

Senate Amendment 3371

Amendment Text

PAG LIN

1 1 Amend [House File 258](#), as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. By striking everything after the enacting
1 4 clause and inserting the following:
1 5 "Section 1. Section 730.5, subsection 1, Code
1 6 1995, is amended to read as follows:
1 7 1. As used in this section, unless the context
1 8 otherwise requires:
1 9 a. "

~~drug~~

- Drug test" means any blood, urine,
1 10 saliva, chemical, or skin tissue test conducted for
1 11 the purpose of detecting the presence of a chemical
1 12 substance in an individual.
1 13 b. "Preemployment" means that period of time
1 14 between when a bona fide offer of employment is made
1 15 and when employment begins.
1 16 Sec. 2. Section [730.5](#), subsection 3, paragraph c,
1 17 Code 1995, is amended to read as follows:
1 18 c. The test sample withdrawn from the employee is
1 19 analyzed by a laboratory or testing facility that has
1 20 been approved under rules adopted by the department of
1 21 public health. The laboratory or testing facility
1 22 shall test for and report to the employer only the
1 23 presence of alcohol or illegal controlled substances
1 24 in any test sample. The rules adopted by the
1 25 department of public health shall provide for all of
1 26 the following:
1 27 (1) The initial screening test may utilize
1 28 immunoassay, thin layer, high performance liquid or
1 29 gas chromatography, or an equivalent technology. If
1 30 the initial test utilizes immunoassay, the test kit
1 31 must meet the requirements of the United States food
1 32 and drug administration.
1 33 (2) Samples which have tested positive by initial
1 34 testing, with the exception of alcohol, shall be
1 35 confirmed by gas chromatography-mass spectrometry or
1 36 by a scientifically equivalent technique approved by
1 37 the department.
1 38 (3) All initial positive drug test results with
1 39 the exception of alcohol shall be confirmed by gas
1 40 chromatography-mass spectrometry or an equivalent test
1 41 approved by the department before being reported as
1 42 positive or negative.
1 43 (4) All initial positive test results for alcohol
1 44 shall be confirmed by gas chromatography, or a test
1 45 that is recognized by the department as an equivalent
1 46 test before being reported as positive or negative.
1 47 (5) Preliminary reports for drugs other than
1 48 alcohol shall not be issued in the absence of
1 49 confirmation by gas chromatography-mass spectrometry
1 50 or a scientifically equivalent test approved by the
2 1 department.
2 2 (6) Complete chain of custody procedures shall be
2 3 used for referred specimens. When sample volumes
2 4 permit, it is recommended that only an aliquot of the

2 5 original specimen be sent to a reference laboratory.
2 6 Sec. 3. Section 730.5, subsection 7, Code 1995, is
2 7 amended to read as follows:
2 8 7.

~~A drug test conducted as a part of a physical~~

2 9

~~examination performed as a part of a preemployment~~

2 10

~~physical or as a part of a regularly scheduled~~

2 11

~~physical is only permissible~~

~~In addition to drug~~

2 12 testing permitted by subsection 3, drug testing of an
2 13 employee or applicant for employment shall also be
2 14 permitted under the following circumstances:

2 15 a. For a preemployment physical, the employer
2 16 shall include notice that a drug test will be part of
2 17 a preemployment physical in any notice or
2 18 advertisement soliciting applicants for employment or
2 19 in the application for employment, and an applicant
2 20 for employment shall be personally informed of the
2 21 requirement for a drug test at the first interview.

2 22 b. For a regularly scheduled physical, the
2 23 employer shall give notice that a drug test will be
2 24 part of the physical at least thirty days prior to the
2 25 date the physical is scheduled.

2 26 c. An employer may require an employee, as a
2 27 condition of employment, to undergo drug testing if
2 28 that employee has been referred by the employer for
2 29 substance abuse evaluation pursuant to subsection 3,
2 30 paragraph "f", and treatment, if recommended by the
2 31 evaluation. The employee may be required to undergo
2 32 drug testing without prior notice, but in no case
2 33 shall more than two tests be conducted in the twelve-
2 34 month period following the employee's completion of
2 35 substance abuse treatment if the treatment was
2 36 recommended by the evaluation. No drug test shall be
2 37 required of an employee by an employer during drug
2 38 treatment of the employee, if such testing would
2 39 duplicate testing of the employee conducted in the
2 40 course of treatment and the employee has waived
2 41 confidentiality as to the employer of the results of
2 42 such testing. No employer shall require an employee
2 43 to submit to drug testing under this paragraph if more
2 44 than twelve months have elapsed since the employee
2 45 successfully completed drug treatment and the employee
2 46 has not had a drug test indicating the presence of
2 47 alcohol or an illegal controlled substance during that
2 48 twelve-month period.

2 49 Drug testing conducted under this subsection shall
2 50 conform to the requirements of subsection 3,
3 1 paragraphs "c", "d", "e", and "f"; however, paragraph
3 2 "f" shall not apply to drug tests conducted as a part
3 3 of a preemployment physical.

3 4 Sec. 4. Section 730.5, Code 1995, is amended by
3 5 adding the following new subsection:

3 6 NEW SUBSECTION. 12. An employer who conducts a
3 7 drug test pursuant to this section shall, on a
3 8 quarterly basis, file a written report with the labor
3 9 division of the department of employment services

3 10 consisting of the following information:

3 11 a. The number of drug tests conducted by the
3 12 employer.

3 13 b. The number of drug tests conducted as part of a
3 14 preemployment drug test, a regularly scheduled
3 15 physical, or as a result of a drug test conducted
3 16 pursuant to a finding of probable cause as provided by
3 17 subsection 3, paragraph "a". Of the drug tests
3 18 conducted pursuant to a finding of probable cause, the
3 19 employer shall indicate the number of drug tests
3 20 conducted as a result of a workplace accident that
3 21 resulted in personal injury, property damage, or both
3 22 personal injury and property damage.

3 23 c. The number of drug tests that resulted in a
3 24 confirmed positive test result indicating the presence
3 25 of alcohol or an illegal controlled substance.

3 26 Sec. 5. EMPLOYMENT DRUG TESTING STUDY. The
3 27 legislative council is requested to establish a study
3 28 committee on drug testing of employees and applicants
3 29 for employment."

3 30 #2. Title page, line 2, by striking the word
3 31 "defenses" and inserting the following: "reporting of
3 32 drug tests, establishing a study of employment drug
3 33 testing".

3 34

3 35

3 36

3 37 COMMITTEE ON BUSINESS AND

3 38 LABOR RELATIONS

3 39 DICK L. DEARDEN, Chairperson

3 40 HF 258.207 76

3 41 ec/jj