
HOUSE BILL 1365

State of Washington

53rd Legislature

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By Representatives Appelwick, King, Edmondson, Johanson, Orr, R. Meyers, Schmidt, Heavey, Springer, Basich, Ballasiotes, Brough, Wood, Miller, Wang and Long

Read first time 01/25/93. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to employee privacy; and adding new sections to
2 chapter 49.44 RCW.

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 unlawful for an employer to refuse to hire or to
7 discharge any individual, or otherwise disadvantage any individual,
8 with respect to compensation, terms, conditions, or privileges of
9 employment because the individual engages in the consumption of lawful
10 products off the premises of the employer during nonworking hours.
11 This subsection in no way limits the employer's ability to require
12 individual compliance with applicable laws or policies regulating that
13 consumption of lawful products on the premises of the employer during
14 working hours.

15 (2) It is not unlawful or an unfair employment practice under this
16 section for an employer to offer, impose, or have in effect a health,
17 disability, or life insurance policy that makes distinctions between
18 employees for the type of coverage or the coverage based upon the
19 employees' consumption of lawful products if:

1 (a) Differential premium rates charged employees reflect a
2 differential cost to the employer; and

3 (b) The employer provides employees with a written statement
4 delineating differential rates used by insurance carriers.

5 (3) It is not unlawful or an unfair employment practice under this
6 section for an employer to refuse to hire, to discharge, or otherwise
7 disadvantage an individual with respect to compensation, terms,
8 conditions, or privileges of employment if that decision is based on:

9 (a) The individual's failure to meet job-related standards;

10 (b) An employer's legitimate conflict of interest policy reasonably
11 designed to protect the employer's trade secrets, proprietary
12 information, or other proprietary interests; or

13 (c) The employer's drug and alcohol free workplace program,
14 including those adopted in response to federal requirements.

15 (4) The court shall award the prevailing party in an action under
16 this section court costs and reasonable attorneys' fees.

17 (5) The remedy for any individual claiming to be aggrieved by a
18 violation of this section is a civil action for damages for all wages
19 and benefits deprived the individual by reason of the violation.

20 (6) An individual aggrieved by a violation of this section must
21 file the civil action within six months after the alleged unlawful or
22 unfair employment practice or the discovery of that practice.

23 (7) This section does not apply if the language of an applicable
24 collective bargaining agreement specifically addresses employees'
25 consumption of lawful products off the premises of the employer during
26 nonworking hours.

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

29 Nothing in section 1 of this act precludes a religious or health
30 organization whose tenets prohibit the use of an otherwise lawful
31 product or a company or nonprofit organization whose primary business
32 purpose is the prevention of heart and lung disease, from refusing to
33 employ an individual who uses an otherwise lawful product.

34 NEW SECTION. **Sec. 3.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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