

2 **ESHB 2274** - S COMM AMD
3 By Committee on Commerce & Labor

4 ADOPTED AS AMENDED 3/6/92

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 49.44 RCW
8 to read as follows:

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

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

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

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

26 (3) It is not unlawful or an unfair employment practice under this
27 section for an employer to refuse to hire, to discharge, or otherwise
28 disadvantage an individual with respect to compensation, terms,

1 conditions, or privileges of employment if that decision is based on:

2 (a) The individual's failure to meet job-related standards set by
3 the employer;

4 (b) An employer's legitimate conflict of interest policy reasonably
5 designed to protect the employer's trade secrets, proprietary
6 information, or other proprietary interests;

7 (c) A bona fide occupational qualification or requirement including
8 qualifications or requirements implemented by the employer to prevent
9 and screen for respiratory disease in connection with RCW 51.32.185; or

10 (d) The employer's drug and alcohol free workplace program,
11 including those adopted in response to federal requirements.

12 (4) The court shall award the prevailing party in an action under
13 this section court costs and reasonable attorneys' fees.

14 (5) The remedy for any individual claiming to be aggrieved by a
15 violation of this section is a civil action for damages for all wages
16 and benefits deprived the individual by reason of the violation.

17 (6) An individual aggrieved by a violation of this section must
18 file the civil action within six months after the alleged unlawful or
19 unfair employment practice or the discovery of that practice.

20 (7) Nothing in this section shall be applied to any matter that is
21 also subject to collective bargaining between the employer and the
22 affected employee."

23 "NEW SECTION. **Sec. 2.** A new section is added to chapter 49.44 RCW
24 to read as follows:

25 Nothing in section 1 of this act precludes a religious or health
26 organization whose tenets prohibit the use of an otherwise lawful
27 product or a company or nonprofit organization whose primary business
28 purpose is the prevention of heart and lung disease, from refusing to
29 employ an individual who uses an otherwise lawful product."

