge is imposed, or which provides
39 for repayment in scheduled payments, when such credit is extended in
40 the regular course of any trade or commerce, including but not

1 limited to transactions by banks, savings and loan associations or
2 other financial lending institutions of whatever nature, stock
3 brokers, or by a merchant or mercantile establishment which as part
4 of its ordinary business permits or provides that payment for
5 purchases of property or service therefrom may be deferred.

6 ((+7)) (8)(a) "Disability" means the presence of a sensory,
7 mental, or physical impairment that:

8 (i) Is medically cognizable or diagnosable; or

9 (ii) Exists as a record or history; or

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

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

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

18 (i) Any physiological disorder, or condition, cosmetic
19 disfigurement, or anatomical loss affecting one or more of the
20 following body systems: Neurological, musculoskeletal, special sense
21 organs, respiratory, including speech organs, cardiovascular,
22 reproductive, digestive, (~~genitor-urinary~~ [genitourinary])
23 genitourinary, hemic and lymphatic, skin, and endocrine; or

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

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

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

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

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

3 ~~((8))~~ (9) "Dog guide" means a dog that is trained for the
4 purpose of guiding blind persons or a dog that is trained for the
5 purpose of assisting hearing impaired persons.

6 ~~((9))~~ (10) "Domestic service" means household services for
7 members of households or their guests in private homes. This includes
8 the maintenance of private homes or their premises.

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

14 ~~((10))~~ (12) "Employ" includes to permit to work.

15 (13) "Employee" does not include ((any)):

16 (a) Any individual employed by his or her parents, spouse, or
17 child(~~, or in the domestic service of any person~~);

18 (b) Persons who provide babysitting on a casual labor basis;

19 (c) Persons who provide services or supports for a family member
20 on a casual labor basis;

21 (d) Any individual employed in casual labor in or about a private
22 home, unless performed in the course of a hiring entity's trade,
23 business, or profession;

24 (e) Individual providers, as defined in RCW 74.39A.240;

25 (f) An au pair participant who has been granted a J-1 visa for
26 participation in the federal department of state designated exchange
27 visitor program governed by 22 C.F.R. Sec. 62.31;

28 (g) Persons who perform house sitting, pet sitting, and dog
29 walking duties that do not involve domestic service; or

30 (h) Persons providing services to another family member who is
31 sick, convalescing, elderly, or a person with a disability, where the
32 family members do not intend to establish an employer-employee
33 relationship. An employer-employee relationship does not exist under
34 such circumstances when:

35 (i) The family members have mutually agreed that care is provided
36 gratuitously; or

37 (ii) The family member provides services for fewer than 15 hours
38 per week and the family member providing care does not provide
39 domestic services in the person's ordinary course of business.

1 (~~(11)~~) (14) "Employer" includes any person acting in the
2 interest of an employer, directly or indirectly, who employs eight or
3 more persons, and does not include any religious or sectarian
4 organization not organized for private profit. Employer also includes
5 any person employing an employee for domestic service.

6 (~~(12)~~) (15) "Employment agency" includes any person undertaking
7 with or without compensation to recruit, procure, refer, or place
8 employees for an employer.

9 (~~(13)~~) (16) "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
12 such individual or individuals, or with the designee of such parent
13 or other person having such legal custody, with the written
14 permission of such parent or other person. Families with children
15 status also applies to any person who is pregnant or is in the
16 process of securing legal custody of any individual who has not
17 attained the age of eighteen years.

18 (~~(14)~~) (17) "Full enjoyment of" includes the right to purchase
19 any service, commodity, or article of personal property offered or
20 sold on, or by, any establishment to the public, and the admission of
21 any person to accommodations, advantages, facilities, or privileges
22 of any place of public resort, accommodation, assemblage, or
23 amusement, without acts directly or indirectly causing persons of any
24 particular race, creed, color, sex, sexual orientation, national
25 origin, or with any sensory, mental, or physical disability, or the
26 use of a trained dog guide or service animal by a person with a
27 disability, to be treated as not welcome, accepted, desired, or
28 solicited.

29 (~~(15)~~) (18) "Hiring entity" means any employer, as defined in
30 RCW 49.46.010, or in subsection (14) of this section, who employs an
31 employee for domestic services, as well as any individual,
32 partnership, association, corporation, business trust, or any
33 combination thereof, which pays a wage or pays wages. It includes any
34 such entity, person, or group of persons that provides compensation
35 directly or indirectly to a domestic worker for the performance of
36 domestic services and any such entity, person, or persons acting
37 directly or indirectly in the interest of the hiring entity in
38 relation to the domestic worker. "Hiring entity" does not include a
39 state agency or home care agency as defined in RCW 70.127.010 and

1 licensed under chapter 70.127 RCW if the home care agency receives
2 funding through RCW 74.39A.310.

3 (19) "Honorably discharged veteran or military status" means a
4 person who is:

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

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

9 ~~((16))~~ (20) "Labor organization" includes any organization
10 which exists for the purpose, in whole or in part, of dealing with
11 employers concerning grievances or terms or conditions of employment,
12 or for other mutual aid or protection in connection with employment.

13 ~~((17))~~ (21) "Marital status" means the legal status of being
14 married, single, separated, divorced, or widowed.

15 ~~((18))~~ (22) "National origin" includes "ancestry."

16 ~~((19))~~ (23) "Person" includes one or more individuals,
17 partnerships, associations, organizations, corporations,
18 cooperatives, legal representatives, trustees and receivers, or any
19 group of persons; it includes any owner, lessee, proprietor, manager,
20 agent, or employee, whether one or more natural persons; and further
21 includes any political or civil subdivisions of the state and any
22 agency or instrumentality of the state or of any political or civil
23 subdivision thereof.

24 ~~((20))~~ (24) "Premises" means the interior or exterior spaces,
25 parts, components, or elements of a building, including individual
26 dwelling units and the public and common use areas of a building.

27 ~~((21))~~ (25) "Race" is inclusive of traits historically
28 associated or perceived to be associated with race including, but not
29 limited to, hair texture and protective hairstyles. For purposes of
30 this subsection, "protective hairstyles" includes, but is not limited
31 to, such hairstyles as afros, braids, locks, and twists.

32 ~~((22))~~ (26) "Real estate transaction" includes the sale,
33 appraisal, brokering, exchange, purchase, rental, or lease of real
34 property, transacting or applying for a real estate loan, or the
35 provision of brokerage services.

36 ~~((23))~~ (27) "Real property" includes buildings, structures,
37 dwellings, real estate, lands, tenements, leaseholds, interests in
38 real estate cooperatives, condominiums, and hereditaments, corporeal
39 and incorporeal, or any interest therein.

1 (~~(24)~~) (28) "Respondent" means any person accused in a
2 complaint or amended complaint of an unfair practice in a real estate
3 transaction.

4 (~~(25)~~) (29) "Service animal" means any dog or miniature horse,
5 as discussed in RCW 49.60.214, that is individually trained to do
6 work or perform tasks for the benefit of an individual with a
7 disability, including a physical, sensory, psychiatric, intellectual,
8 or other mental disability. The work or tasks performed by the
9 service animal must be directly related to the individual's
10 disability. Examples of work or tasks include, but are not limited
11 to, assisting individuals who are blind or have low vision with
12 navigation and other tasks, alerting individuals who are deaf or hard
13 of hearing to the presence of people or sounds, providing nonviolent
14 protection or rescue work, pulling a wheelchair, assisting an
15 individual during a seizure, alerting individuals to the presence of
16 allergens, retrieving items such as medicine or the telephone,
17 providing physical support and assistance with balance and stability
18 to individuals with mobility disabilities, and helping persons with
19 psychiatric and neurological disabilities by preventing or
20 interrupting impulsive or destructive behaviors. The crime deterrent
21 effects of an animal's presence and the provision of emotional
22 support, well-being, comfort, or companionship do not constitute work
23 or tasks. This subsection does not apply to RCW 49.60.222 through
24 49.60.227 with respect to housing accommodations or real estate
25 transactions.

26 (~~(26)~~) (30) "Sex" means gender.

27 (~~(27)~~) (31) "Sexual orientation" means heterosexuality,
28 homosexuality, bisexuality, and gender expression or identity. As
29 used in this definition, "gender expression or identity" means having
30 or being perceived as having a gender identity, self-image,
31 appearance, behavior, or expression, whether or not that gender
32 identity, self-image, appearance, behavior, or expression is
33 different from that traditionally associated with the sex assigned to
34 that person at birth.

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.60
36 RCW to read as follows:

37 An employee employed in domestic service who files a complaint or
38 brings suit alleging discrimination in violation of RCW 49.60.180

1 shall be entitled to all the procedural and substantive rights
2 available under this chapter except when:

3 (1) The employer is a person who is elderly or has a disability
4 that results in discriminatory or harassing behaviors;

5 (2) The employer or a hiring entity informs the employee
6 providing home care or personal care services to a person who has a
7 documented behavioral condition, that the employer or hiring entity
8 has reason to believe that those behaviors will result in
9 discrimination and abusive conduct likely occurring in or around the
10 client's home prior to assigning the employee to that client and
11 throughout the duration of service;

12 (3) The behaviors can be shown as directly resulting from a
13 diagnosed and documented cognitive impairment; and

14 (4) The employee voluntarily agrees to initiate or continue the
15 employment relationship; or

16 (5) The employer or hiring entity receiving personal care
17 services, as defined in RCW 74.39A.009, refuses to hire an employee
18 based on gender preferences.

19 **Sec. 3.** RCW 51.12.020 and 2022 c 281 s 8 are each amended to
20 read as follows:

21 The following are the only employments which shall not be
22 included within the mandatory coverage of this title:

23 (1) ~~((Any person employed as a domestic servant in a private home
24 by an employer who has less than two employees regularly employed
25 forty or more hours a week in such employment.~~

26 ~~(2) Any person employed to do gardening, maintenance, or repair,
27 in or about the private home of the employer. For the purposes of
28 this subsection, "maintenance" means the work of keeping in proper
29 condition, "repair" means to restore to sound condition after damage,
30 and "private home" means a person's place of residence.~~

31 ~~(3))~~ A person whose employment is not in the course of the
32 trade, business, or profession of his or her employer and is not in
33 or about the private home of the employer.

34 ~~((4))~~ (2) Any person performing services in return for aid or
35 sustenance only, received from any religious or charitable
36 organization.

37 ~~((5))~~ (3) Sole proprietors or partners.

1 (~~(6)~~) (4) Any child under eighteen years of age employed by his
2 or her parent or parents in agricultural activities on the family
3 farm.

4 (~~(7)~~) (5) Jockeys while participating in or preparing horses
5 for race meets licensed by the Washington horse racing commission
6 pursuant to chapter 67.16 RCW.

7 (~~(8)~~) (6)(a) Except as otherwise provided in (b) of this
8 subsection, any bona fide officer of a corporation voluntarily
9 elected or voluntarily appointed in accordance with the articles of
10 incorporation or bylaws of the corporation, who at all times during
11 the period involved is also a bona fide director, and who is also a
12 shareholder of the corporation. Only such officers who exercise
13 substantial control in the daily management of the corporation and
14 whose primary responsibilities do not include the performance of
15 manual labor are included within this subsection.

16 (b) Alternatively, a corporation that is not a "public company"
17 as defined in RCW 23B.01.400 may exempt eight or fewer bona fide
18 officers, who are voluntarily elected or voluntarily appointed in
19 accordance with the articles of incorporation or bylaws of the
20 corporation and who exercise substantial control in the daily
21 management of the corporation, from coverage under this title without
22 regard to the officers' performance of manual labor if the exempted
23 officer is a shareholder of the corporation, or may exempt any number
24 of officers if all the exempted officers are related by blood within
25 the third degree or marriage. If a corporation that is not a "public
26 company" elects to be covered under (a) of this subsection, the
27 corporation's election must be made on a form prescribed by the
28 department and under such reasonable rules as the department may
29 adopt.

30 (c) Determinations respecting the status of persons performing
31 services for a corporation shall be made, in part, by reference to
32 Title 23B RCW and to compliance by the corporation with its own
33 articles of incorporation and bylaws. For the purpose of determining
34 coverage under this title, substance shall control over form, and
35 mandatory coverage under this title shall extend to all workers of
36 this state, regardless of honorary titles conferred upon those
37 actually serving as workers.

38 (d) A corporation may elect to cover officers who are exempted by
39 this subsection in the manner provided by RCW 51.12.110.

1 ~~((9))~~ (7) Services rendered by a musician or entertainer under
2 a contract with a purchaser of the services, for a specific
3 engagement or engagements when such musician or entertainer performs
4 no other duties for the purchaser and is not regularly and
5 continuously employed by the purchaser. A purchaser does not include
6 the leader of a group or recognized entity who employs other than on
7 a casual basis musicians or entertainers.

8 ~~((10))~~ (8) Services performed by a newspaper vendor, carrier,
9 or delivery person selling or distributing newspapers on the street,
10 to offices, to businesses, or from house to house and any freelance
11 news correspondent or "stringer" who, using his or her own equipment,
12 chooses to submit material for publication for free or a fee when
13 such material is published.

14 ~~((11))~~ (9) Services performed by an insurance producer, as
15 defined in RCW 48.17.010, or a surplus line broker licensed under
16 chapter 48.15 RCW.

17 ~~((12))~~ (10) Services performed by a booth renter. However, a
18 person exempted under this subsection may elect coverage under RCW
19 51.32.030.

20 ~~((13))~~ (11) Members of a limited liability company, if either:

21 (a) Management of the company is vested in its members, and the
22 members for whom exemption is sought would qualify for exemption
23 under subsection ~~((5))~~ (3) of this section were the company a sole
24 proprietorship or partnership; or

25 (b) Management of the company is vested in one or more managers,
26 and the members for whom the exemption is sought are managers who
27 would qualify for exemption under subsection ~~((8))~~ (6) of this
28 section were the company a corporation.

29 ~~((14))~~ (12) For hire vehicle operators under chapter 46.72 RCW
30 who own or lease the for hire vehicle, chauffeurs under chapter
31 46.72A RCW who own or lease the limousine, and operators of taxicabs
32 under chapter 81.72 RCW who own or lease the taxicab. An owner or
33 lessee may elect coverage in the manner provided by RCW 51.32.030.

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