

SENATE FILE 267  
BY GIANNETTO

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to drug testing of certain employees and  
2 prospective employees, and making penalties applicable.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 267

1 Section 1. Section 730.5, subsection 1, Code 1995, is  
2 amended to read as follows:

3 1. As used in this section, unless the context otherwise  
4 requires:

5 a. "drug Drug test" means any blood, urine, saliva,  
6 chemical, or skin tissue test conducted for the purpose of  
7 detecting the presence of a chemical substance in an  
8 individual.

9 b. "Preemployment" means that period of time between when  
10 a bona fide offer of employment is made and when employment  
11 begins.

12 Sec. 2. Section 730.5, subsection 3, paragraph a, Code  
13 1995, is amended to read as follows:

14 a. The employer has probable cause to believe that an  
15 employee's faculties are impaired on the job. For purposes of  
16 this paragraph, an employer that does not have probable cause  
17 to believe that an employee's faculties are impaired on the  
18 job shall be deemed to have probable cause to drug test an  
19 employee if the employer is investigating an accident in the  
20 workplace and all of the following conditions are met:

21 (1) The employer has reasonable grounds to believe that  
22 the employee proposed to be tested either directly caused or  
23 directly contributed to the accident.

24 (2) The surrounding circumstances do not reasonably  
25 exclude the possibility that the employee's faculties are  
26 impaired due to the use of a controlled substance or alcohol.

27 (3) The accident results in a personal injury which  
28 requires medical treatment away from the workplace or damage  
29 to property, including equipment, in an amount reasonably  
30 estimated to exceed one thousand dollars at the time of the  
31 accident.

32 (4) Prior to the accident, the employer has provided the  
33 employee to be tested with written notice of the employer's  
34 rules or policies regarding alcohol and controlled substances  
35 and testing when a workplace accident or injury occurs.

1 Sec. 3. Section 730.5, subsection 3, paragraph c, Code  
2 1995, is amended to read as follows:

3 c. The test sample withdrawn from the employee is analyzed  
4 by a laboratory or testing facility that has been approved  
5 under rules adopted by the department of public health. The  
6 laboratory or testing facility shall report to the employer  
7 only the presence of alcohol or illegal controlled substances  
8 in any test sample.

9 Sec. 4. Section 730.5, subsection 7, Code 1995, is amended  
10 to read as follows:

11 ~~7. A drug test conducted as a part of a physical~~  
12 ~~examination performed as a part of a preemployment physical or~~  
13 ~~as a part of a regularly scheduled physical is only~~  
14 ~~permissible~~ In addition to drug testing permitted by  
15 subsection 3, drug testing of an employee or applicant for  
16 employment shall also be permitted under the following  
17 circumstances:

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

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

28 c. An employer may require an employee, as a condition of  
29 employment, to undergo drug testing if that employee has been  
30 referred by the employer for substance abuse evaluation  
31 pursuant to subsection 3, paragraph "f", and treatment was  
32 recommended by the evaluation. The employee may be required  
33 to undergo drug testing without prior notice, but in no case  
34 shall more than four tests be conducted in the twelve-month  
35 period following the employee's completion of substance abuse

1 treatment if the treatment was recommended by the evaluation.

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

7 EXPLANATION

8 This bill makes changes in Iowa's law governing drug  
9 testing of employees and applicants for employment.

10 The bill provides for drug testing as a part of a  
11 preemployment application process and defines preemployment.  
12 Current law allows preemployment drug testing as a part of a  
13 preemployment physical.

14 The bill further permits an employer to require an employee  
15 who has been referred to substance abuse evaluation to submit  
16 to random drug testing for 12 months following completion of  
17 substance abuse treatment. The bill limits the number of  
18 random tests to no more than four.

19 The bill provides that an employer is deemed to have  
20 probable cause to drug test an employee when the employee is  
21 involved in a workplace accident resulting in personal injury  
22 or damage to property of over \$1,000 if certain conditions are  
23 met.

24 A violation of any provision of the drug testing section  
25 constitutes a simple misdemeanor.

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