

3/24/98 Referred To Labor + Ind. Rel

FEB 26 1998
Place On Calendar

HOUSE FILE 2470
BY COMMITTEE ON LABOR AND
INDUSTRIAL RELATIONS

(SUCCESSOR TO HF 289)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for drug testing of public safety employees.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2470

1 Section 1. NEW SECTION. 730.6 PUBLIC SAFETY EMPLOYEES --
2 DRUG TESTING.

3 1. For purposes of this section, "public safety employee"
4 means an employee of a city who is a fire fighter, a peace
5 officer as defined in section 801.4, or an emergency medical
6 care provider as defined in section 147A.1.

7 2. Notwithstanding the provisions of section 730.5 to the
8 contrary, an employer of public safety employees may elect to
9 require public safety employees of the employer to submit to
10 drug and alcohol testing pursuant to a written policy adopted
11 by the employer and applicable to all such employees. The
12 written policy shall establish procedures and standards for
13 drug and alcohol testing of public safety employees which
14 shall be consistent with the procedures and standards
15 established for drug and alcohol testing of employees under
16 the federal Omnibus Transportation Employee Testing Act of
17 1991.

18 3. The written policy shall provide that upon receipt for
19 a public safety employee of the first confirmed positive drug
20 or alcohol test result, the employer shall provide the public
21 safety employee with a substance abuse evaluation, and
22 treatment if recommended by the evaluation, with costs
23 apportioned as provided under the employee benefit plan or at
24 employer expense, if an employee benefit plan is not in effect
25 which apportions costs. The employer shall take no
26 disciplinary action against the public safety employee upon
27 receipt of the first confirmed positive drug or alcohol test
28 result if the public safety employee undergoes a substance
29 abuse evaluation, and if the public safety employee
30 successfully completes substance abuse treatment if treatment
31 is recommended by the evaluation. However, if a public safety
32 employee fails to undergo substance abuse evaluation when
33 required as a result of a drug or alcohol test, fails to
34 successfully complete substance abuse treatment when
35 recommended by an evaluation, or fails to pass subsequent drug

1 or alcohol tests as provided in the written policy, the public
2 safety employee may be disciplined up to and including
3 discharge. The substance abuse evaluation and treatment
4 provided by the employer shall take place under a program
5 approved by the department of public health or accredited by
6 the joint commission on the accreditation of health care
7 organizations.

8 EXPLANATION

9 This bill permits cities to elect to require drug and
10 alcohol testing of public safety employees. The bill defines
11 public safety employees as an employee of a city who is a fire
12 fighter, a peace officer as defined in Code section 801.4, or
13 an emergency medical care provider. The bill further provides
14 that a city which elects to require drug and alcohol testing
15 shall establish a written policy governing testing procedures
16 which shall be consistent with the requirements for drug and
17 alcohol testing under the federal Omnibus Transportation
18 Employee Testing Act of 1991. In addition, the bill provides
19 that the written policy shall require rehabilitation of a
20 public safety employee following a first positive drug or
21 alcohol test and that the costs of the rehabilitation be
22 apportioned pursuant to the applicable employee benefit plan
23 or, if no such plan exists, at employer expense. If the
24 public safety employee fails a second or subsequent test, or
25 fails to comply with the rehabilitation, the city may
26 discipline the employee up to and including discharge.

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H-8176

1 Amend House File 2470 as follows:

- 2 1. Page 1, by striking lines 4 through 6 and
3 inserting the following: "means an employee of the
4 state or a political subdivision of the state who is
5 any of the following:
6 a. A paid fire fighter.
7 b. A peace officer as defined in section 801.4.
8 c. An attorney general as defined in section
9 801.4.
10 d. A county attorney as defined in section 801.4.
11 e. A magistrate as defined in section 801.4.
12 f. A prosecuting attorney as defined in section
13 801.4.
14 g. A judicial officer as defined in section
15 602.1101.
16 h. An emergency medical care provider as defined
17 in section 147A.1."
18 2. Page 1, by striking lines 14 through 17 and
19 inserting the following: "shall provide for drug or
20 alcohol testing only if the employer has probable
21 cause to believe that the public safety employee's
22 faculties are impaired on the job."

By MURPHY of Dubuque

H-8176 FILED MARCH 3, 1998

HOUSE FILE 2470

H-8362

1 Amend House File 2470 as follows:
2 1. Page 1, by striking lines 4 through 6 and
3 inserting the following: "means an employee of the
4 state or a political subdivision of the state who is
5 any of the following:
6 a. A paid fire fighter.
7 b. A peace officer as defined in section 801.4.
8 c. An attorney general as defined in section
9 801.4.
10 d. A county attorney as defined in section 801.4.
11 e. A magistrate as defined in section 801.4.
12 f. A prosecuting attorney as defined in section
13 801.4.
14 g. A judicial officer as defined in section
15 602.1101.
16 h. An emergency medical care provider as defined
17 in section 147A.1."
18 2. Page 1, by striking lines 14 through 17 and
19 inserting the following: "shall provide for drug or
20 alcohol testing only if the employer has probable
21 cause to believe that the public safety employee's
22 faculties are impaired on the job. For purposes of
23 this subsection, an employer has probable cause to
24 believe that a public safety employee's faculties are
25 impaired on the job if the employer is investigating
26 an accident in the workplace and all of the following
27 conditions are met:
28 a. The employer has reasonable grounds to believe
29 that the public safety employee proposed to be tested
30 either directly caused or directly contributed to the
31 accident.
32 b. The employer has reasonable grounds to believe
33 that the public safety employee's faculties were
34 impaired and that the impairment was likely a
35 substantial factor in causing the accident.
36 c. The accident results in a personal injury which
37 requires medical treatment away from the workplace or
38 damage to property, including equipment, in an amount
39 reasonably estimated to exceed three thousand dollars
40 at the time of the accident.
41 d. Prior to the accident, the employer has
42 provided the employee to be tested with written notice
43 of the employer's rules or policies regarding alcohol
44 and controlled substances and testing when a workplace
45 accident or injury occurs."

By MURPHY of Dubuque

H-8362 FILED MARCH 12, 1998