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HOUSE BILL 1228

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Pike, Manweller, Kraft, Vick, Taylor, Shea, and Harris

Read first time 01/13/17. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to limiting industrial insurance benefits for  
2 injuries or diseases caused by use of intoxicating liquor or drugs;  
3 adding a new section to chapter 51.32 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.32  
6 RCW to read as follows:

7 (1) No benefits, other than medical benefits, are payable to or  
8 on behalf of a worker or to his or her spouse, child, or dependent if  
9 the worker's being under the influence of or affected by intoxicating  
10 liquor or any drug was the primary cause of the worker's injury or  
11 death unless:

12 (a) The employer permitted or had knowledge of the worker's use  
13 of intoxicating liquor or any drug; or

14 (b) The drug was prescribed for the worker by a health care  
15 practitioner authorized under chapter 69.41 RCW, and the worker used  
16 the drug in accordance with the directions for use.

17 (2) A qualifying chemical test is required to prove that the  
18 worker was under the influence of or affected by intoxicating liquor  
19 or any drug at the time of injury. The employer must bear the cost of  
20 any testing requested by the employer.

1 (3) A rebuttable presumption that the worker was under the  
2 influence of or affected by intoxicating liquor or any drug and that  
3 the intoxication was the primary cause of the worker's injury or  
4 death is established if:

5 (a) The worker refused to submit to a qualifying chemical test;  
6 or

7 (b) The worker had an alcohol concentration of 0.08 or higher or  
8 a THC concentration of 5.00 or higher, as determined by a qualifying  
9 chemical test.

10 (4) This section does not affect the rights of an employer to  
11 prohibit the use of intoxicating liquor or drugs or to test workers  
12 for intoxicating liquor or drug use to the extent permissible by law.

13 (5) For purposes of this section:

14 (a) "Drug" means those substances regulated by chapters 69.41,  
15 69.50, and 69.51A RCW.

16 (b) "Qualifying chemical test" means a test performed according  
17 to methods approved by, and by an individual possessing a valid  
18 permit issued by, the state toxicologist under RCW 46.61.506, or  
19 performed under standards established by a nationally recognized  
20 organization.

21 NEW SECTION. **Sec. 2.** Section 1 of this act applies to dates of  
22 injury or disease manifestation after the effective date of this  
23 section.

24 NEW SECTION. **Sec. 3.** Section 1 of this act does not impair any  
25 provision of a collective bargaining agreement in effect on the  
26 effective date of this section.

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