

Ordinance No. 119379

Council Bill No. 112571

# The City of Seattle Council Bill/Ordinance

AN ORDINANCE adding a new section to Ch. 14.04 Fair Employment Practices which provides for a private cause of action for claims of discrimination in violation of the City's employment discrimination laws.

CF No. \_\_\_\_\_

2-10-99 Pass  
2-16-99 Full C  
(Execu

Date Introduced: <u>FEB 8 - 1999</u>	
Date 1st Referred: <u>FEB 8 - 1999</u>	To: (committee) <u>Housing, Human Services and Civil Rights Committee</u>
Date Re - Referred:	To: (committee)
Date Re - Referred:	To: (committee)
Date of Final Passage: <u>2-16-99</u>	Full Council Vote: <u>7-0</u>
Date Presented to Mayor: <u>2-17-99</u>	Date Approved:
Date Returned to City Clerk: <u>2-23-99</u>	Date Published: <u>4 pages</u> T.O. _____ P.T. <input checked="" type="checkbox"/>
Date Voted by Mayor:	Date Veto Published:
Date Passed Over Veto:	Veto Sustained:

This file is complete and ready

Law Dept. Review

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: \_\_\_\_\_

STEINBRUECK

Councilmember

## Committee Action:

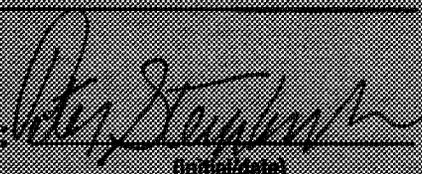
2-10-99 Pass

2-16-99 Full Council Passed 7-0

(Excused: Conlin, Donaldson)

This file is complete and ready for presentation to Full Council.

Committee:



(initials)

Law Dept. Review

OMP  
Review

City Clerk  
Review

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ORDINANCE 119379

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3 AN ORDINANCE adding a new section to Ch. 14.04 Fair Employment Practices which provides for a  
4 private cause of action for claims of discrimination in violation of the City's employment  
discrimination laws.

5 WHEREAS, it has been the policy of the City of Seattle, since 1973, to prohibit discrimination in  
6 employment on the grounds of race, color, sex, marital status, sexual orientation, political  
7 ideology, age, creed, religion, ancestry, national origin, or the presence of any sensory, mental or  
8 physical disability. The City Council finds that discrimination on these grounds has continued to  
occur and that the provision of a private right of action will likely deter such discrimination.  
Chapter 14.04 of the Seattle Municipal Code is accordingly amended to provide for the filing of  
private actions in a court of competent jurisdiction as set forth in the following provisions,

9 NOW, THEREFORE,

10 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

11 Section 1. There is added to the Seattle Municipal Code Chapter 14.04 a new Section 14.04.185 as  
12 follows:

13 **14.04.185 Enforcement by Private Persons**

14 A. Any person who claims to have been injured by an unfair employment practice may  
15 commence a civil action in Superior Court or any other court of competent jurisdiction, not later than  
16 three years after the occurrence of the alleged unfair employment practice or ninety (90) days after a  
17 determination of reasonable cause by the Director, whichever occurs last, to obtain appropriate relief  
18 with respect to such unfair employment practice.

19 B. A complaint may be filed under this section whether or not an administrative charge has been  
20 filed under SMC Section 14.04.090, and without regard to the status of such charge, but if the  
21 Department has obtained a pre-finding or post-finding settlement or conciliation agreement with the  
22 consent of the charging party, no action may be filed under this section with respect to the alleged unfair  
23 employment practice which forms the basis for such complaint except for the purpose of enforcing the  
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1 terms of the agreement. To preclude such filing, the charging party must be provided with written notice  
2 that consent to a pre-finding or post-finding settlement or conciliation agreement will terminate the  
3 charging party's right to file a civil action under this section.

4 C. (1) Subject to the provisions of subsection C(2), upon the filing of a civil action involving  
5 the same claim or arising from the same facts and circumstances, whether under this subchapter or  
6 similar law, a complaint of an unfair employment practice may be administratively closed by the  
7 Director.

8 (2) In the event that a court dismisses a private cause of action on grounds that would not  
9 preclude pursuit of a charge under this subchapter, the charging party may request, within 90 days of the  
10 entry of the Court's order of dismissal, that the Department reopen a previously filed charge. Upon such  
11 request, the Director may reopen a case that was administratively closed upon the filing of a civil action.  
12 If the Department closes a case based on a "no reasonable cause" finding, the case shall not be reopened  
13 except as provided through appeal pursuant to SMC 14.04.030.

14 (3) No complainant or aggrieved person may secure relief from more than one  
15 governmental agency, instrumentality or tribunal for the same harm or injury.

16 (4) Where the complainant or aggrieved person elects to pursue simultaneous claims in  
17 more than one forum, the factual and legal determinations issued by the first tribunal to rule on the  
18 claims may, under the doctrines of "res judicata" or "collateral estoppel," be binding on all or portions of  
19 the claims pending before other tribunals.

20 (5) No civil action may be commenced under this section with respect to an alleged unfair  
21 employment practice which forms the basis of a complaint if a hearing on the record has been  
22 commenced by the City of Seattle Office of the Hearing Examiner. To preclude such filing, a charging  
23 party must be provided with written notice at least 30 days prior to the commencement of a hearing  
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1 before the City of Seattle Office of the Hearing Examiner that the commencement of such a hearing will  
2 terminate the charging party's right to file a civil action.

3 D. In a civil action under this section, if the court, or jury, finds that an unfair employment  
4 practice has occurred, the court may grant such relief as may be awarded by the hearing examiner under  
5 this chapter or is authorized by the Washington Law Against Discrimination, Ch. 49.60 RCW, as  
6 amended. Damages awarded under this section for humiliation and mental suffering are not subject to  
7 the limitation of SMC 14.04.140(A) or SMC 14.04.150(B).

8 E. Upon timely application, the City Attorney may intervene in such civil action, if the City  
9 Attorney certifies that the case is of general public importance, and may obtain such relief as would be  
10 available in an action brought under SMC Section 14.04.140 and 14.04.180. Such intervention shall not  
11 be permitted in an action in which the City is a defendant.

12 F. It is the intent of the City of Seattle, in enacting this section, to provide private judicial  
13 remedies for violations of this chapter that are as expansive as possible consistent with the powers  
14 granted by the Constitution and Laws of the State of Washington. In the event that any provision or  
15 aspect of this section is adjudicated to be invalid or unenforceable under applicable law, the validity or  
16 enforceability of the remaining provisions shall be unaffected.

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1 Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its  
2 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after  
3 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the 16<sup>th</sup> day of February, 1999, and signed by me in open  
5 session in authentication of its passage this 16<sup>th</sup> day of February, 1999.

6 Peter Stembuck  
7 President Pro Tem of the City Council

8 Approved by me this 23<sup>rd</sup> day of February, 1999.

9 Paul Seibel  
10 Mayor

11 Filed by me this 23<sup>rd</sup> day of February, 1999.

12 Janith Edipon  
13 City Clerk

14 (Seal)

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Seattle City Council

Date: February 10, 1999

Public Hearing Sign-Up Sheet

PRIVATE CAUSE OF ACTION

INFORMATION ON THIS SHEET IS PUBLIC RECORD (PLEASE PRINT)

#	Name	(Optional) Organization	Address	Zip	(Optional) Phone	(Optional) Fax
1	JAMCE VAN CUEVE		235 13th Avenue East # 403	98102	JAMCEV@JUNO.COM	
2	JANE RUVELSON	ACLU of WA	705 2nd Ave, #300	98104	624-2184	
3	Michael McAffee		1000th 80th Ave Apt 205	98104	624-2303	
4	Tom Flint	SEATTLE COALITION	1605 19 Ave # 31	98122	324-4892	
5	Jack Lemmas	FDC Committee	#101 2525 WINK EAST	98102	325-2068	
6	STEVEN PARREISH	G S B A	1216 Pine St #101 Seattle, WA 98101	98101	405-2770	405-2767
7	Ken Shulman	Seattle Commission for Sexual Minorities	700 3rd Ave, Ste, 98104	98104	684-4500	
8	Chuck Kuehn	Chickon Soup Brigade	1002 E. Seneca St Seattle, WA 98122	98122	328-8979	
9	Sofia Michalakis		701 5th Ave Ste 6100, Seattle WA 98104		389-4260	447 0849
10	Tim Bradbury		705 2nd Ave Seattle	98104		



Seattle City Council

Date: February 10, 1999

Public Hearing Sign-Up Sheet

PRIVATE CAUSE OF ACTION

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11.	Patty Rose	NWLC	4403 Greenwood N #101	98123	6274	622 6268
12.	Richard Maruca		5283 39th Ave S.	98118	723-4735	
13.	Mike Kelleo	Citizen for Embargo Dissemination Fund	" " " "	98118	" "	682- 0401
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Seattle City Council

Date: February 10, 1999

Public Hearing Sign-Up Sheet

PRIVATE CAUSE OF ACTION

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11.	PATSY ROSE	NWLC	4403 Greenwood N # 101	9/3/03	822-8764	622-6268
12.	RICH MARUCH		5283 39th Ave. S.	98118	723-4735	
13.	Mike Kellew	Citizens for Enforcement Discrimination Unit	" " " "	98118	" "	682-0401
14.						
15.	Sy Docekal	Radical Women			722-7487	
16.	ANNE SEIDEL	CITIZENS FOR ENFORCEABLE DISCRIMINATION LAWS	150 UNION # 645 SEATTLE	98101		
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Seattle City Council

Date: February 10, 1999

Public Hearing Sign-Up Sheet

**PRIVATE CAUSE OF ACTION**

INFORMATION ON THIS SHEET IS PUBLIC RECORD (PLEASE PRINT)

23.	<i>Harold Derrick</i>	<i>SEATTLE WA 98106</i>		
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STATE OF WASHINGTON - KING COUNTY

102837  
City of Seattle, City Clerk

—ss.

No. FULL ORD

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORD 119379

was published on

03/04/99

The amount of the fee charged for the foregoing publication is the sum of \$ \_\_\_\_\_, which amount has been paid in full.

Subscribed and sworn to before me on

03/04/99

Notary Public for the State of Washington,  
residing in Seattle

# City of Seattle

## ORDINANCE 118979

AN ORDINANCE adding a new section to Ch. 14.04 Fair Employment Practices which provides for a private cause of action for claims of discrimination in violation of the City's employment discrimination laws.

WHEREAS, it has been the policy of the City of Seattle, since 1973, to prohibit discrimination in employment on the grounds of race, color, sex, marital status, sexual orientation, political ideology, age, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical disability. The City Council finds that discrimination on these grounds has continued to occur and that the provision of a private right of action will likely deter such discrimination. Chapter 14.04 of the Seattle Municipal Code is accordingly amended to provide for the filing of private actions in a court of competent jurisdiction as set forth in the following provisions.

NOW THEREFORE

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There is added to the Seattle Municipal Code Chapter 14.04 a new Section 14.04.185 as follows:

### 14.04.185 ENFORCEMENT BY PRIVATE PERSONS

A. Any person who claims to have been injured by an unfair employment practice may commence a civil action in Superior Court or any other court of competent jurisdiction, not later than three years after the occurrence of the alleged unfair employment practice or ninety (90) days after a determination of reasonable cause by the Director, whichever occurs last, to obtain appropriate relief with respect to such unfair employment practice.

B. A complaint may be filed under this section whether or not an administrative charge has been filed under SMC Section 14.04.080, and without regard to the status of such charge, but if the Department has obtained a pre-finding or post-finding settlement or conciliation agreement with the consent of the charging party, no action may be filed under this section with respect to the alleged unfair employment practice which forms the basis for such complaint except for the purpose of enforcing the terms of the agreement. To preclude such filing, the charging party must be provided with written notice that consent to a pre-finding or post-finding settlement or conciliation agreement will terminate the charging party's right to file a civil action under this section.

C. (1) Subject to the provisions of subsection C(2), upon the filing of a civil action involving the same claim or arising from the same facts and circumstances, whether under this subchapter or similar law, a complaint of an unfair employment practice may be administratively closed by the Director.

(2) In the event that a court dismisses a private cause of action on grounds that would not preclude pursuit of a charge under this subchapter, the charging party may request, within 90 days of the entry of the Court's order of dismissal, that the Department reopen a previously filed charge. Upon such request, the Director may reopen a case that was administratively closed upon the filing of a civil action. If the Department closes a case based on a "no reasonable cause" finding, the case shall not be reopened except as provided