
HOUSE BILL 1617

State of Washington 52nd Legislature 1991 Regular Session

By Representatives R. King, Wilson, Day, Edmondson and Miller.

Read first time February 4, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to unfair practices in employment; adding new
2 sections to chapter 49.44 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.44 RCW
5 to read as follows:

6 (1) It is an unfair practice:

7 (a) For an employer or licensing agency to require, as a condition
8 of hiring, promotion, or continued employment, that an employee or
9 prospective employee refrain from using or consuming lawful tobacco
10 products during nonworking hours, away from his or her place of
11 employment; or

12 (b) For an employer to discharge; fail or refuse to hire an
13 individual; classify an individual in a way that would deprive or tend
14 to deprive that individual of employment opportunities or adversely
15 affect his or her status as an employee; or otherwise discriminate

1 against an individual with respect to compensation, terms, conditions,
2 or privileges of employment on the ground that the employee does or
3 does not use or consume lawful tobacco products during nonworking
4 hours, away from his or her place of employment.

5 (2) In an action under this section, the court having jurisdiction
6 may, pursuant to RCW 4.84.185, require a nonprevailing party to pay to
7 the prevailing party his or her reasonable attorneys' fees and costs if
8 the nonprevailing party's action, counterclaim, cross-claim, third-
9 party claim, or defense was frivolous and advanced without reasonable
10 cause.

11 (3) In an action under this section, the damages which an employer
12 may be required to pay a plaintiff, exclusive of costs, shall be
13 limited to no more than ten thousand dollars.

14 (4) This section does not apply if an applicable collective
15 bargaining agreement affects employees' use or consumption of lawful
16 tobacco products during nonworking hours, away from their place of
17 employment.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.44 RCW
19 to read as follows:

20 Nothing in this act precludes a religious organization whose tenets
21 prohibit the use of tobacco or a company or nonprofit organization
22 whose primary business purpose is the prevention of heart and lung
23 disease or the elimination of tobacco use, from refusing to hire an
24 individual who uses lawful tobacco products.