
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1638

State of Washington

58th Legislature

2003 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Schual-Berke, Darneille, Conway, Hankins, McIntire, Pflug, Kenney, Kessler, Moeller, Edwards, Simpson, Morrell, Skinner, Upthegrove, Rockefeller and Wood)

READ FIRST TIME 03/10/03.

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; and creating a new section.

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

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

7 (1) The secretary of health shall design a state plan for the
8 prevention, education, and treatment of hepatitis C by January 1, 2004.
9 In developing the plan, the secretary shall seek the input of:

- 10 (a) The public;
- 11 (b) Patient groups and organizations;
- 12 (c) Relevant state agencies that provide services to persons with
13 hepatitis C or have functions that involve hepatitis C;
- 14 (d) Local health departments;
- 15 (e) Public health and clinical laboratories;
- 16 (f) Providers of services to persons with hepatitis C;
- 17 (g) Research scientists;
- 18 (h) The University of Washington;
- 19 (i) Representatives from the pharmaceutical industry; and

1 (j) The Washington state medical association.

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

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

10 (b) Educational programs to promote public awareness about
11 bloodborne infections and knowledge about risk factors, the value of
12 early detection, screening, services, and available treatment options
13 for hepatitis C;

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

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

19 (e) Capacity for voluntary hepatitis C testing programs to be
20 performed at facilities providing voluntary HIV testing under chapter
21 70.24 RCW;

22 (f) A comprehensive model for the prevention and management of
23 hepatitis C; and

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

25 (3) The secretary of health shall submit the completed state plan
26 to the legislature by January 1, 2004. After the initial state plan is
27 submitted, the department shall update the state plan biennially and
28 shall submit a progress report on the implementation of the plan to the
29 governor and make it available to other interested parties. The update
30 and progress reports are due December 1, 2004, and every two years
31 thereafter.

32 (4) The state plan developed pursuant to this section shall be
33 developed using only available federal and private sources, including
34 grants.

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

37 (1) No person may require an individual to take an HIV test, as

1 defined in chapter 70.24 RCW, or hepatitis C test, as a condition of
2 hiring, promotion, or continued employment unless the absence of HIV or
3 hepatitis C infection is a bona fide occupational qualification for the
4 job in question.

5 (2) No person may discharge or fail or refuse to hire any
6 individual, or segregate or classify any individual in any way which
7 would deprive or tend to deprive that individual of employment
8 opportunities or adversely affect his or her status as an employee, or
9 otherwise discriminate against any individual with respect to
10 compensation, terms, conditions, or privileges of employment on the
11 basis of the results of an HIV test or hepatitis C test unless the
12 absence of HIV or hepatitis C infection is a bona fide occupational
13 qualification of the job in question.

14 (3) The absence of HIV or hepatitis C infection as a bona fide
15 occupational qualification exists when performance of a particular job
16 can be shown to present a significant risk, as defined by the board of
17 health by rule, of transmitting HIV or hepatitis C infection to other
18 persons, and there exists no means of eliminating the risk by
19 restructuring the job.

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

25 (5) Employers are immune from civil action for damages arising out
26 of transmission of HIV or hepatitis C to employees or to members of the
27 public unless such transmission occurs as a result of the employer's
28 gross negligence.

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

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

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

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

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

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

12 NEW SECTION. Sec. 4. A new section is added to chapter 50.20 RCW
13 to read as follows:

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

21 (2) For purposes of subsection (1) of this section, a health care
22 professional who was employed on a full-time basis in their profession
23 shall be presumed to have contracted hepatitis C in the course of
24 employment. This presumption may be rebutted by a preponderance of the
25 evidence that demonstrates that the health care professional contracted
26 hepatitis C as a result of activities or circumstances not related to
27 employment.

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

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