

4 ADOPTED AS AMENDED 2/29/96

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

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

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

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

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

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

20 (11) "Employer" means an employer subject to Title 51 RCW but does
21 not include the state or any department, agency, or instrumentality of
22 the state; any county; any city; any school district or educational
23 service district; or any municipal corporation.

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

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

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

37 (15) "Last-chance agreement" means a notice to an employee who is
38 referred to the employee assistance program due to a verified positive
39 alcohol or drug test or for violating an alcohol or drug-related

1 employer rule that states the terms and conditions of continued
2 employment with which the employee must comply.

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

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

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

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

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

25 (21) "Substance" means drugs or alcohol.

26 (22) "Substance abuse test" or "test" means a chemical, biological,
27 or physical instrumental analysis administered on a specimen sample for
28 the purpose of determining the presence or absence of a drug or its
29 metabolites or of alcohol within the sample.

30 (23) "Threshold detection level" means the level at which the
31 presence of a drug or alcohol can be reasonably expected to be detected
32 by an initial and confirmation test performed by a laboratory meeting
33 the standards specified in this chapter. The threshold detection level
34 indicates the level at which a valid conclusion can be drawn that the
35 drug or alcohol is present in the employee's specimen.

36 (24) "Verified positive test result" means a confirmed positive
37 test result obtained by a laboratory meeting the standards specified in
38 this chapter that has been reviewed and verified by a medical review
39 officer in accordance with medical review officer guidelines

1 promulgated by the United States department of health and human
2 services.

3 (25) "Workers' compensation premium" means the medical aid fund
4 premium and the accident fund premium under Title 51 RCW.

5 NEW SECTION. **Sec. 3.** (1) An employer, except an employer that is
6 self-insured for the purposes of Title 51 RCW, implementing a drug-free
7 workplace program in accordance with section 4 of this act shall
8 qualify for a five percent workers' compensation premium discount under
9 Title 51 RCW if the employer:

10 (a) Is certified by the division of alcohol and substance abuse of
11 the department as provided in section 13 of this act. The employer
12 must maintain an alcohol and drug-free workplace program in accordance
13 with the standards, procedures, and rules established in or under this
14 chapter. If the employer fails to maintain the program as required,
15 the employer shall not qualify for the premium discount provided under
16 this section;

17 (b) Is in good standing and remains in good standing with the
18 department of labor and industries with respect to the employer's
19 workers' compensation premium obligations and any other premiums and
20 assessments under Title 51 RCW; and

21 (c) Has medical insurance available to its full-time employees
22 through an employer, union, or jointly sponsored medical plan.

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 initial 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) An employer whose substance abuse testing program reasonably
31 meets, as of July 1, 1996, the requirements for the premium discount
32 provided in this section is not eligible for certification.

33 (5) Nothing in this chapter creates or alters an obligation on the
34 part of an employer seeking to participate in this program to bargain
35 with a collective bargaining representative of its employees.

36 (6) An employer may not receive premium discounts from the
37 department of labor and industries under more than one premium discount
38 program. An employer participating in and meeting all of the

1 requirements for the discount provided in this section and also
2 participating in another premium discount program offered by the
3 department of labor and industries is only entitled to the premium
4 discount that is the highest.

5 (7) The department of labor and industries will notify self-insured
6 employers of the value of drug-free workplace programs and encourage
7 them to implement programs that are in accord with section 4 of this
8 act.

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

12 (a) A written policy statement in compliance with section 5 of this
13 act;

14 (b) Substance abuse testing in compliance with section 6 of this
15 act;

16 (c) An employee assistance program in compliance with section 7 of
17 this act;

18 (d) Employee education in compliance with section 9 of this act;
19 and

20 (e) Supervisor training in compliance with section 10 of this act.

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

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

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

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

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

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

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

8 (f) Contain a general statement concerning confidentiality;

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

10 (h) Contain a statement advising an employee of the employee
11 assistance program;

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

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

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

20 (2) An employer not having a substance abuse testing program in
21 effect on July 1, 1996, shall ensure that at least sixty days elapse
22 between a general one-time notice to all employees that a substance
23 abuse testing program is being implemented and the beginning of the
24 actual testing. An employer having a substance abuse testing program
25 in place before July 1, 1996, is not required to provide a sixty-day
26 notice period.

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

37 NEW SECTION. **Sec. 6.** (1) In conducting substance abuse testing
38 under this chapter, the employer must comply with the standards and

1 procedures established in this chapter and all applicable rules adopted
2 by the department under this chapter and must:

3 (a) Require job applicants to submit to a drug test after extending
4 an offer of employment. The employer may use a refusal to submit to a
5 drug test or a verified positive test as a basis for not hiring the job
6 applicant;

7 (b) Investigate each workplace injury that results in a worker
8 needing off-site medical attention and require an employee to submit to
9 drug and alcohol tests if the employer reasonably believes the employee
10 has caused or contributed to an injury which resulted in the need for
11 off-site medical attention. An employer need not require that an
12 employee submit to drug and alcohol tests if a supervisor, trained in
13 accordance with section 10 of this act, reasonably believes that the
14 injury was due to the inexperience of the employee or due to a
15 defective or unsafe product or working condition, or other
16 circumstances beyond the control of the employee. Under this chapter,
17 a first-time verified positive test result may not be used as a basis
18 to terminate an employee's employment. However, nothing in this
19 section prohibits an employee from being terminated for reasons other
20 than the positive test result;

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

37 (2) This section does not prohibit an employer from conducting
38 other drug or alcohol testing, such as upon reasonable suspicion or a
39 random basis.

1 (3) Specimen collection and substance abuse testing under this
2 section must be performed in accordance with regulations and procedures
3 approved by the United States department of health and human services
4 and the United States department of transportation regulations for
5 alcohol and drug testing and must include testing for marijuana,
6 cocaine, amphetamines, opiates, and phencyclidine. Employers may test
7 for any drug listed in section 2(7) of this act.

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

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

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

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

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

23 (d) An initial and confirmation test conducted under this section,
24 not including the taking or collecting of a specimen to be tested, must
25 be conducted by a laboratory as described in subsection (4) of this
26 section.

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

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

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

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

1 (f) Within five working days after receipt of a verified positive
2 test result from the laboratory, an employer shall inform an employee
3 or job applicant in writing of the positive test result, the
4 consequences of the result, and the options available to the employee
5 or job applicant.

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

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

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

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

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

17 (4)(a) A laboratory may not analyze initial or confirmation drug
18 specimens unless:

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

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

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

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

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

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

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

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

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

3 (ii) Positive results on confirmation tests only, or negative
4 results, as applicable;

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

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

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

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

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

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

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

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

34 (b) The employer shall publish notice of the employee assistance
35 program in conspicuous places and explore alternative routine and
36 reinforcing means of publicizing the services; and

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

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

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

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

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

17 (ii) Comply with any treatment recommendations;

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

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

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

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

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

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

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

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

37 (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.** As part of a program established under this
10 chapter, an employer shall provide all employees with an annual
11 education program on substance abuse, in general, and its effects on
12 the workplace, specifically. An employer with employees who have
13 difficulty communicating in English shall make reasonable efforts to
14 help the employees understand the substance of the education program.
15 An education program for a minimum of one hour should include but is
16 not limited to the following information:

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

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

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

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

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

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

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

34 (4) Circumstances and procedures for postinjury testing.

35 NEW SECTION. **Sec. 11.** (1) A physician-patient relationship is not
36 created between an employee or job applicant and an employer, medical

1 review officer, or person performing or evaluating a drug or alcohol
2 test solely by the establishment, implementation, or administration of
3 a drug or alcohol testing program.

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

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

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

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

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

35 (1) Information, interviews, reports, statements, memoranda, and
36 test results, written or otherwise, received through a substance abuse
37 testing program are confidential communications, and may not be used or
38 received in evidence, obtained in discovery, or disclosed in a civil or

1 administrative proceeding, except as provided in subsection (5) of this
2 section.

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

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

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

20 (b) The purpose of the disclosure;

21 (c) The precise information to be disclosed;

22 (d) The duration of the consent; and

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

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

29 (5) Nothing in this chapter prohibits:

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

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

37 NEW SECTION. **Sec. 13.** The department shall adopt by rule
38 procedures and forms for the certification of employers who establish

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

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

15 (2) The department of labor and industries shall conduct an
16 evaluation of the effect of the premium discount provided for under
17 section 3 of this act on workplace safety and the state of Washington
18 industrial insurance fund. The department of labor and industries
19 shall report its preliminary findings to the appropriate committees of
20 the legislature on September 1 of 1997 and 1998 and shall issue a
21 comprehensive final report on December 1, 1999.

22 NEW SECTION. **Sec. 15.** The department shall conduct an evaluation
23 to determine the costs and benefits of the program under this chapter.
24 If the department contracts for the performance of any or all of the
25 evaluation, no more than ten percent of the contract amount may be used
26 to cover indirect expenses. The department shall report its
27 preliminary findings to the legislature on September 1 of 1997 and 1998
28 and shall issue a comprehensive final report on December 1, 1999.

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.

1 NEW SECTION. **Sec. 18.** Sections 1 through 16 of this act shall
2 expire January 1, 2001."

3 **2SSB 5516** - H COMM AMD
4 By Committee on Commerce & Labor

5
6 On page 1, line 1 of the title, after "workplaces;" strike the
7 remainder of the title and insert "adding a new chapter to Title 49
8 RCW; and providing an expiration date."

--- END ---