

FINAL BILL REPORT

ESHB 2274

FULL VETO

Brief Description: Prohibiting employer discrimination for the consumption of lawful products off premises by employees during nonworking hours.

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

House Committee on Commerce & Labor
Senate Committee on Commerce & Labor

Background: No Washington State law prohibits an employer from requiring as a condition of employment or continued employment that an applicant or employee refrain from consuming lawful products away from the workplace during nonworking hours.

There also is nothing in the law prohibiting an employer from putting an employee at a disadvantage in any other way because the employee consumes lawful products away from the workplace during nonworking hours.

Summary: It is unlawful for an employer to refuse to hire, discharge, or disadvantage an individual with respect to compensation, terms, conditions, or privileges of employment because the employee consumes lawful products off the premises of the employer during nonworking hours.

An employer is allowed to offer an insurance policy that distinguishes between employees based upon employees' consumption of lawful products if different premium rates reflect a differential cost to the employer and the employer provides employees with a written statement delineating differential rates used by insurance carriers.

An employer may discharge, disadvantage, or refuse to hire an individual if the decision is based on: (1) the employee's failure to meet job-related standards set by the employer; (2) an employer's legitimate conflict of interest policy reasonably designed to protect the employer's trade secrets or other proprietary interests; (3) a bona fide occupational requirement implemented by the employer to screen for respiratory diseases in occupations in which the

individual will be exposed to smoke and noxious fumes; and
(4) the employer's drug and alcohol free workplace program.

An individual claiming to be aggrieved by a violation of the act may bring a civil action for damages including all wages and benefits of which the individual was deprived because of the violation. The prevailing party is also entitled to court costs and reasonable attorneys' fees. An individual aggrieved by a violation of the act must file the civil action within six months after the alleged practice or the discovery of that practice.

The act does not apply to any matter that is subject to a collective bargaining agreement. A religious or health organization whose tenets prohibit the use of lawful products or a company or nonprofit organization whose primary business purpose is the prevention of heart and lung disease may refuse to employ an individual based on the use of lawful products.

The act also does not apply to businesses with 25 or fewer employees.

Votes on Final Passage:

House	81	11	
Senate	30	19	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	28	20
House	60	37

FULL VETO (See VETO MESSAGE)