

HB 1471 - H AMD 299

By Representative Goodman

ADOPTED 3/13/2007

1 On page 1, after line 19, insert the following:

2 "(3)(a) For the purposes of this section, "voluntary
3 intoxication" does not include intoxication caused by a diagnosable
4 disease if the disease: (i) results from the defendant's compulsive
5 and chronic use of alcohol or a drug; and (ii) caused the defendant
6 to be incapable of making a voluntary choice to ingest the alcohol
7 or drug.

8 (b) The defendant must establish that his or her intoxication
9 at the time of the crime was caused by a diagnosable disease under
10 (a) of this subsection by objective, verifiable factors that
11 include the following:

12 (i) A persistent and uncontrollable desire for the alcohol or
13 drug;

14 (ii) The inability to stop or limit the use of the alcohol or
15 drug;

16 (iii) The need to increase the amount of the alcohol or drug
17 used in order to feel the effects of the alcohol or drug;

18 (iv) Continued and sustained use of the alcohol or drug despite
19 adverse or negative consequences, including causing serious harm or
20 injury to the property or person of the defendant or others while
21 using the alcohol or drug;

22 (v) Serious physiological, emotional, mental, or psychological
23 illness, disorder, or dysfunction; and

24 (vi) Ongoing treatment for alcohol or drug abuse by a physician
25 or in an approved treatment program under chapter 70.96A RCW.

26 (c) The court shall not admit evidence under this subsection
27 (3) unless the defendant notifies the prosecution prior to the
28 omnibus or pretrial hearing in the case that the defendant intends
29 to offer such evidence."

EFFECT: Provides that voluntary intoxication does not include intoxication caused by a diagnosable disease that results from compulsive and chronic use of alcohol or a drug and that caused the defendant to be incapable of making a voluntary choice to ingest the alcohol or drug. If the defendant proves that the intoxication resulted from the diagnosable disease, the defendant would be allowed to introduce evidence of intoxication in the criminal trial as evidence that the jury could consider in determining whether the defendant was capable of forming the mental element of the crime charged.

To prove that the intoxication was caused by the diagnosable disease, the defendant must establish the existence of the following factors:

- Persistent and uncontrollable desire for the alcohol/drug;
- Inability to stop or limit use of the alcohol/drug;
- The need to increase the amount of the alcohol/drug used in order to feel its effects;
- Continued and sustained use of the alcohol/drug despite adverse or negative consequences;
- Serious physiological, emotional, mental, or psychological illness, dysfunction, or disorder; and
- Ongoing treatment for alcohol/drug abuse by a physician or in an approved chemical dependency treatment program certified by the DSHS.