

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2274

52nd Legislature
1992 Regular Session

Passed by the House March 11, 1992
Yeas 60 Nays 37

**Speaker of the
House of Representatives**

Passed by the Senate March 10, 1992
Yeas 28 Nays 20

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 2274 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2274

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1992 Regular Session

State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Appelwick, Heavey, Prince, Day, Schmidt, Wineberry, R. Meyers, Riley, Winsley and Wilson)

Read first time 02/07/92.

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 provided the individual complies with applicable laws or policies
12 regulating that consumption of lawful products on the premises of the
13 employer during working hours.

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

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

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

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

14 (a) The individual's failure to meet job-related standards set by
15 the employer;

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

19 (c) A bona fide occupational qualification or requirement,
20 including qualifications or requirements implemented by the employer to
21 screen for respiratory diseases in occupations where the individual
22 will be exposed to smoke and noxious fumes; or

23 (d) The employer's drug and alcohol free workplace program,
24 including those adopted in response to federal requirements.

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

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

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

4 (7) Nothing in this section shall be applied to any matter that is
5 also subject to collective bargaining between the employer and the
6 affected employee.

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

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

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.44 RCW
15 to read as follows:

16 Sections 1 and 2 of this act do not apply to businesses with
17 twenty-five employees or less.

18 NEW SECTION. **Sec. 4.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.