DIGEST

Heitmeier (SB 492)

<u>Present law</u> provides as long as an individual, during the course of employment, complies with applicable law and any adopted workplace policy regulating smoking, it shall be unlawful for an employer:

(1)   To discriminate against the individual with respect to discharge, compensation, promotion, any personnel action or other condition, or privilege of employment because the individual is a smoker or nonsmoker.

(2)   To require, as a condition of employment, that the individual abstain from smoking or otherwise using tobacco products outside the course of employment.

<u>Present law</u> provides a smoker is limited to a person who smokes tobacco.

<u>Present law</u> provides nothing shall preclude an employer from formulating and adopting a policy regulating an employee's workplace use of a tobacco product or from taking any action consistent therewith.

<u>Present law</u> provides any employer who violates the provisions of the <u>present law</u> shall be fined up to $250 for the first offense and up to $500 for any subsequent offense.

<u>Proposed law</u> amends <u>present law</u> to include the provisions of <u>present law</u> shall not apply to hospitals or their affiliates.

<u>Proposed law</u> amends <u>present law</u> to include the provisions of <u>proposed law</u> shall apply only to offers of employment made on or after August 1, 2014, or to any employment agreement that is created as a result of an offer of employment made on or after August 1, 2014, and nothing contained in <u>present law</u> shall prevent an employer who meets the requirements of <u>proposed law</u> from making employment decisions based on the use or nonuse of tobacco after August 1, 2014.

<u>Proposed law</u> amends <u>present law</u> to include nothing in the <u>proposed law</u> shall be construed to disqualify any employee, who would otherwise qualify, from receiving unemployment compensation.

Effective August 1, 2014.

(Adds R.S. 23:966(E) and (F))