

2 SSB 5516 - CONF REPT  
3 By Conference Committee

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
8 promote drug-free workplaces to improve the safety of the workplace,  
9 protect the health of workers, and afford employers in this state the  
10 opportunity to maximize their levels of productivity, enhance their  
11 competitive positions in the marketplace, and reach their desired  
12 levels of success without experiencing the costs, delays, and tragedies  
13 associated with work-related accidents resulting from substance abuse  
14 by employees.

15 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
16 otherwise, the definitions in this section apply throughout this  
17 chapter.

18 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or  
19 spirits of wine, from whatever source or by whatever process produced.

20 (2) "Alcohol test" means a chemical, biological, or physical  
21 instrumental analysis administered for the purpose of determining the  
22 presence or absence of alcohol within an individual's body systems.

23 (3) "Chain of custody" means the methodology of tracking specimens  
24 for the purpose of maintaining control and accountability from initial  
25 collection to final disposition for all specimens and providing for  
26 accountability at each stage in handling, testing, and storing  
27 specimens and reporting test results.

28 (4) "Collection site" means a place where individuals present  
29 themselves for the purpose of providing a urine, breath, or other  
30 specimen to be analyzed for the presence of drugs or alcohol.

31 (5) "Confirmation test," "confirmed test," or "confirmed substance  
32 abuse test" means a second analytical procedure used to identify the  
33 presence of a specific drug or metabolic in a specimen. Drug tests  
34 must be confirmed as specified in section 6(5) of this act. Alcohol

1 tests must be confirmed by a second breath test or as specified for  
2 drug tests.

3 (6) "Department" means the department of social and health  
4 services.

5 (7) "Drug" means amphetamines, cannabinoids, cocaine, phencyclidine  
6 (PCP), methadone, methaqualone, opiates, barbiturates, benzodiazepines,  
7 propoxyphene, or a metabolite of any such substances.

8 (8) "Drug test" means a chemical, biological, or physical  
9 instrumental analysis administered on a specimen sample for the purpose  
10 of determining the presence or absence of a drug or its metabolites  
11 within the sample.

12 (9) "Employee" means a person who is employed for salary, wages, or  
13 other remuneration by an employer.

14 (10) "Employee assistance program" means a program designed to  
15 assist in the identification and resolution of job performance problems  
16 associated with employees impaired by personal concerns. A minimum  
17 level of core services must include: Consultation and professional,  
18 confidential, appropriate, and timely problem assessment services;  
19 short-term problem resolution; referrals for appropriate diagnosis,  
20 treatment, and assistance; follow-up and monitoring; employee  
21 education; and supervisory training.

22 (11) "Employer" means an employer subject to Title 51 RCW but does  
23 not include the state or any department, agency, or instrumentality of  
24 the state; any county; any city; any county or independent school  
25 system or municipal corporation; or any employer that is self-insured  
26 for purposes of Title 51 RCW.

27 (12) "Initial test" means a sensitive, rapid, and reliable  
28 procedure to identify negative and presumptive positive specimens. An  
29 initial drug test must use an immunoassay procedure or an equivalent  
30 procedure or must use a more accurate scientifically accepted method  
31 approved by the national institute on drug abuse as more accurate  
32 technology becomes available in a cost-effective form.

33 (13) "Injury" means a sudden and tangible happening, of a traumatic  
34 nature, producing an immediate or prompt result and occurring from  
35 without, and such physical conditions as result therefrom.

36 (14) "Job applicant" means a person who has applied for employment  
37 with an employer and has been offered employment conditioned upon  
38 successfully passing a drug test and may have begun work pending the  
39 results of the drug test.

1 (15) "Last-chance agreement" means a notice to an employee who is  
2 referred to the employee assistance program due to a verified positive  
3 alcohol or drug test or for violating an alcohol or drug-related  
4 employer rule that states the terms and conditions of continued  
5 employment with which the employee must comply.

6 (16) "Medical review officer" means a licensed physician trained in  
7 the field of drug testing who provides medical assessment of positive  
8 test results, requests reanalysis if necessary, and makes a  
9 determination whether or not drug misuse has occurred.

10 (17) "Nonprescription medication" means a drug or medication  
11 authorized under federal or state law for general distribution and use  
12 without a prescription in the treatment of human disease, ailments, or  
13 injuries.

14 (18) "Prescription medication" means a drug or medication lawfully  
15 prescribed by a physician, or other health care provider licensed to  
16 prescribe medication, for an individual and taken in accordance with  
17 the prescription.

18 (19) "Rehabilitation program" means a program approved by the  
19 department that is capable of providing expert identification,  
20 assessment, and resolution of employee drug or alcohol abuse in a  
21 confidential and timely service. Any rehabilitation program under this  
22 chapter must contain a two-year continuing care component.

23 (20) "Specimen" means breath or urine. "Specimen" may include  
24 other products of the human body capable of revealing the presence of  
25 drugs or their metabolites or of alcohol, if approved by the United  
26 States department of health and human services and permitted by rules  
27 adopted under section 13 of this act.

28 (21) "Substance" means drugs or alcohol.

29 (22) "Substance abuse test" or "test" means a chemical, biological,  
30 or physical instrumental analysis administered on a specimen sample for  
31 the purpose of determining the presence or absence of a drug or its  
32 metabolites or of alcohol within the sample.

33 (23) "Threshold detection level" means the level at which the  
34 presence of a drug or alcohol can be reasonably expected to be detected  
35 by an initial and confirmation test performed by a laboratory meeting  
36 the standards specified in this chapter. The threshold detection level  
37 indicates the level at which a valid conclusion can be drawn that the  
38 drug or alcohol is present in the employee's specimen.

1 (24) "Verified positive test result" means a confirmed positive  
2 test result obtained by a laboratory meeting the standards specified in  
3 this chapter that has been reviewed and verified by a medical review  
4 officer in accordance with medical review officer guidelines  
5 promulgated by the United States department of health and human  
6 services.

7 NEW SECTION. **Sec. 3.** (1) An employer implementing a drug-free  
8 workplace program in accordance with section 4 of this act, shall  
9 qualify for a five percent premium discount under the employer's  
10 workers' compensation insurance policy as provided under chapter 51.16  
11 RCW upon certification by the division of alcohol and substance abuse  
12 of the department as provided in section 13 of this act.

13 (2) The premium discount must remain in effect as long as the  
14 employer is certified under section 13 of this act, up to a maximum of  
15 three years from the date of certification.

16 (3) A certified employer may discontinue operating a drug-free  
17 workplace program at any time. The qualification for a premium  
18 discount shall expire in accordance with decertification rules adopted  
19 by the department under section 13 of this act.

20 (4) An employer whose substance abuse testing program reasonably  
21 meets, as of July 1, 1995, the requirements for the premium discount  
22 provided in this section is not eligible for certification.

23 (5) Nothing in this chapter creates or alters an obligation on the  
24 part of an employer seeking to participate in this program to bargain  
25 with a collective bargaining representative of its employees.

26 (6) An employer may not receive premium discounts from the  
27 department of labor and industries under more than one premium discount  
28 program. An employer participating in and meeting all of the  
29 requirements for the discount provided in this section and also  
30 participating in another premium discount program offered by the  
31 department of labor and industries is only entitled to the premium  
32 discount that is the highest.

33 NEW SECTION. **Sec. 4.** (1) A drug-free workplace program  
34 established under this chapter must contain the following elements:

35 (a) A written policy statement as provided in section 5 of this  
36 act;

37 (b) Substance abuse testing as provided in section 6 of this act;

1 (c) An employee assistance program as provided in accordance with  
2 section 7 of this act;

3 (d) Employee education as provided in section 9 of this act; and

4 (e) Supervisor training in accordance with section 10 of this act.

5 (2) In addition to the requirements of subsection (1) of this  
6 section, a drug-free workplace program established under this chapter  
7 must be implemented in compliance with the confidentiality standards  
8 provided in section 12 of this act.

9 NEW SECTION. **Sec. 5.** (1) An alcohol and drug-free workplace  
10 program established under this chapter must contain a written substance  
11 abuse policy statement in order to qualify for the premium discount  
12 provided under section 3 of this act. The policy must:

13 (a) Notify employees that the use or being under any influence of  
14 alcohol during working hours is prohibited;

15 (b) Notify employees that the use, purchase, possession, or  
16 transfer of drugs or having illegal drugs in their system is prohibited  
17 and that prescription or nonprescription medications are not prohibited  
18 when taken in accordance with a lawful prescription or consistent with  
19 standard dosage recommendations;

20 (c) Identify the types of testing an employee or job applicant may  
21 be required to submit to or other basis used to determine when such a  
22 test will be required;

23 (d) Identify the actions the employer may take against an employee  
24 or job applicant on the basis of a verified positive test result;

25 (e) Contain a statement advising an employee or job applicant of  
26 the existence of this chapter;

27 (f) Contain a general statement concerning confidentiality;

28 (g) Identify the consequences of refusing to submit to a drug test;

29 (h) Contain a statement advising an employee of the employee  
30 assistance program;

31 (i) Contain a statement that an employee or job applicant who  
32 receives a verified positive test result may contest or explain the  
33 result to the employer within five working days after receiving written  
34 notification of the positive test result;

35 (j) Contain a statement informing an employee of the provisions of  
36 the federal drug-free workplace act, if applicable to the employer; and

37 (k) Notify employees that the employer may discipline an employee  
38 for failure to report an injury in the workplace.

1 (2) An employer not having a substance abuse testing program in  
2 effect on July 1, 1995, shall ensure that at least sixty days elapse  
3 between a general one-time notice to all employees that a substance  
4 abuse testing program is being implemented and the beginning of the  
5 actual testing. An employer having a substance abuse testing program  
6 in place before July 1, 1995, is not required to provide a sixty-day  
7 notice period.

8 (3) An employer shall include notice of substance abuse testing to  
9 all job applicants. A notice of the employer's substance abuse testing  
10 policy must also be posted in an appropriate and conspicuous location  
11 on the employer's premises, and copies of the policy must be made  
12 available for inspection by the employees or job applicants of the  
13 employer during regular business hours in the employer's personnel  
14 office or other suitable locations. An employer with employees or job  
15 applicants who have trouble communicating in English shall make  
16 reasonable efforts to help the employees understand the policy  
17 statement.

18 NEW SECTION. **Sec. 6.** (1) Substance abuse testing conducted under  
19 this chapter must be conducted in conformity with the standards and  
20 procedures established in this chapter and all applicable rules adopted  
21 by the department under this chapter. If an employer fails to maintain  
22 an alcohol and drug-free workplace program in accordance with the  
23 standards, procedures, and rules established under this chapter, the  
24 employer shall not qualify for the workers' compensation premium  
25 discount provided under section 3 of this act.

26 (2) To qualify for the premium discount under section 3 of this  
27 act, an employer shall:

28 (a) Be in good standing and remain in good standing with the  
29 department of labor and industries with respect to the employer's  
30 workers' compensation premium obligations;

31 (b) Require job applicants to submit to a drug test after extending  
32 an offer of employment. The employer may use a refusal to submit to a  
33 drug test or a verified positive test as a basis for not hiring the job  
34 applicant;

35 (c) Investigate each workplace injury that results in a worker  
36 needing off-site medical attention and require an employee to submit to  
37 drug and alcohol tests if the employer reasonably believes the employee  
38 has caused or contributed to an injury which resulted in off-site

1 medical attention. Under this chapter, a first-time verified positive  
2 test result may not be used as a basis to terminate an employee's  
3 employment. However, an employee may be terminated for independent  
4 reasons, such as a violation of a safety rule or regulation;

5 (d) If the employee in the course of employment is referred to the  
6 employee assistance program by the employer as a result of a verified  
7 positive drug or alcohol test or an alcohol or drug-related incident in  
8 violation of employer rules, require the employee to submit to drug and  
9 alcohol testing in conjunction with any recommended rehabilitation  
10 program. If the employee assistance program determines that the  
11 employee does not require treatment services, the employee must still  
12 be required to participate in follow-up testing. However, if an  
13 employee voluntarily enters an employee assistance program, without a  
14 verified positive drug or alcohol test or a violation of any drug or  
15 alcohol related employer rule, follow-up testing is not required. If  
16 follow-up testing is conducted, the frequency of the testing shall be  
17 at least four times a year for a two-year period after completion of  
18 the rehabilitation program and advance notice of the testing date may  
19 not be given. A verified positive follow-up test result shall normally  
20 require termination of employment.

21 (3) Specimen collection and substance abuse testing under this  
22 section must be performed in accordance with regulations and procedures  
23 approved by the United States department of health and human services  
24 and the United States department of transportation regulations for  
25 alcohol and drug testing and must include testing for marijuana,  
26 cocaine, amphetamines, opiates, and phencyclidine. Employers may test  
27 for any drug listed in section 2(7) of this act.

28 (a) A specimen must be collected with due regard to the privacy of  
29 the individual providing the specimen and in a manner reasonably  
30 calculated to prevent substitution or contamination of the specimen.

31 (b) Specimen collection and analysis must be documented. The  
32 documentation procedures must include:

33 (i) Labeling of specimen containers so as to reasonably preclude  
34 the likelihood of erroneous identification of test results; and

35 (ii) An opportunity for the employee or job applicant to provide to  
36 a medical review officer information the employee or applicant  
37 considers relevant to the drug test, including identification of  
38 currently or recently used prescription or nonprescription medication  
39 or other relevant medical information.

1 (c) Specimen collection, storage, and transportation to the testing  
2 site must be performed in a manner that reasonably precludes specimen  
3 contamination or adulteration.

4 (d) An initial and confirmation test conducted under this section,  
5 not including the taking or collecting of a specimen to be tested, must  
6 be conducted by a laboratory as described in subsection (4) of this  
7 section.

8 (e) A specimen for a test may be taken or collected by any of the  
9 following persons:

10 (i) A physician, a physician's assistant, a registered professional  
11 nurse, a licensed practical nurse, a nurse practitioner, or a certified  
12 paramedic who is present at the scene of an accident for the purpose of  
13 rendering emergency medical service or treatment;

14 (ii) A qualified person certified or employed by a laboratory  
15 certified by the substance abuse and mental health administration or  
16 the college of American pathologists; or

17 (iii) A qualified person certified or employed by a collection  
18 company using collection procedures adopted by the United States  
19 department of health and human services and the United States  
20 department of transportation for alcohol collection.

21 (f) Within five working days after receipt of a verified positive  
22 test result from the laboratory, an employer shall inform an employee  
23 or job applicant in writing of the positive test result, the  
24 consequences of the result, and the options available to the employee  
25 or job applicant.

26 (g) The employer shall provide to the employee or job applicant,  
27 upon request, a copy of the test results.

28 (h) An initial test having a positive result must be verified by a  
29 confirmation test.

30 (i) An employer who performs drug testing or specimen collection  
31 shall use chain of custody procedures to ensure proper recordkeeping,  
32 handling, labeling, and identification of all specimens to be tested.

33 (j) An employer shall pay the cost of all drug or alcohol tests,  
34 initial and confirmation, that the employer requires of employees.

35 (k) An employee or job applicant shall pay the cost of additional  
36 tests not required by the employer.

37 (4)(a) A laboratory may not analyze initial or confirmation drug  
38 specimens unless:



1 (i) The laboratory is approved by the substance abuse and mental  
2 health administration or the college of American pathologists;

3 (ii) The laboratory has written procedures to ensure the chain of  
4 custody; and

5 (iii) The laboratory follows proper quality control procedures  
6 including, but not limited to:

7 (A) The use of internal quality controls including the use of  
8 samples of known concentrations that are used to check the performance  
9 and calibration of testing equipment, and periodic use of blind samples  
10 for overall accuracy;

11 (B) An internal review and certification process for test results,  
12 conducted by a person qualified to perform that function in the testing  
13 laboratory;

14 (C) Security measures implemented by the testing laboratory to  
15 preclude adulteration of specimens and test results; and

16 (D) Other necessary and proper actions taken to ensure reliable and  
17 accurate drug test results.

18 (b) A laboratory shall disclose to the employer a written test  
19 result report within seven working days after receipt of the sample.  
20 A laboratory report of a substance abuse test result must, at a  
21 minimum, state:

22 (i) The name and address of the laboratory that performed the test  
23 and the positive identification of the person tested;

24 (ii) Positive results on confirmation tests only, or negative  
25 results, as applicable;

26 (iii) A list of the drugs for which the drug analyses were  
27 conducted; and

28 (iv) The type of tests conducted for both initial and confirmation  
29 tests and the threshold detection levels of the tests.

30 A report may not disclose the presence or absence of a drug other  
31 than a specific drug and its metabolites listed under this chapter.

32 (c) A laboratory shall provide technical assistance through the use  
33 of a medical review officer to the employer, employee, or job applicant  
34 for the purpose of interpreting a positive confirmed drug test result  
35 that could have been caused by prescription or nonprescription  
36 medication taken by the employee or job applicant. The medical review  
37 officer shall interpret and evaluate the laboratory's positive drug  
38 test result and eliminate test results that could have been caused by  
39 prescription medication or other medically documented sources in

1 accordance with the United States department of health and human  
2 services medical review officer manual.

3 (5) A positive initial drug test must be confirmed using the gas  
4 chromatography/mass spectrometry method or an equivalent or more  
5 accurate scientifically accepted method approved by the substance abuse  
6 and mental health administration as the technology becomes available in  
7 a cost-effective form.

8 (6) A workplace safety committee established according to the  
9 standards for safety committees under chapter 49.17 RCW shall monitor  
10 the ongoing effectiveness of the substance abuse testing program  
11 established by the employer under this chapter and shall, at reasonable  
12 intervals established by the committee but not less than annually, make  
13 recommendations for improving the program.

14 NEW SECTION. Sec. 7. (1) The employee assistance program required  
15 under this chapter shall provide the employer with a system for dealing  
16 with employees whose job performances are declining due to unresolved  
17 problems, including alcohol or other drug-related problems, marital  
18 problems, or legal or financial problems.

19 (2) To ensure appropriate assessment and referral to treatment:

20 (a) The employer must notify the employees of the benefits and  
21 services of the employee assistance program;

22 (b) The employer shall publish notice of the employee assistance  
23 program in conspicuous places and explore alternative routine and  
24 reinforcing means of publicizing the services; and

25 (c) The employer shall provide the employee with notice of the  
26 policies and procedures regarding access to and use of the employee  
27 assistance program.

28 (3) A list of approved employee assistance programs must be  
29 provided by the department according to recognized program standards.

30 NEW SECTION. Sec. 8. (1)(a) Rehabilitation of employees suffering  
31 from either or both alcohol or drug addiction shall be a primary focus  
32 of an employee assistance program.

33 (b) Under any program under this chapter, the employer may not use  
34 a first-time verified positive drug or alcohol test as the basis for  
35 termination of an employee. After a first-time verified positive test  
36 result, the employee must be given an opportunity to keep his or her

1 job through the use of a last-chance agreement. The last-chance  
2 agreement shall require an employee to:

3 (i) Submit to an employee assistance program evaluation for  
4 chemical dependency;

5 (ii) Comply with any treatment recommendations;

6 (iii) Be subject to follow-up drug and alcohol testing for two  
7 years;

8 (iv) Meet the same standards of performance and conduct that are  
9 set for other employees; and

10 (v) Authorize the employer to receive all relevant information  
11 regarding the employee's progress in treatment, if applicable.

12 Failure to comply with all the terms of this agreement normally  
13 will result in termination of employment.

14 (2) When substance abuse treatment is necessary, employees must use  
15 treatment services approved by the department, which include a  
16 continuing care component lasting for two years.

17 (a) The employee assistance program shall monitor the employee's  
18 progress while in treatment, including the two-year continuing care  
19 component, and notify the employer when an employee is not complying  
20 with the programs's treatment recommendations.

21 (b) The employer shall monitor job performance and conduct follow-  
22 up testing.

23 (3) An employer may terminate an employee for the following  
24 reasons:

25 (a) Refusal to submit to a drug or alcohol test;

26 (b) Refusal to agree to or failure to comply with the conditions of  
27 a last-chance agreement;

28 (c) A second verified positive drug or alcohol test result; or

29 (d) After the first verified positive drug or alcohol test, any  
30 violation of employer rules pertaining to alcohol and drugs.

31 (4) Nothing in this chapter limits the right of any employer who  
32 participates in the worker's compensation premium discount program  
33 under this chapter to terminate employment for any other reason.

34 NEW SECTION. **Sec. 9.** As part of a program established under this  
35 chapter, an employer shall provide all employees with an annual  
36 education program on substance abuse, in general, and its effects on  
37 the workplace, specifically. An employer with employees who have  
38 trouble communicating in English shall make reasonable efforts to help

1 the employees understand the substance of the education program. An  
2 education program for a minimum of one hour should include but is not  
3 limited to the following information:

4 (1) The explanation of the disease model of addiction for alcohol  
5 and drugs;

6 (2) The effects and dangers of the commonly abused substances in  
7 the workplace; and

8 (3) The employer's policies and procedures regarding substance  
9 abuse in the workplace and how employees who wish to obtain substance  
10 abuse treatment can do so.

11 NEW SECTION. **Sec. 10.** In addition to the education program  
12 provided in section 9 of this act, an employer shall provide all  
13 supervisory personnel with a minimum of two hours of supervisor  
14 training, that should include but is not limited to the following  
15 information:

16 (1) How to recognize signs of employee substance abuse;

17 (2) How to document and collaborate signs of employee substance  
18 abuse;

19 (3) How to refer employees to the employee assistance program or  
20 proper treatment providers; and

21 (4) Circumstances and procedures for postinjury testing.

22 NEW SECTION. **Sec. 11.** (1) A physician-patient relationship is not  
23 created between an employee or job applicant and an employer, medical  
24 review officer, or person performing or evaluating a drug or alcohol  
25 test solely by the establishment, implementation, or administration of  
26 a drug or alcohol testing program.

27 (2) This chapter may not be construed to prevent an employer from  
28 establishing reasonable work rules related to employee possession, use,  
29 sale, or solicitation of drugs, including convictions for drug-related  
30 offenses, and taking action based upon a violation of any of those  
31 rules.

32 (3) This chapter may not be construed to operate retroactively.  
33 This chapter does not abrogate the right of an employer under state or  
34 federal law to conduct drug or alcohol tests or implement employee drug  
35 or alcohol testing programs. However, only those programs that meet  
36 the criteria outlined in this chapter qualify for workers' compensation  
37 insurance premiums discounts.

1 (4) This chapter may not be construed to prohibit an employer from  
2 conducting medical screening or other tests required, permitted, or not  
3 disallowed by a statute or rule for the purpose of monitoring exposure  
4 of employees to toxic or other unhealthy materials in the workplace or  
5 in the performance of job responsibilities. The screening or tests  
6 must be limited to testing for the specific material expressly  
7 identified in the statute or rule, unless prior written consent of the  
8 employee is obtained for other tests.

9 (5) This chapter does not establish a legal duty for employers to  
10 conduct alcohol or drug tests of employees or job applicants. A cause  
11 of action may not arise in favor of a person based upon the failure of  
12 an employer to establish or conduct a program or policy for substance  
13 abuse testing or to conduct a program or policy in conformance with the  
14 standards and procedures established in this chapter. This chapter  
15 does not create individual rights of action and may be enforced only by  
16 the department by denial of the workers' compensation premium discount  
17 provided in section 3 of this act.

18 NEW SECTION. **Sec. 12.** Confidentiality standards that apply to  
19 substance abuse testing programs implemented under this chapter include  
20 the following:

21 (1) Information, interviews, reports, statements, memoranda, and  
22 test results, written or otherwise, received through a substance abuse  
23 testing program are confidential communications, and may not be used or  
24 received in evidence, obtained in discovery, or disclosed in a civil or  
25 administrative proceeding, except as provided in subsection (5) of this  
26 section.

27 (2) An employer, laboratory, medical review officer, employee  
28 assistance program, drug or alcohol rehabilitation program, and their  
29 agents who receive or have access to information concerning test  
30 results shall keep the information confidential, except as provided in  
31 subsection (5) of this section.

32 (3) Any release of the information must be pursuant to a written  
33 consent form that complies with RCW 70.02.030 and is signed voluntarily  
34 by the person tested, unless the release is compelled by the division  
35 of alcohol and substance abuse of the department or a court of  
36 competent jurisdiction in accordance with state and federal  
37 confidentiality laws, or unless required by a professional or  
38 occupational licensing board in a related disciplinary proceeding. Any

1 disclosure by any agency approved by the department must be in  
2 accordance with RCW 70.96A.150. The consent form must contain at a  
3 minimum:

4 (a) The name of the person who is authorized to obtain the  
5 information;

6 (b) The purpose of the disclosure;

7 (c) The precise information to be disclosed;

8 (d) The duration of the consent; and

9 (e) The signature of the person authorizing release of the  
10 information.

11 (4) Information on test results may not be released or used in a  
12 criminal proceeding against the employee or job applicant. Information  
13 released contrary to this subsection is inadmissible as evidence in a  
14 criminal proceeding.

15 (5) Nothing in this chapter prohibits:

16 (a) An employer from using information concerning an employee or  
17 job applicant's substance abuse test results in a lawful manner with  
18 respect to that employee or applicant; or

19 (b) An entity that obtains the information from disclosing or using  
20 the information in a lawful manner as part of a matter relating to the  
21 substance abuse test, the test result, or an employer action with  
22 respect to the job applicant or employee.

23 NEW SECTION. **Sec. 13.** The department shall adopt by rule  
24 procedures and forms for the certification of employers who establish  
25 and maintain a drug-free workplace that complies with this chapter.  
26 The department shall adopt by rule procedures for the decertification  
27 of employers formally certified for the workers' compensation premium  
28 discount provided under this chapter. The department may charge a fee  
29 for the certification of a drug-free workplace program in an amount  
30 that must approximate its administrative costs related to the  
31 certification. Certification of an employer is required for each year  
32 in which a premium discount is granted. The department may adopt any  
33 other rules necessary for the implementation of this chapter.

34 NEW SECTION. **Sec. 14.** (1) The department of labor and industries  
35 may adopt rules necessary for the implementation of this chapter  
36 including but not limited to provisions for penalties and repayment of

1 premium discounts by employers that are decertified by the department  
2 of social and health services under section 13 of this act.

3 (2) The department of labor and industries shall conduct an  
4 evaluation of the effect of the premium discount provided for under  
5 section 3 of this act on workplace safety and the state of Washington  
6 industrial insurance fund. The department of labor and industries  
7 shall report its preliminary findings to the appropriate committees of  
8 the legislature on September 1 of 1996 and 1997 and shall issue a  
9 comprehensive final report on December 1, 1998.

10 NEW SECTION. **Sec. 15.** Notwithstanding any other provisions of  
11 this chapter, the total premium discounts available under section 3 of  
12 this act shall not exceed five million dollars during any fiscal year.

13 NEW SECTION. **Sec. 16.** Sections 1 through 15 of this act shall  
14 constitute a new chapter in Title 49 RCW.

15 NEW SECTION. **Sec. 17.** Sections 1 through 15 of this act shall  
16 expire January 1, 2001.

17 NEW SECTION. **Sec. 18.** This act is necessary for the immediate  
18 preservation of the public peace, health, or safety, or support of the  
19 state government and its existing public institutions, and shall take  
20 effect July 1, 1995."

21 **SSB 5516** - CONF REPT  
22 By Conference Committee

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24 On page 1, line 1 of the title, after "workplaces;" strike the  
25 remainder of the title and insert "adding a new chapter to Title 49  
26 RCW; providing an effective date; providing an expiration date; and  
27 declaring an emergency."

--- END ---