

1 **SSB 5039 - H AMD 494 ADOPTED 4-23-03**  
2 By Representative Schual-Berke

3 Strike everything after the enacting clause and insert the  
4 following:

5 "NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54  
6 RCW to read as follows:

7 (1) The secretary of health shall design a state plan for  
8 education efforts concerning hepatitis C and the prevention and  
9 management of the disease by January 1, 2004. In developing the  
10 plan, the secretary shall consult with:

11 (a) The public;

12 (b) Patient groups and organizations;

13 (c) Relevant state agencies that have functions that involve  
14 hepatitis C or provide services to persons with hepatitis C;

15 (d) Local health departments;

16 (e) Public health and clinical laboratories;

17 (f) Providers and suppliers of services to persons with  
18 hepatitis C;

19 (g) Research scientists;

20 (h) The University of Washington; and

21 (i) Relevant health care associations.

22 (2) The plan shall include implementation recommendations in  
23 the following areas:

24 (a) Hepatitis C virus prevention and treatment strategies for  
25 groups at risk for hepatitis C with an emphasis towards those  
26 groups that are disproportionately affected by hepatitis C,  
27 including persons infected with HIV, veterans, racial or ethnic  
28 minorities that suffer a higher incidence of hepatitis C, and  
29 persons who engage in high-risk behavior, such as intravenous drug  
30 use;

31 (b) Educational programs to promote public awareness about  
32 hepatitis C and knowledge about risk factors, the value of early  
33 detection, screening, services, and available treatment options for

1 hepatitis C, which may be incorporated in public awareness programs  
2 concerning bloodborne infections;

3 (c) Education curricula for appropriate health and health-  
4 related providers covered by the uniform disciplinary act, chapter  
5 18.130 RCW;

6 (d) Training courses for persons providing hepatitis C  
7 counseling, public health clinic staff, and any other appropriate  
8 provider, which shall focus on disease prevention, early detection,  
9 and intervention;

10 (e) Capacity for voluntary hepatitis C testing programs to be  
11 performed at facilities providing voluntary HIV testing under  
12 chapter 70.24 RCW;

13 (f) A comprehensive model for an evidence-based process for the  
14 prevention and management of hepatitis C that is applicable to  
15 other diseases; and

16 (g) Sources and availability of funding to implement the plan.

17 (3) The secretary of health shall develop the state plan  
18 described in subsections (1) and (2) of this section only to the  
19 extent that, and for as long as, federal or private funds are  
20 available for that purpose, including grants. Funding for this act  
21 shall not come from state sources.

22 (4) The board of health may adopt rules necessary to implement  
23 subsection (2)(b) of this section.

24 (5) The secretary of health shall submit the completed state  
25 plan to the legislature by January 1, 2004. After the initial  
26 state plan is submitted, the department shall update the state plan  
27 biennially and shall submit the plan to the governor and make it  
28 available to other interested parties. The update and progress  
29 reports are due December 1, 2004, and every two years thereafter.

30 (6) The state plan recommendations described in subsection  
31 (2)(b) of this section shall be implemented by the secretary of  
32 health only to the extent that, and for as long as, federal or  
33 private funds are available for that purpose, including grants.

34 (7) This section expires June 30, 2007.

35 **Sec. 2.** RCW 49.60.172 and 1988 c 206 s 903 are each amended to  
36 read as follows:

37 (1) No person may require an individual to take an HIV test, as  
38 defined in chapter 70.24 RCW, or hepatitis C test, as a condition

1 of hiring, promotion, or continued employment unless the absence of  
2 HIV or hepatitis C infection is a bona fide occupational  
3 qualification for the job in question.

4 (2) No person may discharge or fail or refuse to hire any  
5 individual, or segregate or classify any individual in any way  
6 which would deprive or tend to deprive that individual of  
7 employment opportunities or adversely affect his or her status as  
8 an employee, or otherwise discriminate against any individual with  
9 respect to compensation, terms, conditions, or privileges of  
10 employment on the basis of the results of an HIV test or hepatitis  
11 C test unless the absence of HIV or hepatitis C infection is a bona  
12 fide occupational qualification of the job in question.

13 (3) The absence of HIV or hepatitis C infection as a bona fide  
14 occupational qualification exists when performance of a particular  
15 job can be shown to present a significant risk, as defined by the  
16 board of health by rule, of transmitting HIV or hepatitis C  
17 infection to other persons, and there exists no means of  
18 eliminating the risk by restructuring the job.

19 (4) For the purpose of this chapter, any person who is actually  
20 infected with HIV or hepatitis C, but is not disabled as a result  
21 of the infection, shall not be eligible for any benefits under the  
22 affirmative action provisions of chapter 49.74 RCW solely on the  
23 basis of such infection.

24 (5) Employers are immune from civil action for damages arising  
25 out of transmission of HIV or hepatitis C to employees or to  
26 members of the public unless such transmission occurs as a result  
27 of the employer's gross negligence.

28 **Sec. 3.** RCW 49.60.174 and 1997 c 271 s 6 are each amended to  
29 read as follows:

30 (1) For the purposes of determining whether an unfair practice  
31 under this chapter has occurred, claims of discrimination based on  
32 actual or perceived HIV or hepatitis C infection shall be evaluated  
33 in the same manner as other claims of discrimination based on  
34 sensory, mental, or physical disability; or the use of a trained  
35 dog guide or service animal by a disabled person.

36 (2) Subsection (1) of this section shall not apply to  
37 transactions with insurance entities, health service contractors,  
38 or health maintenance organizations subject to RCW 49.60.030(1)(e)

1 or 49.60.178 to prohibit fair discrimination on the basis of actual  
2 HIV or actual hepatitis C infection status when bona fide  
3 statistical differences in risk or exposure have been  
4 substantiated.

5 (3) For the purposes of this chapter((~~7~~)):

6 (a) "HIV" means the human immunodeficiency virus, and includes  
7 all HIV and HIV-related viruses which damage the cellular branch of  
8 the human immune system and leave the infected person  
9 immunodeficient; and

10 (b) "Hepatitis C" means the hepatitis C virus of any genotype.

11 NEW SECTION. Sec. 4. A new section is added to chapter 50.20  
12 RCW to read as follows:

13 (1) Credentialed health care professionals listed in RCW  
14 18.130.040 shall be deemed to be dislocated workers for the purpose  
15 of commissioner approval of training under RCW 50.20.043 if they  
16 are unemployed as a result of contracting hepatitis C in the course  
17 of employment and are unable to continue to work in their  
18 profession because of a significant risk that such work would pose  
19 to other persons and that risk cannot be eliminated.

20 (2) For purposes of subsection (1) of this section, a health  
21 care professional who was employed on a full-time basis in their  
22 profession shall be presumed to have contracted hepatitis C in the  
23 course of employment. This presumption may be rebutted by a  
24 preponderance of the evidence that demonstrates that the health  
25 care professional contracted hepatitis C as a result of activities  
26 or circumstances not related to employment.

27 NEW SECTION. Sec. 5. Section 1 of this act does not create a  
28 private right of action."

29 Correct the title.

**EFFECT:** Eliminates the required participation of the  
pharmaceutical industry and the Washington State Medical  
Association and adds suppliers of services to persons with  
hepatitis C and relevant health care associations. Requires

public education efforts to focus on hepatitis C and allows this information to be incorporated into public awareness programs about bloodborne infections. Requires that the model for hepatitis C prevention and management be evidence-based. Authorizes the Board of Health to adopt rules to implement the plan. Requires that the plan be implemented only to the extent that federal or private funds are available.