
SUBSTITUTE HOUSE BILL 2274

State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Appelwick, Heavey, Prince, Day, Schmidt, Wineberry, R. Meyers, Riley, Winsley and Wilson)

Read first time 02/07/92.

1 AN ACT Relating to employee privacy; and adding a new section to
2 chapter 49.44 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.44 RCW
5 to read as follows:

6 (1) It is unlawful for an employer to refuse to hire or to
7 discharge any individual, or otherwise disadvantage any individual,
8 with respect to compensation, terms, conditions, or privileges of
9 employment because the individual engages in the consumption of lawful
10 products off the premises of the employer during nonworking hours,
11 provided the individual complies with applicable laws or policies
12 regulating that consumption of lawful products on the premises of the
13 employer during working hours.

1 (2) It is not unlawful or an unfair employment practice under this
2 section for an employer to offer, impose, or have in effect a health,
3 disability, or life insurance policy that makes distinctions between
4 employees for the type of coverage or the coverage based upon the
5 employees' consumption of lawful products if:

6 (a) Differential premium rates charged employees reflect a
7 differential cost to the employer; and

8 (b) The employer provides employees with a written statement
9 delineating differential rates used by insurance carriers.

10 (3) It is not unlawful or an unfair employment practice under this
11 section for an employer to discharge an individual or otherwise
12 disadvantage an individual with respect to compensation, terms,
13 conditions, or privileges of employment if that decision is based on
14 the individual's failure to meet reasonable job performance standards
15 set by the employer.

16 (4) The provisions of subsection (1) of this section shall not be
17 deemed to protect any consumption of lawful products that:

18 (a) Materially threatens an employer's legitimate conflict of
19 interest policy reasonably designed to protect the employer's trade
20 secrets, proprietary information, or other proprietary interests; or

21 (b) Relates to a bona fide occupational requirement and is
22 reasonably and rationally related to the employment activities and
23 responsibilities of a particular employee or a particular group of
24 employees, rather than to all employees of the employer.

25 (5) The court shall award the prevailing party in an action under
26 this section court costs and reasonable attorneys' fees.

27 (6) In addition to other provisions of this title, the remedy for
28 any individual claiming to be aggrieved by a violation of this section
29 is a civil action for damages which includes all wages and benefits
30 deprived the individual by reason of the violation.

1 (7) Nothing in this section is intended to breach or prevent
2 collective bargaining agreements between employer and employee.