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HOUSE BILL 2183

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Roach, Takko, Newhouse, Eddy, and Kelley

Read first time 02/12/09. Referred to Committee on Health Care & Wellness.

1            AN ACT Relating to establishing the small business employee  
2 wellness program; adding a new section to chapter 82.04 RCW; adding a  
3 new chapter to Title 70 RCW; creating a new section; and providing an  
4 effective date.

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

6            NEW SECTION.    **Sec. 1.** The legislature finds that improving the  
7 health of the people of Washington is a paramount goal of state health  
8 policy, and embraces the vision to make Washington the healthiest state  
9 in the nation. The legislature further finds that the factors and  
10 actions that create health include but are not limited to health  
11 coverage and access to medical care. The legislature finds that the  
12 state must also invest in social determinants of health and stimulate  
13 greater personal health actions by individuals and families. The  
14 legislature recognizes that it is a shared responsibility among people,  
15 government, and the private sectors to assure personal health promotion  
16 and that an opportunity for promoting this lies with Washington's  
17 private businesses and nonprofit organizations.

18            The legislature further finds that many Washington businesses,  
19 particularly larger employers, already offer and find great value in

1 employee wellness programs for their employees. Surveys, and the  
2 experience of many Washingtonians with events and programs such as the  
3 annual governor's health bowl, find that employees also desire and find  
4 value with sound employee wellness programs and events. The  
5 legislature also finds that there are major barriers to the adoption  
6 and use of employee wellness programs across all of Washington's  
7 businesses and organizations, particularly among small business and  
8 not-for-profit organizations, which have limited resources, including  
9 time, to adopt and manage these programs.

10 The legislature intends to encourage the growth of workplace-based  
11 wellness programs by providing incentives for the adoption of employee  
12 wellness programs by small businesses. In providing these incentives,  
13 the legislature hopes to encourage all employers to provide health  
14 coverage to employees and dependents, but also ensure that all  
15 employers have an opportunity to adopt employee wellness programs for  
16 the use of their employees to promote wellness.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply  
18 throughout this chapter unless the context clearly requires otherwise.

19 (1) "Department" means the department of health.

20 (2) "Level 1 qualified employee wellness program" means a qualified  
21 employee wellness program certified by the department of health as  
22 meeting the criteria for level 1 qualified employee wellness programs  
23 established by the department.

24 (3) "Level 2 qualified employee wellness program" means a qualified  
25 employee wellness program certified by the department of health as  
26 meeting the criteria for level 2 qualified employee wellness programs  
27 established by the department.

28 (4) "Nonprofit organization" means a nonprofit corporation  
29 organized under chapter 24.03 RCW or a tax exempt organization under  
30 Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code.

31 (5) "Qualified employee wellness program" means an employee  
32 wellness program certified by the department of health as meeting all  
33 the criteria established by the department for level 1 or level 2  
34 qualified employee wellness programs.

35 (6) "Small business" means any business entity, including a sole  
36 proprietorship, corporation, partnership, or other legal entity, that

1 is owned and operated independently from all other businesses, and that  
2 has fifty or fewer employees.

3 NEW SECTION. **Sec. 3.** (1) The small business employee wellness  
4 program established by this act is to be administered by the department  
5 of health. The department must develop criteria and a process for  
6 certifying qualified employee wellness programs. In developing the  
7 criteria, the department should consider the importance of encouraging  
8 organizations and employees to initiate employee wellness programs.  
9 Furthermore, organizations are encouraged to make every effort to  
10 include free or low-cost offerings that achieve the essential  
11 objectives of health promotion among employees. It is recommended that  
12 the department consult with recognized experts in the development of  
13 these criteria, including the University of Washington, and the  
14 Washington health foundation.

15 (2) The criteria for level 1 qualified employee wellness programs  
16 must include providing a structure, incentives, and other programmatic  
17 elements aimed at the increase in positive health behaviors by  
18 employees, such as physical activity, better nutrition, sleep,  
19 hydration, stress management and other accepted healthy living factors.

20 (3) The criteria for level 2 qualified employee wellness programs  
21 must include the elements of a level 1 qualified employee wellness  
22 program but also incorporate incentives to assure that employees use  
23 proven preventive clinical care services, based on the recommendations  
24 of the United States clinical preventive services task force.

25 (4) Each small business or nonprofit organization eligible for the  
26 credit provided in section 4 of this act must maintain records of the  
27 results and effectiveness of the qualified employee wellness program  
28 that is the basis of earning the credit provided in section 4 of this  
29 act and provide this information, subject to confidentiality for  
30 individual participants, to the department upon request.

31 (5) The department must issue an annual report on the amount of  
32 credits claimed by businesses and nonprofit organizations under section  
33 4 of this act and the effectiveness of the credit in encouraging  
34 effective employee wellness. The report is due by . . . of the  
35 calendar year immediately following the end of the year covered by the  
36 report.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 82.04 RCW  
2 to read as follows:

3        (1)(a) A small business or a nonprofit organization may claim a  
4 credit against the tax otherwise due under this chapter for the costs  
5 of implementing a qualified employee wellness program.

6        (b) The maximum lifetime credit that may be earned under this  
7 section for each small business or nonprofit organization is five  
8 thousand dollars.

9        (c)(i) Small businesses or nonprofit organizations adopting a level  
10 1 qualified employee wellness program may claim a credit of up to two  
11 thousand five hundred dollars for the costs associated with  
12 implementing the program.

13        (ii) Small businesses or nonprofit organizations adopting a level  
14 2 qualified employee wellness program may claim a credit of up to five  
15 thousand dollars for the costs associated with implementing the  
16 program.

17        (2) Credit may not be claimed under this section for the cost  
18 incurred by the small businesses' or nonprofit organizations' own  
19 employees for organizing and managing the development and  
20 implementation of a qualified employee wellness program.

21        (3) No application is necessary for this credit. Persons claiming  
22 a credit under this section must maintain records necessary to verify  
23 the eligibility for the credit under this section and the costs of  
24 implementing the qualified employee wellness program.

25        (4) Credit under this section is earned when costs are incurred for  
26 implementing a qualified employee wellness program. Credit may be  
27 claimed for tax reporting periods due on or after the credit is earned.  
28 Credit under this section may be carried over until used. Refunds may  
29 not be granted in the place of a credit. No credit may be earned under  
30 this section for costs incurred before the effective date of this act.

31        (5) Credits under this section may only be claimed on returns filed  
32 with the department of revenue in an electronic format as provided or  
33 approved by the department. However, the department may waive the  
34 electronic filing requirement in this subsection for good cause shown.

35        (6) To assist the department of health in completing the annual  
36 reports required in section 3 of this act, the department of revenue  
37 must annually provide the department of health with statistics on the  
38 amount of credit claimed under this section and the number of persons

1 claiming the credit. This subsection does not allow the disclosure of  
2 return or tax information protected from disclosure under RCW  
3 82.32.330.

4 (7) Unless the context clearly requires otherwise, the definitions  
5 in section 2 of this act apply to this section.

6 NEW SECTION. **Sec. 5.** Sections 2 and 3 of this act constitute a  
7 new chapter in Title 70 RCW.

8 NEW SECTION. **Sec. 6.** This act takes effect October 1, 2009.

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