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SENATE BILL 6266

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State of Washington                      52nd Legislature                      1992 Regular Session

By Senators Amondson and McMullen

Read first time 01/23/92. Referred to Committee on Commerce & Labor.

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

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

15 (b) Relates to a bona fide occupational requirement and is  
16 reasonably and rationally related to the employment activities and  
17 responsibilities of a particular employee or a particular group of  
18 employees, rather than to all employees of the employer.

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

21 (5) In addition to other provisions of this title, the remedy for  
22 any individual claiming to be aggrieved by a violation of this section  
23 is a civil action for damages which includes all wages and benefits  
24 deprived the individual by reason of the violation.

25 (6) Nothing in this section is intended to breach or prevent  
26 collective bargaining agreements between employer and employee.