
HOUSE BILL 2697

State of Washington

65th Legislature

2018 Regular Session

By Representatives Pike and Manweller

1 AN ACT Relating to limiting industrial insurance benefits for
2 injuries or diseases caused by use of intoxicating liquor or drugs;
3 adding a new section to chapter 51.32 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.32
6 RCW to read as follows:

7 (1) If the worker's being under the influence of or affected by
8 intoxicating liquor or any drug was a proximate cause of the worker's
9 injury or death, each payment of benefits other than medical benefits
10 payable to or on behalf of a worker or to his or her spouse, child,
11 or dependent shall be reduced proportionately by the percentage of
12 the cause of the injury or death attributable to the intoxication.
13 However, the worker must receive at least ten percent of benefits and
14 may receive no more than ninety percent of benefits.

15 (2) Subsection (1) of this section does not apply if:

16 (a) The employer permitted or had knowledge of the worker's use
17 of intoxicating liquor or any drug; or

18 (b) The drug was prescribed for the worker by a health care
19 practitioner authorized under chapter 69.41 RCW and the worker used
20 the drug in accordance with the directions for use.

1 (3) A qualifying chemical test is required to prove that the
2 worker was under the influence of or affected by intoxicating liquor
3 or any drug at the time of injury. The employer must bear the cost of
4 any testing requested by the employer.

5 (4) A rebuttable presumption that the worker was under the
6 influence of or affected by intoxicating liquor or any drug and that
7 the intoxication was the proximate cause of the worker's injury or
8 death is established if:

9 (a) The worker refused to submit to a qualifying chemical test;
10 or

11 (b) The worker had an alcohol concentration of 0.08 or higher or
12 a THC concentration of 5.00 or higher, as determined by a qualifying
13 chemical test.

14 (5) This section does not affect the rights of an employer to
15 prohibit the use of intoxicating liquor or drugs or to test workers
16 for intoxicating liquor or drug use to the extent permissible by law.

17 (6) For purposes of this section:

18 (a) "Drug" means those substances regulated by chapters 69.41,
19 69.50, and 69.51A RCW.

20 (b) "Qualifying chemical test" means a test performed according
21 to methods approved by, and by an individual possessing a valid
22 permit issued by, the state toxicologist under RCW 46.61.506, or
23 performed under standards established by a nationally recognized
24 organization.

25 NEW SECTION. **Sec. 2.** Section 1 of this act applies to dates of
26 injury or disease manifestation after the effective date of this
27 section.

28 NEW SECTION. **Sec. 3.** Section 1 of this act does not impair any
29 provision of a collective bargaining agreement in effect on the
30 effective date of this section.

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