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**SUBSTITUTE HOUSE BILL 1553**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives King, Heavey, R. Meyers, Appelwick, Peery, Conway, Leonard, Ogden, R. Fisher, Orr, Scott, Veloria, Brough, Hansen, Wang, Johanson and Quall)

Read first time 02/25/93.

1 AN ACT Relating to employee privacy; and adding new sections 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 of lawful conduct in which the individual engages  
10 off the premises of the employer during nonworking hours. This  
11 subsection in no way limits the employer's ability to require  
12 individual compliance with applicable laws or policies regulating that  
13 lawful conduct in which the individual engages on the premises of the  
14 employer during working hours.

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

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

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

5 (3) It is not unlawful or an unfair employment practice under this  
6 section for an employer to refuse to hire, to discharge, or otherwise  
7 disadvantage an individual with respect to compensation, terms,  
8 conditions, or privileges of employment if that decision is based on:

9 (a) The individual's failure to meet job performance standards;

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

13 (c) The employer's drug and alcohol free workplace program,  
14 including those adopted in response to federal requirements.

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

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

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

23 (7) This section does not apply if the language of an applicable  
24 collective bargaining agreement specifically addresses employees'  
25 lawful conduct off the premises of the employer during nonworking  
26 hours, or if a written agreement between an employer and employee  
27 employed in the news media industry prohibits political activity  
28 relating to a subject upon which the employee is reporting.

29 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.44 RCW  
30 to read as follows:

31 Nothing in section 1 of this act precludes an employer from  
32 offering an incentive program for all employees or from arriving at an  
33 agreement with an individual employee designed to assist the employee  
34 or employees in abstaining from the consumption of tobacco or alcohol.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.44 RCW  
36 to read as follows:

1        Nothing in section 1 of this act precludes a religious or health  
2 organization whose tenets prohibit the otherwise lawful conduct or a  
3 company or nonprofit organization whose primary purpose is the  
4 prevention of heart and lung disease from refusing to employ an  
5 individual who engages in otherwise lawful conduct.

6        NEW SECTION.    **Sec. 4.**    If any provision of this act or its  
7 application to any person or circumstance is held invalid, the  
8 remainder of the act or the application of the provision to other  
9 persons or circumstances is not affected.

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