

**SENATE BILL REPORT**

**SB 6266**

**AS REPORTED BY COMMITTEE ON COMMERCE & LABOR, FEBRUARY 7, 1992**

**Brief Description:** Prohibiting employer discrimination for the consumption of lawful products off premises by employees during nonworking hours.

**SPONSORS:** Senators Amondson and McMullen

**SENATE COMMITTEE ON COMMERCE & LABOR**

**Majority Report:** That Substitute Senate Bill No. 6266 be substituted therefor, and the substitute bill do pass.

Signed by Senators Matson, Chairman; McDonald, McMullen, Moore, Murray, and Skratek.

**Staff:** Catherine Mele (786-7457)

**Hearing Dates:** February 5, 1992; February 7, 1992

**BACKGROUND:**

Concern exists that some employers treat individuals differently based on an individual's consumption of lawful products, such as tobacco and alcohol, while not at work.

**SUMMARY:**

The original bill was not considered.

**EFFECT OF PROPOSED SUBSTITUTE:**

An employer is not permitted to refuse to hire, discharge, or disadvantage individuals because they consume lawful products while not at work. An employer may differentiate between individuals when offering insurance policies that differ in coverage and cost because of an individual's consumption of lawful products. When offering such insurance policies an employer is to provide employees with a written statement showing different rates charged.

An employer is permitted to discharge an individual if the decision is based on the employee's ability to meet job performance standards.

There is no protection provided for lawful products consumed on the employer's premises when consumption conflicts with employment polices or applicable law. The law is not applicable if it threatens an employer's trade secrets, proprietary interests or pertains to a bona fide occupational requirement.

Prevailing parties are to collect attorney fees and individuals that are harmed receive back wages and benefits due.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR:**

When an employer treats an individual differently because he or she consumes legal products at home, the employer invades an individual's right to privacy. Privacy is a right protected by the Constitution. In order to assure that an individual's privacy is protected, the state must prohibit employers from discriminating against individuals who smoke or drink at home.

**TESTIMONY AGAINST:**

Employers should not be forced to hire or work with individuals that smoke or drink alcohol. Some businesses cannot afford to hire individuals who smoke or drink alcohol because of the increased health care costs associated with such consumption. People addicted to lawful products are less productive in the workplace.

**TESTIFIED:** Susan Herbert, S.T.A.R.T. (pro); Joe Daniels, CWA State Council (pro); Jerry Sheehan, ACLU (pro); Carolyn Logue, NFIB (con) Bobbette Jones, Preventative Lifestyles (con); Gary Smith, Industrial Business Assn. (con); Bill Van Horn, teacher (con); Charles Bagley, NW Cancer Center (con); Dr. Tim McAfee, Group Health Cooperative (con); Dennis Hamel, Alaska Airlines (con)