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**Labor & Workforce Development  
Committee**

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**HB 2295**

**Brief Description:** Limiting industrial insurance benefits for injuries or diseases caused by use of intoxicating liquor or drugs.

**Sponsors:** Representatives Pike, Harris, Vick and Rodne.

**Brief Summary of Bill**

- Provides that a worker is not entitled to industrial insurance benefits other than medical benefits if the worker's being under the influence of liquor or any drug was the primary cause of the worker's injury or death.

**Hearing Date:** 1/31/14

**Staff:** Joan Elgee (786-7106).

**Background:**

Workers who are injured in the course of employment or disabled from an occupational disease are entitled to industrial insurance benefits. Workers are eligible for medical, temporary time-loss, and vocational rehabilitation benefits, as well as benefits for permanent disabilities. A worker's survivors are also entitled to certain benefits. Washington's industrial insurance statutes do not address alcohol or drug use as a cause of workplace injury or disease. A 1982 Washington Court of Appeals case, *Flavorland v. Schumacker*, examined the issue of whether an intoxicated worker was in the course of employment and held that intoxication is a defense only when the worker was so intoxicated that the worker abandoned the employment.

A number of states make use of drugs or alcohol a defense or grounds for a reduction in benefits.

**Summary of Bill:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Industrial insurance benefits, other than medical, are not payable to a worker or the worker's spouse, child, or dependent if the worker's being under the influence of or affected by intoxicating liquor or any drug was the primary cause of the worker's injury or death. This limit on benefit eligibility does not apply if the employer permitted or had knowledge of the worker's use of liquor or drugs, or the drug was prescribed by a health care practitioner and the worker used the drug in accordance with the directions.

A qualifying chemical test is required to determine whether the worker was under the influence of liquor or a drug. A rebuttable presumption that the worker was under the influence and that the intoxication was the primary cause of the injury or death is established if the worker refuses the qualifying chemical test, or had an alcohol concentration of 0.08 or higher or a THC concentration of 5.00 or higher, the standards for driving under the influence.

A "qualifying chemical test" is a test performed by methods approved by the State Toxicologist or by a State Toxicologist permit holder, or which is performed under standards established by a nationally recognized organization.

The provisions do not affect the rights of an employer to prohibit the use of liquor or drugs or to test workers for liquor or drugs.

The provisions apply to dates of injury or disease manifestation after the effective date of the Act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.