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

7 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to
8 promote drug-free workplaces to improve the safety of the workplace,
9 protect the health of workers, and afford employers in this state the
10 opportunity to maximize their levels of productivity, enhance their
11 competitive positions in the marketplace, and reach their desired
12 levels of success without experiencing the costs, delays, and tragedies
13 associated with work-related accidents resulting from substance abuse
14 by employees.

15 NEW SECTION. **Sec. 2.** Unless the context clearly requires
16 otherwise, the definitions in this section apply throughout this
17 chapter.

18 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or
19 spirits of wine, from whatever source or by whatever process produced.

20 (2) "Alcohol test" means a chemical, biological, or physical
21 instrumental analysis administered for the purpose of determining the
22 presence or absence of alcohol within an individual's body systems.

23 (3) "Chain of custody" means the methodology of tracking specimens
24 for the purpose of maintaining control and accountability from initial
25 collection to final disposition for all specimens and providing for
26 accountability at each stage in handling, testing, and storing
27 specimens and reporting test results.

28 (4) "Collection site" means a place where individuals present
29 themselves for the purpose of providing a urine, breath, or other
30 specimen to be analyzed for the presence of drugs or alcohol.

31 (5) "Confirmation test," "confirmed test," or "confirmed substance
32 abuse test" means a second analytical procedure used to identify the
33 presence of a specific drug or metabolic in a specimen. Drug tests
34 must be confirmed as specified in section 6(6) of this act. Alcohol
35 tests must be confirmed by a second breath test or as specified for

1 drug tests.

2 (6) "Department" means the department of social and health
3 services.

4 (7) "Drug" means amphetamines, cannabinoids, cocaine, phencyclidine
5 (PCP), methadone, methaqualone, opiates, barbiturates, benzodiazepines,
6 propoxyphene, or a metabolite of any such substances.

7 (8) "Drug test" means a chemical, biological, or physical
8 instrumental analysis administered on a specimen sample for the purpose
9 of determining the presence or absence of a drug or its metabolites
10 within the sample.

11 (9) "Employee" means a person who is employed for salary, wages, or
12 other remuneration by an employer.

13 (10) "Employee assistance program" means a program designed to
14 assist in the identification and resolution of job performance problems
15 associated with employees impaired by personal concerns. A minimum
16 level of core services must include: Consultation and professional,
17 confidential, appropriate, and timely problem assessment services;
18 short-term problem resolution; referrals for appropriate diagnosis,
19 treatment, and assistance; follow-up and monitoring; employee
20 education; and supervisory training.

21 (11) "Employer" means an employer subject to Title 51 RCW but does
22 not include the state or any department, agency, or instrumentality of
23 the state; any county; any city; any county or independent school
24 system or municipal corporation; or any employer that is self-insured
25 for purposes of Title 51 RCW.

26 (12) "Initial test" means a sensitive, rapid, and reliable
27 procedure to identify negative and presumptive positive specimens. An
28 initial drug test must use an immunoassay procedure or an equivalent
29 procedure or must use a more accurate scientifically accepted method
30 approved by the national institute on drug abuse as more accurate
31 technology becomes available in a cost-effective form.

32 (13) "Injury" means a sudden and tangible happening, of a traumatic
33 nature, producing an immediate or prompt result and occurring from
34 without, and such physical conditions as result therefrom.

35 (14) "Job applicant" means a person who has applied for employment
36 with an employer and has been offered employment conditioned upon
37 successfully passing a drug test and may have begun work pending the
38 results of the drug test.

39 (15) "Last-chance agreement" means a notice to an employee who is

1 referred to the employee assistance program due to a verified positive
2 alcohol or drug test or for violating an alcohol or drug-related
3 employer rule that states the terms and conditions of continued
4 employment with which the employee must comply.

5 (16) "Medical review officer" means a licensed physician trained in
6 the field of drug testing who provides medical assessment of positive
7 test results, requests reanalysis if necessary, and makes a
8 determination whether or not drug misuse has occurred.

9 (17) "Nonprescription medication" means a drug or medication
10 authorized under federal or state law for general distribution and use
11 without a prescription in the treatment of human disease, ailments, or
12 injuries.

13 (18) "Prescription medication" means a drug or medication lawfully
14 prescribed by a physician, or other health care provider licensed to
15 prescribe medication, for an individual and taken in accordance with
16 the prescription.

17 (19) "Reasonable suspicion" means the reasonable belief of the
18 employer or the employer's representative that the employee may be
19 under the influence of drugs or alcohol based on specific personal
20 observations that the employer or employer's representative can
21 describe concerning the appearance, behavior, or breath of an employee.

22 (20) "Rehabilitation program" means a program approved by the
23 department that is capable of providing expert identification,
24 assessment, and resolution of employee drug or alcohol abuse in a
25 confidential and timely service. Any rehabilitation program under this
26 chapter must contain a two-year continuing care component.

27 (21) "Specimen" means breath or urine. "Specimen" may include
28 other products of the human body capable of revealing the presence of
29 drugs or their metabolites or of alcohol, if approved by the United
30 States department of health and human services and permitted by rules
31 adopted under section 13 of this act.

32 (22) "Substance" means drugs or alcohol.

33 (23) "Substance abuse test" or "test" means a chemical, biological,
34 or physical instrumental analysis administered on a specimen sample for
35 the purpose of determining the presence or absence of a drug or its
36 metabolites or of alcohol within the sample.

37 (24) "Threshold detection level" means the level at which the
38 presence of a drug or alcohol can be reasonably expected to be detected
39 by an initial and confirmation test performed by a laboratory meeting

1 the standards specified in this chapter. The threshold detection level
2 indicates the level at which a valid conclusion can be drawn that the
3 drug or alcohol is present in the employee's specimen.

4 (25) "Verified positive test result" means a confirmed positive
5 test result obtained by a laboratory meeting the standards specified in
6 this chapter that has been reviewed and verified by a medical review
7 officer in accordance with medical review officer guidelines
8 promulgated by the United States department of health and human
9 services.

10 NEW SECTION. **Sec. 3.** (1) An employer may have a policy
11 implementing a drug-free workplace program in accordance with section
12 4 of this act, if the policy is included in a collective bargaining
13 agreement applicable to the workplace or, if no collective bargaining
14 agreement applies, the employer and the employees of the employer agree
15 to the drug-free workplace program. If the employer has such a policy,
16 the employer shall qualify for a five percent premium discount under
17 the employer's workers' compensation insurance policy as provided under
18 chapter 51.16 RCW upon certification by the division of alcohol and
19 substance abuse of the department as provided in section 13 of this
20 act. The portion of the premium discount granted to employers under
21 this chapter for the medical aid fund premium shall be shared equally
22 with the employer's employees.

23 (2) The premium discount must remain in effect as long as the
24 employer is certified under section 13 of this act, up to a maximum of
25 three years from the date of certification.

26 (3) A certified employer may discontinue operating a drug-free
27 workplace program at any time. The qualification for a premium
28 discount shall expire in accordance with decertification rules adopted
29 by the department under section 13 of this act.

30 (4) Employers whose substance abuse testing programs meet, as of
31 July 1, 1995, all of the requirements for the premium discount provided
32 in this section are not eligible for certification. Employers whose
33 substance abuse testing programs meet, as of July 1, 1995, some, but
34 not all, of the requirements for the premium discount provided in this
35 section may, upon subsequent compliance with the requirements, be
36 eligible for certification.

37 (5) Nothing in this chapter creates or alters an obligation on the
38 part of an employer seeking to participate in this program to bargain

1 with a collective bargaining representative of its employees.

2 (6) An employer may not receive premium discounts from the
3 department of labor and industries under more than one premium discount
4 program. An employer participating in and meeting all of the
5 requirements for the discount provided in this section and also
6 participating in another premium discount program offered by the
7 department of labor and industries is only entitled to the premium
8 discount that is the highest.

9 NEW SECTION. **Sec. 4.** (1) A drug-free workplace program
10 established under this chapter must contain the following elements:

11 (a) A written policy statement as provided in section 5 of this
12 act;

13 (b) Substance abuse testing as provided in section 6 of this act;

14 (c) An employee assistance program as provided in accordance with
15 section 7 of this act;

16 (d) Employee education as provided in section 9 of this act; and

17 (e) Supervisor training in accordance with section 10 of this act.

18 (2) In addition to the requirements of subsection (1) of this
19 section, a drug-free workplace program established under this chapter
20 must be implemented in compliance with the confidentiality standards
21 provided in section 12 of this act.

22 NEW SECTION. **Sec. 5.** (1) An alcohol and drug-free workplace
23 program must contain a written substance abuse policy statement in
24 order to qualify for the premium discount provided under section 3 of
25 this act. The policy must:

26 (a) Notify employees that the use or being under any influence of
27 alcohol during working hours is prohibited;

28 (b) Notify employees that the use, purchase, possession, or
29 transfer of drugs or having illegal drugs in their system is prohibited
30 and that prescription or nonprescription medications are not prohibited
31 when taken in accordance with a lawful prescription or consistent with
32 standard dosage recommendations;

33 (c) Identify the types of testing an employee or job applicant may
34 be required to submit to or other basis used to determine when such a
35 test will be required;

36 (d) Identify the actions the employer may take against an employee
37 or job applicant on the basis of a verified positive test result;

1 (e) Contain a statement advising an employee or job applicant of
2 the existence of this chapter;

3 (f) Contain a general statement concerning confidentiality;

4 (g) Identify the consequences of refusing to submit to a drug test;

5 (h) Contain a statement advising an employee of the employee
6 assistance program;

7 (i) Contain a statement that an employee or job applicant who
8 receives a verified positive test result may contest or explain the
9 result to the employer within five working days after receiving written
10 notification of the positive test result;

11 (j) Contain a statement informing an employee of the provisions of
12 the federal drug-free workplace act, if applicable to the employer; and

13 (k) Notify employees that the employer may discipline an employee
14 for failure to report an injury in the workplace.

15 (2) An employer not having a substance abuse testing program in
16 effect on July 1, 1995, shall ensure that at least sixty days elapse
17 between a general one-time notice to all employees that a substance
18 abuse testing program is being implemented and the beginning of the
19 actual testing. An employer having a substance abuse testing program
20 in place before July 1, 1995, is not required to provide a sixty-day
21 notice period.

22 (3) An employer shall include notice of substance abuse testing to
23 all job applicants. A notice of the employer's substance abuse testing
24 policy must also be posted in an appropriate and conspicuous location
25 on the employer's premises, and copies of the policy must be made
26 available for inspection by the employees or job applicants of the
27 employer during regular business hours in the employer's personnel
28 office or other suitable locations. An employer with employees or job
29 applicants who have trouble communicating in English shall make
30 reasonable efforts to help the employees understand the policy
31 statement.

32 NEW SECTION. **Sec. 6.** (1) Substance abuse testing must be
33 conducted in conformity with the standards and procedures established
34 in this chapter and all applicable rules adopted by the department
35 under this chapter. If an employer fails to maintain an alcohol and
36 drug-free workplace program in accordance with the standards,
37 procedures, and rules established under this chapter, the employer
38 shall not qualify for the workers' compensation premium discount

1 provided under section 3 of this act.

2 (2) To qualify for the premium discount under section 3 of this
3 act, an employer shall:

4 (a) Be in good standing and remain in good standing with the
5 department of labor and industries with respect to the employer's
6 workers' compensation premium obligations;

7 (b) Require job applicants to submit to a drug test after extending
8 an offer of employment. The employer may use a refusal to submit to a
9 drug test or a verified positive test as a basis for not hiring the job
10 applicant;

11 (c) Require an employee to submit to drug and alcohol tests if the
12 employer has reasonable suspicion to believe that the employee is
13 impaired by or under the influence of drugs or alcohol in the course of
14 employment. Under this chapter, a first-time verified positive test
15 result may not be used as a basis to terminate an employee's
16 employment. However, an employee may be terminated for independent
17 reasons, such as a violation of a safety rule or regulation;

18 (d) If the employee in the course of employment is referred to the
19 employee assistance program by the employer as a result of a verified
20 positive drug or alcohol test or an alcohol or drug-related incident in
21 violation of employer rules, require the employee to submit to drug and
22 alcohol testing in conjunction with any recommended rehabilitation
23 program. If the employee assistance program determines that the
24 employee does not require treatment services, the employee must still
25 be required to participate in follow-up testing. However, if an
26 employee voluntarily enters an employee assistance program, without a
27 verified positive drug or alcohol test or a violation of any drug or
28 alcohol related employer rule, follow-up testing is not required. If
29 follow-up testing is conducted, the frequency of the testing shall be
30 at least four times a year for a two-year period after completion of
31 the rehabilitation program and advance notice of the testing date may
32 not be given. A verified positive follow-up test result shall normally
33 require termination of employment.

34 (3) This section does not prohibit an employer from conducting
35 other drug or alcohol testing, such as upon reasonable suspicion or a
36 random basis.

37 (4) Specimen collection and substance abuse testing under this
38 section must be performed in accordance with regulations and procedures
39 approved by the United States department of health and human services

1 and the United States department of transportation regulations for
2 alcohol and drug testing and must include testing for marijuana,
3 cocaine, amphetamines, opiates, and phencyclidine. Employers may test
4 for any drug listed in section 2(7) of this act.

5 (a) A specimen must be collected with due regard to the privacy of
6 the individual providing the specimen and in a manner reasonably
7 calculated to prevent substitution or contamination of the specimen.

8 (b) Specimen collection and analysis must be documented. The
9 documentation procedures must include:

10 (i) Labeling of specimen containers so as to reasonably preclude
11 the likelihood of erroneous identification of test results; and

12 (ii) An opportunity for the employee or job applicant to provide to
13 a medical review officer information the employee or applicant
14 considers relevant to the drug test, including identification of
15 currently or recently used prescription or nonprescription medication
16 or other relevant medical information.

17 (c) Specimen collection, storage, and transportation to the testing
18 site must be performed in a manner that reasonably precludes specimen
19 contamination or adulteration.

20 (d) An initial and confirmation test conducted under this section,
21 not including the taking or collecting of a specimen to be tested, must
22 be conducted by a laboratory as described in subsection (5) of this
23 section.

24 (e) A specimen for a test may be taken or collected by any of the
25 following persons:

26 (i) A physician, a physician's assistant, a registered professional
27 nurse, a licensed practical nurse, a nurse practitioner, or a certified
28 paramedic who is present at the scene of an accident for the purpose of
29 rendering emergency medical service or treatment;

30 (ii) A qualified person certified or employed by a laboratory
31 certified by the substance abuse and mental health administration or
32 the college of American pathologists; or

33 (iii) A qualified person certified or employed by a collection
34 company using collection procedures adopted by the United States
35 department of health and human services and the United States
36 department of transportation for alcohol collection.

37 (f) Within five working days after receipt of a verified positive
38 test result from the laboratory, an employer shall inform an employee
39 or job applicant in writing of the positive test result, the

1 consequences of the result, and the options available to the employee
2 or job applicant.

3 (g) The employer shall provide to the employee or job applicant,
4 upon request, a copy of the test results.

5 (h) An initial test having a positive result must be verified by a
6 confirmation test.

7 (i) An employer who performs drug testing or specimen collection
8 shall use chain of custody procedures to ensure proper recordkeeping,
9 handling, labeling, and identification of all specimens to be tested.

10 (j) An employer shall pay the cost of all drug or alcohol tests,
11 initial and confirmation, that the employer requires of employees.

12 (k) An employee or job applicant shall pay the cost of additional
13 tests not required by the employer.

14 (5)(a) A laboratory may not analyze initial or confirmation drug
15 specimens unless:

16 (i) The laboratory is approved by the substance abuse and mental
17 health administration or the college of American pathologists;

18 (ii) The laboratory has written procedures to ensure the chain of
19 custody; and

20 (iii) The laboratory follows proper quality control procedures
21 including, but not limited to:

22 (A) The use of internal quality controls including the use of
23 samples of known concentrations that are used to check the performance
24 and calibration of testing equipment, and periodic use of blind samples
25 for overall accuracy;

26 (B) An internal review and certification process for test results,
27 conducted by a person qualified to perform that function in the testing
28 laboratory;

29 (C) Security measures implemented by the testing laboratory to
30 preclude adulteration of specimens and test results; and

31 (D) Other necessary and proper actions taken to ensure reliable and
32 accurate drug test results.

33 (b) A laboratory shall disclose to the employer a written test
34 result report within seven working days after receipt of the sample.
35 A laboratory report of a substance abuse test result must, at a
36 minimum, state:

37 (i) The name and address of the laboratory that performed the test
38 and the positive identification of the person tested;

39 (ii) Positive results on confirmation tests only, or negative

1 results, as applicable;

2 (iii) A list of the drugs for which the drug analyses were
3 conducted; and

4 (iv) The type of tests conducted for both initial and confirmation
5 tests and the threshold detection levels of the tests.

6 A report may not disclose the presence or absence of a drug other
7 than a specific drug and its metabolites listed under this chapter.

8 (c) A laboratory shall provide technical assistance through the use
9 of a medical review officer to the employer, employee, or job applicant
10 for the purpose of interpreting a positive confirmed drug test result
11 that could have been caused by prescription or nonprescription
12 medication taken by the employee or job applicant. The medical review
13 officer shall interpret and evaluate the laboratory's positive drug
14 test result and eliminate test results that could have been caused by
15 prescription medication or other medically documented sources in
16 accordance with the United States department of health and human
17 services medical review officer manual.

18 (6) A positive initial drug test must be confirmed using the gas
19 chromatography/mass spectrometry method or an equivalent or more
20 accurate scientifically accepted method approved by the substance abuse
21 and mental health administration as the technology becomes available in
22 a cost-effective form.

23 (7) A workplace safety committee established according to the
24 standards for safety committees under chapter 49.17 RCW shall monitor
25 the ongoing effectiveness of the substance abuse testing program
26 established by the employer under this chapter and shall, at reasonable
27 intervals established by the committee but not less than annually, make
28 recommendations for improving the program.

29 NEW SECTION. **Sec. 7.** (1) The employee assistance program required
30 under this chapter shall provide the employer with a system for dealing
31 with employees whose job performances are declining due to unresolved
32 problems, including alcohol or other drug-related problems, marital
33 problems, or legal or financial problems.

34 (2) To ensure appropriate assessment and referral to treatment:

35 (a) The employer must notify the employees of the benefits and
36 services of the employee assistance program;

37 (b) The employer shall publish notice of the employee assistance
38 program in conspicuous places and explore alternative routine and

1 reinforcing means of publicizing the services; and

2 (c) The employer shall provide the employee with notice of the
3 policies and procedures regarding access to and use of the employee
4 assistance program.

5 (3) A list of approved employee assistance programs must be
6 provided by the department according to recognized program standards.

7 NEW SECTION. **Sec. 8.** (1)(a) Rehabilitation of employees suffering
8 from either or both alcohol or drug addiction shall be a primary focus
9 of an employee assistance program.

10 (b) Under any program under this chapter, the employer may not use
11 a first-time verified positive drug or alcohol test as the basis for
12 termination of an employee. After a first-time verified positive test
13 result, the employee must be given an opportunity to keep his or her
14 job through the use of a last-chance agreement. The last-chance
15 agreement shall require an employee to:

16 (i) Submit to an employee assistance program evaluation for
17 chemical dependency;

18 (ii) Comply with any treatment recommendations;

19 (iii) Be subject to follow-up drug and alcohol testing for two
20 years;

21 (iv) Meet the same standards of performance and conduct that are
22 set for other employees; and

23 (v) Authorize the employer to receive all relevant information
24 regarding the employee's progress in treatment, if applicable.

25 Failure to comply with all the terms of this agreement normally
26 will result in termination of employment.

27 (2) When substance abuse treatment is necessary, employees must use
28 treatment services approved by the department, which include a
29 continuing care component lasting for two years.

30 (a) The employee assistance program shall monitor the employee's
31 progress while in treatment, including the two-year continuing care
32 component, and notify the employer when an employee is not complying
33 with the programs's treatment recommendations.

34 (b) The employer shall monitor job performance and conduct follow-
35 up testing.

36 (3) An employer may terminate an employee for the following
37 reasons:

38 (a) Refusal to submit to a drug or alcohol test;

1 (b) Refusal to agree to or failure to comply with the conditions of
2 a last-chance agreement;

3 (c) A second verified positive drug or alcohol test result; or

4 (d) After the first verified positive drug or alcohol test, any
5 violation of employer rules pertaining to alcohol and drugs.

6 (4) Nothing in this chapter limits the right of any employer who
7 participates in the worker's compensation premium discount program
8 under this chapter to terminate employment for any other reason.

9 NEW SECTION. **Sec. 9.** An employer shall provide all employees with
10 an annual education program on substance abuse, in general, and its
11 effects on the workplace, specifically. An employer with employees who
12 have trouble communicating in English shall make reasonable efforts to
13 help the employees understand the substance of the education program.
14 An education program for a minimum of one hour should include but is
15 not limited to the following information:

16 (1) The explanation of the disease model of addiction for alcohol
17 and drugs;

18 (2) The effects and dangers of the commonly abused substances in
19 the workplace; and

20 (3) The employer's policies and procedures regarding substance
21 abuse in the workplace and how employees who wish to obtain substance
22 abuse treatment can do so.

23 NEW SECTION. **Sec. 10.** In addition to the education program
24 provided in section 9 of this act, an employer shall provide all
25 supervisory personnel with a minimum of two hours of supervisor
26 training, that should include but is not limited to the following
27 information:

28 (1) How to recognize signs of employee substance abuse;

29 (2) How to document and collaborate signs of employee substance
30 abuse;

31 (3) How to refer employees to the employee assistance program or
32 proper treatment providers; and

33 (4) Circumstances and procedures for postinjury testing.

34 NEW SECTION. **Sec. 11.** (1) A physician-patient relationship is not
35 created between an employee or job applicant and an employer, medical
36 review officer, or person performing or evaluating a drug or alcohol

1 test solely by the establishment, implementation, or administration of
2 a drug or alcohol testing program.

3 (2) This chapter may not be construed to prevent an employer from
4 establishing reasonable work rules related to employee possession, use,
5 sale, or solicitation of drugs, including convictions for drug-related
6 offenses, and taking action based upon a violation of any of those
7 rules.

8 (3) This chapter may not be construed to operate retroactively.
9 This chapter does not abrogate the right of an employer under state or
10 federal law to conduct drug or alcohol tests or implement employee drug
11 or alcohol testing programs. However, only those programs that meet
12 the criteria outlined in this chapter qualify for workers' compensation
13 insurance premiums discounts.

14 (4) This chapter may not be construed to prohibit an employer from
15 conducting medical screening or other tests required, permitted, or not
16 disallowed by a statute or rule for the purpose of monitoring exposure
17 of employees to toxic or other unhealthy materials in the workplace or
18 in the performance of job responsibilities. The screening or tests
19 must be limited to testing for the specific material expressly
20 identified in the statute or rule, unless prior written consent of the
21 employee is obtained for other tests.

22 (5) This chapter does not establish a legal duty for employers to
23 conduct alcohol or drug tests of employees or job applicants. A cause
24 of action may not arise in favor of a person based upon the failure of
25 an employer to establish or conduct a program or policy for substance
26 abuse testing or to conduct a program or policy in conformance with the
27 standards and procedures established in this chapter. This chapter
28 does not create individual rights of action and may be enforced only by
29 the department by denial of the workers' compensation premium discount
30 provided in section 3 of this act.

31 NEW SECTION. **Sec. 12.** Confidentiality standards that apply to
32 substance abuse testing programs implemented under this chapter include
33 the following:

34 (1) Information, interviews, reports, statements, memoranda, and
35 test results, written or otherwise, received through a substance abuse
36 testing program are confidential communications, and may not be used or
37 received in evidence, obtained in discovery, or disclosed in a civil or
38 administrative proceeding, except as provided in subsection (5) of this

1 section.

2 (2) An employer, laboratory, medical review officer, employee
3 assistance program, drug or alcohol rehabilitation program, and their
4 agents who receive or have access to information concerning test
5 results shall keep the information confidential, except as provided in
6 subsection (5) of this section.

7 (3) Any release of the information must be pursuant to a written
8 consent form that complies with RCW 70.02.030 and is signed voluntarily
9 by the person tested, unless the release is compelled by the division
10 of alcohol and substance abuse of the department or a court of
11 competent jurisdiction in accordance with state and federal
12 confidentiality laws, or unless required by a professional or
13 occupational licensing board in a related disciplinary proceeding. Any
14 disclosure by any agency approved by the department must be in
15 accordance with RCW 70.96A.150. The consent form must contain at a
16 minimum:

17 (a) The name of the person who is authorized to obtain the
18 information;

19 (b) The purpose of the disclosure;

20 (c) The precise information to be disclosed;

21 (d) The duration of the consent; and

22 (e) The signature of the person authorizing release of the
23 information.

24 (4) Information on test results may not be released or used in a
25 criminal proceeding against the employee or job applicant. Information
26 released contrary to this subsection is inadmissible as evidence in a
27 criminal proceeding.

28 (5) Nothing in this chapter prohibits:

29 (a) An employer from using information concerning an employee or
30 job applicant's substance abuse test results in a lawful manner with
31 respect to that employee or applicant; or

32 (b) An entity that obtains the information from disclosing or using
33 the information in a lawful manner as part of a matter relating to the
34 substance abuse test, the test result, or an employer action with
35 respect to the job applicant or employee.

36 NEW SECTION. **Sec. 13.** The department shall adopt by rule
37 procedures and forms for the certification of employers who establish
38 and maintain a drug-free workplace that complies with this chapter.

1 The department shall adopt by rule procedures for the decertification
2 of employers formally certified for the workers' compensation premium
3 discount provided under this chapter. The department may charge a fee
4 for the certification of a drug-free workplace program in an amount
5 that must approximate its administrative costs related to the
6 certification. Certification of an employer is required for each year
7 in which a premium discount is granted. The department may adopt any
8 other rules necessary for the implementation of this chapter.

9 NEW SECTION. **Sec. 14.** (1) The department of labor and industries
10 may adopt rules necessary for the implementation of this chapter
11 including but not limited to provisions for penalties and repayment of
12 premium discounts by employers that are decertified by the department
13 of social and health services under section 13 of this act.

14 (2) The department of labor and industries shall conduct an
15 evaluation of the effect of the premium discount provided for under
16 section 3 of this act on workplace safety and the state of Washington
17 industrial insurance fund. The department of labor and industries
18 shall report its preliminary findings to the appropriate committees of
19 the legislature on September 1 of 1996 and 1997 and shall issue a
20 comprehensive final report on December 1, 1998.

21 NEW SECTION. **Sec. 15.** The department shall conduct an evaluation
22 to determine the costs and benefits of the program under this chapter.
23 If the department contracts for the performance of any or all of the
24 evaluation, no more than ten percent of the contract amount may be used
25 to cover indirect expenses. The department shall report its
26 preliminary findings to the appropriate committees of the legislature
27 on September 1 of 1996 and 1997 and shall issue a comprehensive final
28 report on December 1, 1998.

29 NEW SECTION. **Sec. 16.** Notwithstanding any other provisions of
30 this chapter, the total premium discounts available under section 3 of
31 this act shall not exceed five million dollars during any fiscal year.

32 NEW SECTION. **Sec. 17.** Sections 1 through 16 of this act shall
33 constitute a new chapter in Title 49 RCW.

34 NEW SECTION. **Sec. 18.** Sections 1 through 16 of this act shall

1 expire July 1, 1999.

2 NEW SECTION. **Sec. 19.** This act is necessary for the immediate
3 preservation of the public peace, health, or safety, or support of the
4 state government and its existing public institutions, and shall take
5 effect July 1, 1995."

6 **SSB 5516** - H COMM AMD
7 By Committee on Commerce & Labor

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9 On page 1, line 1 of the title, after "workplaces;" strike the
10 remainder of the title and insert "adding a new chapter to Title 49
11 RCW; providing an effective date; providing an expiration date; and
12 declaring an emergency."

--- END ---