H-3339.3

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2697**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Pike, Manweller, Eslick, and Condotta

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

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

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

(1) If the worker's being under the influence of or affected by intoxicating liquor or any drug was a proximate cause of the worker's injury or death, each payment of benefits other than medical benefits payable to or on behalf of a worker or to his or her spouse, child, or dependent shall be reduced proportionately by the percentage of the cause of the injury or death attributable to the intoxication. However, the worker must receive at least ten percent of benefits and may receive no more than ninety percent of benefits.

(2) Subsection (1) of this section does not apply if:

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

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

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

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

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

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

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

(6) For purposes of this section:

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

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

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

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

**--- END ---**