

2-20-97 Referred to Local Gov.
3-17-97 Amend/Do Pass W H-1179
3-17-97 Referred Now to Labor & Ind. Rel.

FEB 19 1997

LABOR & INDUSTRIAL RELATIONS

HOUSE FILE **289**
BY SUKUP and VANDE HOEF

(COMPANION TO SF 66 BY MADDOX)

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

A BILL FOR

1 An Act providing for drug testing of public safety employees and
2 making penalties applicable.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 289

1 Section 1. Section 730.5, subsection 1, Code 1997, 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. "Neutral selection basis" means a mechanism for
10 selecting employees for drug testing that results in an equal
11 probability that any employee from a group of employees
12 subject to the selection mechanism will be selected and that
13 does not give an employer discretion to waive the selection of
14 any employee selected under the mechanism.

15 c. "Public safety employee" means an employee of the state
16 or a political subdivision of the state who is a fire fighter,
17 peace officer as defined in section 801.4, or an emergency
18 medical care provider as defined in section 147A.1.

19 Sec. 2. Section 730.5, subsection 3, paragraphs a and b,
20 Code 1997, are amended to read as follows:

21 a. The employer has probable cause to believe that an
22 employee's faculties are impaired on the job. However, an
23 employer may require a public safety employee to submit to a
24 drug test on a neutral selection basis.

25 b. The employee is in a position where such impairment
26 presents a danger to the safety of the employee, another
27 employee, a member of the public, or the property of the
28 employer, or when impairment due to the effects of a
29 controlled substance is a violation of a known rule of the
30 employer, or when the employee is a public safety employee.

31 Sec. 3. Section 730.5, subsection 3, paragraph f, Code
32 1997, is amended by adding the following new unnumbered
33 paragraph:

34 NEW UNNUMBERED PARAGRAPH. However, an employer of a public
35 safety employee whose drug test indicates the presence of

1 alcohol or a controlled substance may discipline the employee,
2 up to and including discharge, and shall require, as a
3 condition of employment, that the employee undergo substance
4 abuse evaluation and treatment at the employee's expense,
5 unless evaluation and treatment are provided under an employee
6 benefit plan. A drug test of a public safety employee who is
7 a fire fighter or peace officer indicating the presence of
8 alcohol or a controlled substance and which is neither
9 rebutted nor explained by the employee constitutes misconduct
10 for purposes of chapter 400.

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EXPLANATION

12 This bill provides for random drug testing of public safety
13 employees. The bill defines "public safety employee" as a
14 fire fighter, peace officer, or emergency medical care
15 provider, and establishes the requirements of a random drug
16 test. The bill also provides that a public safety employee
17 who tests positive for drugs or alcohol may be disciplined,
18 including discharge, and shall be required, as a condition of
19 employment, to complete substance abuse evaluation and
20 treatment at the employee's expense unless such treatment is
21 provided under an employee benefit plan. The bill also
22 provides that a positive drug test for a fire fighter or peace
23 officer constitutes misconduct for purposes of discipline
24 under chapter 400.

25 A violation of the section concerning drug testing of
26 employees constitutes a simple misdemeanor.

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H-1179

1 Amend House File 289 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:
4 "Section 1. NEW SECTION. 730.6 PUBLIC SAFETY
5 EMPLOYEES -- DRUG TESTING.
6 1. For purposes of this section, "public safety
7 employee" means an employee of the state or a
8 political subdivision of the state who is a fire
9 fighter, a peace officer as defined in section 801.4,
10 or an emergency medical care provider as defined in
11 section 147A.1.

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

24 3. The written policy shall provide that upon
25 receipt for a public safety employee of the first
26 confirmed positive drug or alcohol test result, the
27 employer shall provide the public safety employee with
28 a substance abuse evaluation, and treatment if
29 recommended by the evaluation, with costs apportioned
30 as provided under the employee benefit plan or at
31 employer expense, if an employee benefit plan is not
32 in effect which apportions costs. The employer shall
33 take no disciplinary action against the public safety
34 employee upon receipt of the first confirmed positive
35 drug or alcohol test result if the public safety
36 employee undergoes a substance abuse evaluation, and
37 if the public safety employee successfully completes
38 substance abuse treatment if treatment is recommended
39 by the evaluation. However, if a public safety
40 employee fails to undergo substance abuse evaluation
41 when required as a result of a drug or alcohol test,
42 fails to successfully complete substance abuse
43 treatment when recommended by an evaluation, or fails
44 to pass subsequent drug or alcohol tests as provided
45 in the written policy, the public safety employee may
46 be disciplined up to and including discharge. The
47 substance abuse evaluation and treatment provided by
48 the employer shall take place under a program approved
49 by the department of public health or accredited by
50 the joint commission on the accreditation of health

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1 care organizations."

2 2. Title page, lines 1 and 2, by striking the
3 words "and making penalties applicable".

By COMMITTEE ON LOCAL GOVERNMENT

VANDE HOEF of Osceola, Chairperson