

## CHAPTER 214

[Substitute House Bill No. 445]

ANTI-DISCRIMINATION LAW--SEX--

HANDICAPPED PERSONS

AN ACT Relating to the law against discrimination; amending section 1, chapter 183, Laws of 1949 as last amended by section 1, chapter 141, Laws of 1973 and RCW 49.60.010; amending section 12, chapter 183, Laws of 1949 as last amended by section 2, chapter 141, Laws of 1973 and RCW 49.60.020; amending section 2, chapter 183, Laws of 1949 as last amended by section 3, chapter 141, Laws of 1973 and RCW 49.60.030; amending section 15, chapter 270, Laws of 1955 as amended by section 16, chapter 37, Laws of 1957 and RCW 49.60.230; amending section 8, chapter 270, Laws of 1955 as last amended by section 7, chapter 141, Laws of 1973 and RCW 49.60.120; amending section 9, chapter 270, Laws of 1955 as last amended by section 8, chapter 141, Laws of 1973 and RCW 49.60.130; amending section 9, chapter 37, Laws of 1957 as last amended by section 10, chapter 141, Laws of 1973 and RCW 49.60.180; amending section 10, chapter 37, Laws of 1957 as last amended by section 11, chapter 141, Laws of 1973 and RCW 49.60.190; and amending section 11, chapter 37, Laws of 1957 as last amended by section 12, chapter 141, Laws of 1973 and RCW 49.60.200.

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

Section 1. Section 1, chapter 183, Laws of 1949 as last amended by section 1, chapter 141, Laws of 1973 and RCW 49.60.010 are each amended to read as follows:

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, sex, marital status ((or)), age, or the presence of any sensory, mental, or physical handicap 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, sex, marital status ((or)), age, or the presence of any sensory, mental, or physical handicap; and the board established hereunder is hereby given general jurisdiction and power for such purposes.

Sec. 2. Section 12, chapter 183, Laws of 1949 as last amended by section 2, chapter 141, Laws of 1973 and RCW 49.60.020 are each amended to read as follows:

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 ((or)), age, or the presence of any sensory, mental, or physical handicap, 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 civil rights.

Sec. 3. Section 2, chapter 183, Laws of 1949 as last amended by section 3, chapter 141, Laws of 1973 and RCW 49.60.030 are each amended to read as follows:

(1) The right to be free from discrimination because of race, creed, color, national origin, ((or)) sex, or the presence of any sensory, mental, or physical handicap 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;

(d) The right to engage in credit or insurance transactions without discrimination((?)).

(2) Any person deeming himself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, to recover the actual damages sustained by him, or both, together with the cost of suit including a reasonable attorney's fees or any other remedy authorized by this chapter or the United States Civil Rights Act of 1964; and

(3) Notwithstanding any other provisions of this chapter, any act prohibited by this chapter related to sex discrimination which is committed in the course of trade or commerce in the state of Washington as defined in the Consumer Protection Act, chapter 19.86

RCW, shall be deemed an unfair practice within the meaning of RCW 19.86.020 and subject to all the provisions of chapter 19.86 RCW as now or hereafter amended.

Sec. 4. Section 8, chapter 270, Laws of 1955 as last amended by section 7, chapter 141, Laws of 1973 and RCW 49.60.120 are each amended to read as follows:

The board shall have the functions, powers and duties:

(1) To appoint an executive secretary 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, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this chapter, and the policies and practices of the board in connection therewith.

(4) To receive, investigate, and pass upon complaints alleging unfair practices as defined in this chapter because of sex, race, creed, color, ~~((or))~~ national origin, or the presence of any sensory, mental, or physical handicap.

(5) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of sex, race, creed, color, national origin, ~~((sex))~~ marital status, ~~((or))~~ age, or the presence of any sensory, mental, or physical handicap.

(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.

Sec. 5. Section 9, chapter 270, Laws of 1955 as last amended by section 8, chapter 141, Laws of 1973 and RCW 49.60.130 are each amended to read as follows:

The board has power to create such advisory agencies and conciliation councils, local, regional, or state-wide, as in its judgment will aid in effectuating the purposes of this chapter. The board 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, ~~((or))~~ marital status, or the presence of any sensory, mental, or physical handicap; 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 board for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education which the board 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 actual and necessary traveling expenses, and the board may make provision for technical and clerical assistance to such agencies and councils and for the expenses of such assistance. The board may use organizations specifically experienced in dealing with questions of discrimination.

Sec. 6. Section 9, chapter 37, Laws of 1957 as last amended by section 10, chapter 141, Laws of 1973 and RCW 49.60.180 are each amended to read as follows:

It is an unfair practice for any employer:

(1) To refuse to hire any person because of such person's age, sex, marital status, race, creed, color, ~~((or))~~ national origin, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification; PROVIDED, That the prohibition against discrimination because of such handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved.

(2) To discharge or bar any person from employment because of such person's age, sex, marital status, race, creed, color, ~~((or))~~ national origin, or the presence of any sensory, mental, or physical handicap.

(3) To discriminate against any person in compensation or in other terms or conditions of employment because of such person's age, sex, marital status, race, creed, color, ~~((or))~~ national origin, or the presence of any sensory, mental, or physical handicap: 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 board 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; PROVIDED, FURTHER,

That it shall not be an unfair practice for an employer to reasonably exclude or restrict participation of handicapped employees from, or reasonably restrict their participation in, life insurance, medical or disability benefits programs.

(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, race, creed, color, ~~((or))~~ national origin, or the presence of any sensory, mental, or physical handicap, 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.

V Sec. 7. Section 15, chapter 270, Laws of 1955 as amended by section 16, chapter 37, Laws of 1957 and RCW 49.60.230 are each amended to read as follows:

Who may file a complaint:

(1) Any person claiming to be aggrieved by an alleged unfair practice may, by himself or his attorney, make, sign, and file with the board a complaint in writing under oath. The complaint shall state the name and address 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 board.

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

(3) 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 board a written complaint under oath asking for assistance by conciliation or other remedial action.

Any complaint filed pursuant to this section must be so filed within six months after the alleged act of discrimination: PROVIDED FURTHER, Any person filing a complaint of an alleged unfair labor practice based upon a handicap shall, if requested by the commission or one of its duly authorized employees, submit himself for medical and/or psychiatric examination as provided by the commission before further action on the complaint is taken by the commission.

Sec. 8. Section 10, chapter 37, Laws of 1957 as last amended by section 11, chapter 141, Laws of 1973 and RCW 49.60.190 are each amended to read as follows:

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, race, creed, color, ((or)) nation origin, or the presence of any sensory, mental, or physical handicap.

(2) To expel from membership any person because of age, sex, marital status, race, creed, color, ((or)) national origin, or the presence of any sensory, mental, or physical handicap.

(3) To discriminate against any member, employer, or employee because of age, sex, marital status, race, creed, color, ((or)) national origin, or the presence of any sensory, mental, or physical handicap.

Sec. 9. Section 11, chapter 37, Laws of 1957 as last amended by section 12, chapter 141, Laws of 1973 and RCW 49.60.200 are each amended to read as follows:

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, race, creed, color, ((or)) national origin, or the presence of any sensory, mental, or physical handicap, 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, creed, color, or national origin, or the presence of any sensory, mental, or physical handicap, 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.

Passed the House April 15, 1973.

Passed the Senate April 15, 1973.

Approved by the Governor April 26, 1973, with the exception of one item in Section 6 and all of Section 7, which are vetoed.

Filed in Office of Secretary of State April 26, 1973.

Note: Governor's explanation of partial veto is as follows:

"I am filing herewith to be transmitted to the House of Representatives at the next session of the Legislature, without my approval as to one section and one item, Substitute House Bill No. 445, entitled:

Veto  
Message

"AN ACT Relating to the law against discrimination."

This act provides that discrimination as a result of any sensory, physical or mental handicap, is a matter of state concern and one in which the Board Against Discrimination is empowered to investigate and to act. It is made an unfair labor practice for an employer to discriminate in hiring such an individual as a result of these factors, unless the factor involved would prevent the proper performance of the work to be performed.

In section 6 an employer is allowed to exclude or restrict participation of handicapped persons in certain insurance benefit programs. There is no definition of handicap and consequently this provision could be applied to many persons and not just to those persons to whom the

bill was primarily directed. In addition, group policies ordinarily include handicapped persons and merely exclude the pre-existing conditions, and the premiums are little, if at all, higher. For these reasons I have determined to veto this item in section 6.

Veto  
Message

In section 7 the Commission is authorized to require a person filing a complaint of an alleged unfair labor practice based on a handicap to submit to medical or psychiatric examination before action on the complaint is taken. If needed, the Commission can adopt by rule and regulation procedures for examination of those filing complaints alleging an unfair labor practice based on a handicap. To suggest, as this provision would, that only the handicapped need be submitted to such examinations is unnecessary and inappropriate in his act.

With the exception of this one item in section 6 and section 7, I have approved the remainder of Substitute House Bill No. 445."

CHAPTER 215  
[Substitute House Bill No. 498]  
SUPPLEMENTAL BUDGET

AN ACT Adopting the supplemental budget; making appropriations and authorizing expenditures for miscellaneous purposes; and declaring an emergency.

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

NEW SECTION. Section 1. The following sums, or so much thereof as shall severally be found necessary, are hereby appropriated and authorized to be expended out of the several funds indicated, for the period from the effective date of this act to June 30, 1975, except as otherwise noted.

BELATED CLAIMS

To reimburse the General Fund for Expenditures from Appropriation for Belated Claims to be disbursed on vouchers approved by the State Auditor:

GENERAL FUND -Architects' License Account		
Appropriation.....	\$	2,306.58
GENERAL FUND -Commercial Feed Account		
Appropriation.....	\$	11.94
GENERAL FUND -Commission Merchants Account		