

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5039

58th Legislature
2003 Regular Session

Passed by the Senate April 27, 2003
YEAS 48 NAYS 0

President of the Senate

Passed by the House April 23, 2003
YEAS 98 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE SENATE BILL 5039 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5039

AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Kastama, Thibaudeau and Kohl-Welles)

READ FIRST TIME 02/28/03.

1 AN ACT Relating to hepatitis C; amending RCW 49.60.172 and
2 49.60.174; adding a new section to chapter 70.54 RCW; adding a new
3 section to chapter 50.20 RCW; creating a new section; and providing an
4 expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

- 12 (a) The public;
- 13 (b) Patient groups and organizations;
- 14 (c) Relevant state agencies that have functions that involve
15 hepatitis C or provide services to persons with hepatitis C;
- 16 (d) Local health departments;
- 17 (e) Public health and clinical laboratories;
- 18 (f) Providers and suppliers of services to persons with hepatitis
19 C;

- 1 (g) Research scientists;
- 2 (h) The University of Washington; and
- 3 (i) Relevant health care associations.

4 (2) The plan shall include implementation recommendations in the
5 following areas:

6 (a) Hepatitis C virus prevention and treatment strategies for
7 groups at risk for hepatitis C with an emphasis towards those groups
8 that are disproportionately affected by hepatitis C, including persons
9 infected with HIV, veterans, racial or ethnic minorities that suffer a
10 higher incidence of hepatitis C, and persons who engage in high-risk
11 behavior, such as intravenous drug use;

12 (b) Educational programs to promote public awareness about
13 hepatitis C and knowledge about risk factors, the value of early
14 detection, screening, services, and available treatment options for
15 hepatitis C, which may be incorporated in public awareness programs
16 concerning bloodborne infections;

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

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

22 (e) Capacity for voluntary hepatitis C testing programs to be
23 performed at facilities providing voluntary HIV testing under chapter
24 70.24 RCW;

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

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

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

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

36 (5) The secretary of health shall submit the completed state plan
37 to the legislature by January 1, 2004. After the initial state plan is
38 submitted, the department shall update the state plan biennially and

1 shall submit the plan to the governor and make it available to other
2 interested parties. The update and progress reports are due December
3 1, 2004, and every two years thereafter.

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

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

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

11 (1) No person may require an individual to take an HIV test, as
12 defined in chapter 70.24 RCW, or hepatitis C test, as a condition of
13 hiring, promotion, or continued employment unless the absence of HIV or
14 hepatitis C infection is a bona fide occupational qualification for the
15 job in question.

16 (2) No person may discharge or fail or refuse to hire any
17 individual, or segregate or classify any individual in any way which
18 would deprive or tend to deprive that individual of employment
19 opportunities or adversely affect his or her status as an employee, or
20 otherwise discriminate against any individual with respect to
21 compensation, terms, conditions, or privileges of employment on the
22 basis of the results of an HIV test or hepatitis C test unless the
23 absence of HIV or hepatitis C infection is a bona fide occupational
24 qualification of the job in question.

25 (3) The absence of HIV or hepatitis C infection as a bona fide
26 occupational qualification exists when performance of a particular job
27 can be shown to present a significant risk, as defined by the board of
28 health by rule, of transmitting HIV or hepatitis C infection to other
29 persons, and there exists no means of eliminating the risk by
30 restructuring the job.

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

36 (5) Employers are immune from civil action for damages arising out

1 of transmission of HIV or hepatitis C to employees or to members of the
2 public unless such transmission occurs as a result of the employer's
3 gross negligence.

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

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

12 (2) Subsection (1) of this section shall not apply to transactions
13 with insurance entities, health service contractors, or health
14 maintenance organizations subject to RCW 49.60.030(1)(e) or 49.60.178
15 to prohibit fair discrimination on the basis of actual HIV or actual
16 hepatitis C infection status when bona fide statistical differences in
17 risk or exposure have been substantiated.

18 (3) For the purposes of this chapter((7)):

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

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

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.20 RCW
24 to read as follows:

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

32 (2) For purposes of subsection (1) of this section, a health care
33 professional who was employed on a full-time basis in their profession
34 shall be presumed to have contracted hepatitis C in the course of
35 employment. This presumption may be rebutted by a preponderance of the

1 evidence that demonstrates that the health care professional contracted
2 hepatitis C as a result of activities or circumstances not related to
3 employment.

4 NEW SECTION. **Sec. 5.** Section 1 of this act does not create a
5 private right of action.

--- END ---