

JAN 11 1999

LABOR & INDUSTRIAL RELATIONS

HOUSE FILE 23

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

A BILL FOR

1 An Act concerning alcohol testing of private sector employees and
2 prospective employees and providing an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 23

1 Section 1. Section 730.5, subsection 7, paragraph b, Code
2 1999, is amended to read as follows:

3 b. Sample collection for testing of current employees,
4 except for the collection of a breath sample for alcohol
5 testing, shall be performed so that the specimen is split into
6 two components at the time of collection in the presence of
7 the individual from whom the sample or specimen is collected.
8 The second portion of the specimen or sample shall be of
9 sufficient quantity to permit a second, independent
10 confirmatory test as provided in paragraph "i". If the
11 specimen is urine, the sample shall be split such that the
12 primary sample contains at least thirty milliliters and the
13 secondary sample contains at least fifteen milliliters. Both
14 portions of the sample shall be forwarded to the laboratory
15 conducting the initial confirmatory testing. In addition to
16 any requirements for storage of the initial sample that may be
17 imposed upon the laboratory as a condition for certification
18 or approval, the laboratory shall store the second portion of
19 any sample until receipt of a confirmed negative test result
20 or for a period of at least forty-five calendar days following
21 the completion of the initial confirmatory testing, if the
22 first portion yielded a confirmed positive test result.

23 Sec. 2. Section 730.5, subsection 7, paragraph c,
24 subparagraph (1), Code 1999, is amended to read as follows:

25 (1) Samples, except for breath samples collected for
26 alcohol testing, shall be labeled so as to reasonably preclude
27 the possibility of misidentification of the person tested in
28 relation to the test result provided, and samples shall be
29 handled and tracked in a manner such that control and
30 accountability are maintained from initial collection to each
31 stage in handling, testing, and storage, through final
32 disposition.

33 Sec. 3. Section 730.5, subsection 7, paragraph f, Code
34 1999, is amended to read as follows:

35 f. Drug or alcohol testing shall include confirmation of

1 any initial positive test results. ~~For drug or alcohol~~
2 ~~testing, confirmation shall be by use of a different chemical~~
3 ~~process than was used in the initial screen for drugs or~~
4 ~~alcohol. The confirmatory drug or alcohol test shall be a~~
5 ~~chromatographic technique such as gas chromatography or mass~~
6 ~~spectrometry, or another comparably reliable analytical~~
7 ~~method.~~ An employer may take adverse employment action,
8 including refusal to hire a prospective employee, based on a
9 confirmed positive drug or alcohol test.

10 (1) For drug or alcohol testing, except for alcohol
11 testing where the sample tested is breath, confirmation shall
12 be by use of a different chemical process than was used in the
13 initial screen for drugs or alcohol. The confirmatory drug or
14 alcohol test shall be a chromatographic technique such as gas
15 chromatography/mass spectrometry, or another comparably
16 reliable analytical method.

17 (2) Notwithstanding any provision of this section to the
18 contrary, for alcohol testing where the sample tested is
19 breath, initial and confirmatory testing shall be conducted
20 pursuant to rules adopted by the commissioner of public safety
21 as required by this subparagraph. The commissioner of public
22 safety shall adopt rules for evidential breath-testing
23 devices, alcohol screening devices, and for personnel
24 administering initial and confirmatory breath alcohol testing,
25 which shall be consistent with rules adopted by the United
26 States department of transportation governing alcohol testing
27 required to be conducted pursuant to the federal Omnibus
28 Transportation Employee Testing Act of 1991. If any federal
29 rule, standard, or regulation is subsequently changed, the
30 commissioner shall, within ninety days, review such change and
31 take such action as is necessary to conform state requirements
32 with the change.

33 Sec. 4. Section 730.5, subsection 7, paragraph g, Code
34 1999, is amended to read as follows:

35 g. A medical review officer shall, prior to the results

1 being reported to an employer, review and interpret any
2 confirmed positive test results, including both quantitative
3 and qualitative test results, to ensure that the chain of
4 custody is complete and sufficient on its face and that any
5 information provided by the individual pursuant to paragraph
6 "c", subparagraph (2), is considered. However, this paragraph
7 shall not apply to alcohol testing where the sample tested is
8 breath if the testing requirements of paragraph "f",
9 subparagraph (2), are met.

10 Sec. 5. EFFECTIVE DATE. This Act, being deemed of
11 immediate importance, takes effect upon enactment.

12 EXPLANATION

13 This bill makes changes governing alcohol testing of
14 private sector employees and prospective employees when the
15 sample tested is breath. The bill provides that initial and
16 confirmatory testing for alcohol, when the sample tested is
17 breath, shall be conducted pursuant to requirements adopted by
18 the commissioner of public safety, which shall be consistent
19 with the applicable current requirements adopted by the United
20 States department of transportation to govern alcohol testing
21 required to be conducted pursuant to the federal Omnibus
22 Transportation Employee Testing Act of 1991. The bill
23 requires the commissioner to modify the rules to the extent
24 that the federal requirements are changed. Current drug and
25 alcohol testing requirements for confirmatory testing of a
26 positive test result and sample collection, specifically the
27 requirements for split samples and sample documentation, are
28 made inapplicable to alcohol testing when a breath sample is
29 used.

30 The bill takes effect upon enactment.

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