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**SUBSTITUTE HOUSE BILL 1725**

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**State of Washington                      52nd Legislature                      1991 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Prentice, Winsley, Heavey, Basich, Jones, R. King, Cole, Ogden, Hargrove, Fraser, Day, Cantwell, Braddock, Sprenkle, Dellwo, Wineberry, Spanel and Roland).

Read first time March 1, 1991.

1            AN ACT Relating to human reproductive rights regarding hazardous  
2 substances in the workplace; amending RCW 49.17.050 and 49.60.180;  
3 adding a new section to chapter 49.44 RCW; adding a new section to  
4 chapter 49.12 RCW; adding a new section to chapter 18.76 RCW; and  
5 creating a new section.

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

7            NEW SECTION.    **Sec. 1.**            The legislature acknowledges that the  
8 workplace environment may expose individuals to substances that may  
9 cause birth defects or constitute a hazard to an employee's  
10 reproductive system or to a fetus.    Therefore, employers should  
11 disclose information to employees about workplace exposure to chemical  
12 or physical substances or workplace conditions that may cause birth  
13 defects or harm an individual's reproductive capacity.    The legislature  
14 further finds that discrimination in the workplace because of  
15 reproductive status is an increasing concern.    Information about

1 workplace reproductive hazards is needed to assist in individual,  
2 corporate, and government decision making.

3       **Sec. 2.** RCW 49.17.050 and 1973 c 80 s 5 are each amended to read  
4 as follows:

5       In the adoption of rules (~~(and regulations)~~) under the authority of  
6 this chapter, the director shall:

7       (1) Provide for the preparation, adoption, amendment, or repeal of  
8 rules (~~(and regulations)~~) of safety and health standards governing the  
9 conditions of employment of general and special application in all work  
10 places;

11       (2) Provide for the adoption of occupational health and safety  
12 standards which are at least as effective as those adopted or  
13 recognized by the United States secretary of labor under the authority  
14 of the Occupational Safety and Health Act of 1970 (Public Law 91-596;  
15 84 Stat. 1590);

16       (3) Provide a method of encouraging employers and employees in  
17 their efforts to reduce the number of safety and health hazards at  
18 their work places and to stimulate employers and employees to institute  
19 new and to perfect existing programs for providing safe and healthful  
20 working conditions;

21       (4) Provide for the promulgation of health and safety standards and  
22 the control of conditions in all work places concerning gases, vapors,  
23 dust, or other airborne particles, toxic materials, or harmful physical  
24 agents which shall set a standard which most adequately assures, to the  
25 extent feasible, on the basis of the best available evidence, that no  
26 employee will suffer material impairment of health or functional  
27 capacity even if such employee has regular exposure to the hazard dealt  
28 with by such standard for the period of his or her working life; any  
29 such standards shall require where appropriate the use of protective

1 devices or equipment and for monitoring or measuring any such gases,  
2 vapors, dust, or other airborne particles, toxic materials, or harmful  
3 physical agents;

4 (5) Provide for appropriate reporting procedures by employers with  
5 respect to such information relating to conditions of employment which  
6 will assist in achieving the objectives of this chapter;

7 (6) Provide for the frequency, method, and manner of the making of  
8 inspections of work places without advance notice; (~~and,~~)

9 (7) Provide for the publication and dissemination to employers,  
10 employees, and labor organizations and the posting where appropriate by  
11 employers of informational, education, or training materials calculated  
12 to aid and assist in achieving the objectives of this chapter;

13 (8) Provide for the establishment of new and the perfection and  
14 expansion of existing programs for occupational safety and health  
15 education for employers and employees, and, in addition institute  
16 methods and procedures for the establishment of a program for voluntary  
17 compliance solely through the use of advice and consultation with  
18 employers and employees with recommendations including recommendations  
19 of methods to abate violations relating to the requirements of this  
20 chapter and all applicable safety and health standards and rules (~~and~~  
21 ~~regulations~~) promulgated pursuant to the authority of this chapter;

22 (9) Provide for the adoption of safety and health standards  
23 requiring the use of safeguards in trenches and excavations and around  
24 openings of hoistways, hatchways, elevators, stairways, and similar  
25 openings;

26 (10) Provide for the promulgation of health and safety standards  
27 requiring the use of safeguards for all vats, pans, trimmers, cut off,  
28 gang edger, and other saws, planers, presses, formers, cogs, gearing,  
29 belting, shafting, coupling, set screws, live rollers, conveyors,  
30 mangles in laundries, and machinery of similar description, which can

1 be effectively guarded with due regard to the ordinary use of such  
2 machinery and appliances and the danger to employees therefrom, and  
3 with which the employees of any such work place may come in contact  
4 while in the performance of their duties and prescribe methods,  
5 practices, or processes to be followed by employers which will enhance  
6 the health and safety of employees in the performance of their duties  
7 when in proximity to machinery or appliances mentioned in this  
8 subsection;

9 (11) Provide for the adoption of health and safety standards  
10 addressing employee exposure to chemical, biological, or physical  
11 reproductive hazards or hazards to a fetus. The standards shall  
12 include, but not be limited to: (a) State exposure standards for  
13 substances or conditions in the workplace that there is reason to  
14 believe will cause birth defects or constitute a hazard to an  
15 individual's reproductive system or capacity or to a fetus; and (b)  
16 requirements for informing employees and prospective employees of these  
17 substances or conditions. In adopting rules under this subsection, the  
18 department shall consult with a scientific advisory committee appointed  
19 by the department.

20 NEW SECTION. Sec. 3. A new section is added to chapter 49.44 RCW  
21 to read as follows:

22 (1) No employer, including the state or any political subdivision  
23 thereof, may condition the employment, transfer, or promotion of any  
24 individual on the sterilization of that individual, nor shall  
25 reproductive status be a criterion of employment. An employer may not  
26 terminate the employment of an employee because the employee refuses,  
27 on request of the employer, to submit to compulsory sterilization after  
28 exposure to a reproductive hazard.

1 (2) No employer, employment agency, or agent of either may request  
2 or require information from an employee or prospective employee  
3 relating to the individual's child-bearing age or plans, pregnancy, or  
4 function of the individual's reproductive system.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.12 RCW  
6 to read as follows:

7 If, based on the recommendation of a health care provider, an  
8 employee requests a temporary transfer to another job because of an  
9 exposure or potential exposure to hazardous substances identified by  
10 the department in rules adopted under RCW 49.17.050(11), the employer  
11 shall provide a transfer when work is available, without loss of pay,  
12 seniority, or any other employment-related benefits.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.76 RCW  
14 to read as follows:

15 The state poison control network centers shall include information  
16 about the reproductive hazards of the substances for which the center  
17 provides information.

18 **Sec. 6.** RCW 49.60.180 and 1985 c 185 s 16 are each amended to read  
19 as follows:

20 It is an unfair practice for any employer:

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

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

4 (3) To discriminate against any person in compensation or in other  
5 terms or conditions of employment because of age, sex, reproductive  
6 status, marital status, race, creed, color, national origin, or the  
7 presence of any sensory, mental, or physical handicap: PROVIDED, That  
8 it shall not be an unfair practice for an employer to segregate  
9 washrooms or locker facilities on the basis of sex, or to base other  
10 terms and conditions of employment on the sex of employees where the  
11 commission by ((~~regulation or~~)) ruling in a particular instance has  
12 found the employment practice to be appropriate for the practical  
13 realization of equality of opportunity between the sexes.

14 (4) To print, or circulate, or cause to be printed or circulated  
15 any statement, advertisement, or publication, or to use any form of  
16 application for employment, or to make any inquiry in connection with  
17 prospective employment, which expresses any limitation, specification,  
18 or discrimination as to age, sex, reproductive status, marital status,  
19 race, creed, color, national origin, or the presence of any sensory,  
20 mental, or physical handicap, or any intent to make any such  
21 limitation, specification, or discrimination, unless based upon a bona  
22 fide occupational qualification: PROVIDED, Nothing contained herein  
23 shall prohibit advertising in a foreign language.