

King
Behn
Hansen

SSB 1066
Business & Labor
Success Relations

SENATE FILE (SF) LR 115
BY (PROPOSED COMMITTEE ON
BUSINESS AND LABOR BILL
BY CHAIRPERSON MCKIBBEN)

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

A BILL FOR

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

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2/11/72
Succeeded By

1 Section 1730.5, 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 sample for alcohol testing
5 conducted pursuant to paragraph "f", subparagraph (2), shall
6 be performed so that the specimen is split into two components
7 at the time of collection in the presence of the individual
8 from whom the sample or specimen is collected. The second
9 portion of the specimen or sample shall be of sufficient
10 quantity to permit a second, independent confirmatory test as
11 provided in paragraph "i". If the specimen is urine, the
12 sample shall be split such that the primary sample contains at
13 least thirty milliliters and the secondary sample contains at
14 least fifteen milliliters. Both portions of the sample shall
15 be forwarded to the laboratory conducting the initial
16 confirmatory testing. In addition to any requirements for
17 storage of the initial sample that may be imposed upon the
18 laboratory as a condition for certification or approval, the
19 laboratory shall store the second portion of any sample until
20 receipt of a confirmed negative test result or for a period of
21 at least forty-five calendar days following the completion of
22 the initial confirmatory testing, if the first portion yielded
23 a confirmed positive test result.

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

26 (1) Samples, except for samples collected for alcohol
27 testing conducted pursuant to paragraph "f", subparagraph (2),
28 shall be labeled so as to reasonably preclude the possibility
29 of misidentification of the person tested in relation to the
30 test result provided, and samples shall be handled and tracked
31 in a manner such that control and accountability are
32 maintained from initial collection to each stage in handling,
33 testing, and storage, through final disposition.

34 Sec. 3. Section 730.5, subsection 7, paragraph f, Code
35 1999, is amended to read as follows:

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

11 (1) For drug or alcohol testing, except for alcohol
 12 testing conducted pursuant to subparagraph (2), confirmation
 13 shall be by use of a different chemical process than was used
 14 in the initial screen for drugs or alcohol. The confirmatory
 15 drug or alcohol test shall be a chromatographic technique such
 16 as gas chromatography/mass spectrometry, or another comparably
 17 reliable analytical method.

18 (2) Notwithstanding any provision of this section to the
 19 contrary, alcohol testing, including initial and confirmatory
 20 testing, may be conducted pursuant to requirements established
 21 by the employer's written policy. The written policy shall
 22 include requirements governing evidential breath testing
 23 devices, alcohol screening devices, and the qualifications for
 24 personnel administering initial and confirmatory testing,
 25 which shall be consistent with regulations adopted as of
 26 January 1, 1999, by the United States department of
 27 transportation governing alcohol testing required to be
 28 conducted pursuant to the federal Omnibus Transportation
 29 Employee Testing Act of 1991.

30 Sec. 4. Section 730.5, subsection 7, paragraph g, Code
 31 1999, is amended to read as follows:

32 g. A medical review officer shall, prior to the results
 33 being reported to an employer, review and interpret any
 34 confirmed positive test results, including both quantitative
 35 and qualitative test results, to ensure that the chain of

1 custody is complete and sufficient on its face and that any
2 information provided by the individual pursuant to paragraph
3 "c", subparagraph (2), is considered. However, this paragraph
4 shall not apply to alcohol testing conducted pursuant to
5 paragraph "f", subparagraph (2).

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

8 EXPLANATION

9 This bill makes changes governing alcohol testing of
10 private sector employees and prospective employees. The bill
11 provides that an employer may conduct initial and confirmatory
12 testing for alcohol pursuant to requirements established in
13 the employer's written policy, which shall be consistent with
14 the applicable regulations adopted as of January 1, 1999, by
15 the United States department of transportation to govern
16 alcohol testing required to be conducted pursuant to the
17 federal Omnibus Transportation Employee Testing Act of 1991.
18 Current drug and alcohol testing requirements for confirmatory
19 testing of a positive test result and sample collection,
20 specifically the requirements for split samples and sample
21 documentation, are made inapplicable to alcohol testing
22 conducted as required by this bill.

23 The bill also replaces the word "or" between the phrases
24 "gas chromatography" and "mass spectrometry" with a slash to
25 reflect that this is only a single method to conduct
26 confirmatory testing.

27 The bill takes effect upon enactment.

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SENATE FILE 115
BY COMMITTEE ON BUSINESS
AND LABOR RELATIONS

(SUCCESSOR TO SSB 1066)

Passed Senate, Date ^(p. 1137) 4/14/99 Passed House, Date ^(p. 1097) 4/6/99
Vote: Ayes 48 Nays 1 Vote: Ayes 94 Nays 2
Approved 4-26-99

A BILL FOR

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

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SF 115

S-3009 SENATE FILE 115

1 Amend Senate File 115 as follows:
2 1. Page 2, by striking lines 20 through 21 and
3 inserting the following: "testing, may be conducted
4 pursuant to rules adopted by the department of public
5 health. The rules shall".

By TOM FLYNN

S-3009 FILED FEBRUARY 10, 1999
LOST (p. 259)

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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 sample for alcohol testing
5 conducted pursuant to paragraph "f", subparagraph (2), shall
6 be performed so that the specimen is split into two components
7 at the time of collection in the presence of the individual
8 from whom the sample or specimen is collected. The second
9 portion of the specimen or sample shall be of sufficient
10 quantity to permit a second, independent confirmatory test as
11 provided in paragraph "i". If the specimen is urine, the
12 sample shall be split such that the primary sample contains at
13 least thirty milliliters and the secondary sample contains at
14 least fifteen milliliters. Both portions of the sample shall
15 be forwarded to the laboratory conducting the initial
16 confirmatory testing. In addition to any requirements for
17 storage of the initial sample that may be imposed upon the
18 laboratory as a condition for certification or approval, the
19 laboratory shall store the second portion of any sample until
20 receipt of a confirmed negative test result or for a period of
21 at least forty-five calendar days following the completion of
22 the initial confirmatory testing, if the first portion yielded
23 a confirmed positive test result.

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

26 (1) Samples, except for samples collected for alcohol
27 testing conducted pursuant to paragraph "f", subparagraph (2),
28 shall be labeled so as to reasonably preclude the possibility
29 of misidentification of the person tested in relation to the
30 test result provided, and samples shall be handled and tracked
31 in a manner such that control and accountability are
32 maintained from initial collection to each stage in handling,
33 testing, and storage, through final disposition.

34 Sec. 3. Section 730.5, subsection 7, paragraph f, Code
35 1999, is amended to read as follows:

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

11 (1) For drug or alcohol testing, except for alcohol
12 testing conducted pursuant to subparagraph (2), confirmation
13 shall be by use of a different chemical process than was used
14 in the initial screen for drugs or alcohol. The confirmatory
15 drug or alcohol test shall be a chromatographic technique such
16 as gas chromatography/mass spectrometry, or another comparably
17 reliable analytical method.

18 (2) Notwithstanding any provision of this section to the
19 contrary, alcohol testing, including initial and confirmatory
20 testing, may be conducted pursuant to requirements established
21 by the employer's written policy. The written policy shall
22 include requirements governing evidential breath testing
23 devices, alcohol screening devices, and the qualifications for
24 personnel administering initial and confirmatory testing,
25 which shall be consistent with regulations adopted as of
26 January 1, 1999, by the United States department of
27 transportation governing alcohol testing required to be
28 conducted pursuant to the federal Omnibus Transportation
29 Employee Testing Act of 1991.

30 Sec. 4. Section 730.5, subsection 7, paragraph g, Code
31 1999, is amended to read as follows:

32 g. A medical review officer shall, prior to the results
33 being reported to an employer, review and interpret any
34 confirmed positive test results, including both quantitative
35 and qualitative test results, to ensure that the chain of

1 custody is complete and sufficient on its face and that any
2 information provided by the individual pursuant to paragraph
3 "c", subparagraph (2), is considered. However, this paragraph
4 shall not apply to alcohol testing conducted pursuant to
5 paragraph "f", subparagraph (2).

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

8 EXPLANATION

9 This bill makes changes governing alcohol testing of
10 private sector employees and prospective employees. The bill
11 provides that an employer may conduct initial and confirmatory
12 testing for alcohol pursuant to requirements established in
13 the employer's written policy, which shall be consistent with
14 the applicable regulations adopted as of January 1, 1999, by
15 the United States department of transportation to govern
16 alcohol testing required to be conducted pursuant to the
17 federal Omnibus Transportation Employee Testing Act of 1991.
18 Current drug and alcohol testing requirements for confirmatory
19 testing of a positive test result and sample collection,
20 specifically the requirements for split samples and sample
21 documentation, are made inapplicable to alcohol testing
22 conducted as required by this bill.

23 The bill also replaces the word "or" between the phrases
24 "gas chromatography" and "mass spectrometry" with a slash to
25 reflect that this is only a single method to conduct
26 confirmatory testing.

27 The bill takes effect upon enactment.

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SENATE FILE 115

S-3014

1 Amend Senate File 115 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Sec. ____ . Section 730.5, subsection 1, Code 1999,
5 is amended by adding the following new paragraph after
6 paragraph c:

7 NEW PARAGRAPH. cc. "Employee assistance program"
8 means a workplace focused program, established by an
9 employer or union, which is designed to assist
10 employees in identifying and planning solutions for
11 personal concerns including, but not limited to,
12 health, marital, family, financial, alcohol, drug,
13 legal, emotional, or other personal issues that may
14 affect job performance and to provide training and
15 consultation services for work organizations
16 addressing productivity issues related to such
17 personal concerns."

18 2. Page 3, by inserting after line 5 the
19 following:

20 "Sec. ____ . Section 730.5, subsection 9, paragraph
21 c, subparagraph (2), Code 1999, is amended to read as
22 follows:

23 (2) If an employer does not have an employee
24 assistance program, the employer must maintain a
25 resource file of **employee-assistance-services**
26 **providers**, alcohol and other drug abuse programs
27 certified by the Iowa department of public health,
28 mental health providers, and other persons, entities,
29 or organizations available to assist employees with
30 personal or behavioral problems. The employer shall
31 provide all employees information about the existence
32 of the resource file and a summary of the information
33 contained within the resource file. The summary
34 should contain, but need not be limited to, all
35 information necessary to access the services listed in
36 the resource file. ~~In-addition, the employer shall~~
37 ~~post-in-conspicuous-places-a-listing-of-multiple~~
38 ~~employee-assistance-providers-in-the-area.~~

39 Sec. ____ . Section 730.5, subsection 9, paragraph
40 h, Code 1999, is amended to read as follows:

41 h. In order to conduct drug or alcohol testing
42 under this section, an employer shall require
43 supervisory personnel of the employer involved with
44 drug or alcohol testing under this section to attend a
45 minimum of two hours of initial training and to
46 attend, on an annual basis thereafter, a minimum of
47 one hour of subsequent training. The training shall
48 include, but is not limited to, information concerning
49 the recognition of evidence of employee alcohol and
50 other drug abuse, the documentation and corroboration

S-3014

S-3014

Page 2

- 1 of employee alcohol and other drug abuse, and the
- 2 referral of employees who abuse alcohol or other drugs
- 3 to the employee assistance program or to the resource
- 4 ~~file of employee assistance services providers~~
- 5 maintained by the employer pursuant to paragraph "c",
- 6 subparagraph (2)."
- 7 3. By renumbering as necessary.

By MICHAEL E. GRONSTAL

S-3014 FILED FEBRUARY 10, 1999

RULED OUT OF ORDER (p. 258)

SENATE FILE 115

S-3010

- 1 Amend Senate File 115 as follows:
- 2 1. By striking page 2, line 30, through page 3,
- 3 line 5.
- 4 2. By renumbering as necessary.

By MATT McCOY

TOM FLYNN

S-3010 FILED FEBRUARY 10, 1999

LOST (p. 260)

SENATE FILE 115

S-3011

- 1 Amend Senate File 115 as follows:
- 2 1. Page 3, by inserting after line 5 the
- 3 following:
- 4 "Sec. ____ . Section 730.5, subsection 9, paragraph
- 5 g, unnumbered paragraph 1, Code 1999, is amended to
- 6 read as follows:
- 7 Upon receipt of a confirmed positive alcohol test
- 8 which indicates an alcohol concentration greater than
- 9 the concentration level established by the employer
- 10 pursuant to this section ~~but less than the~~
- 11 ~~concentration level in section 321B-2 for operating~~
- 12 ~~while under the influence of alcohol~~, and if the
- 13 employer has at least fifty employees, and if the
- 14 employee has been employed by the employer for at
- 15 least twelve of the preceding eighteen months, and if
- 16 rehabilitation is agreed upon by the employee, and if
- 17 the employee has not previously violated the
- 18 employer's substance abuse prevention policy pursuant
- 19 to this section, the written policy shall provide for
- 20 the rehabilitation of the employee pursuant to
- 21 subsection 10, paragraph "a", subparagraph (1), and
- 22 the apportionment of the costs of rehabilitation as
- 23 provided by this paragraph."
- 24 2. By renumbering as necessary.

By DICK L. DEARDEN

EUGENE S. FRAISE

S-3011 FILED FEBRUARY 10, 1999

LOST

(p. 261)

HOUSE AMENDMENT TO
SENATE FILE 115

S-3298

1 Amend Senate File 115, as passed by the Senate, as
2 follows:

3 1. Page 3, by inserting after line 5 the
4 following:

5 "Sec. _____. Section 730.5, subsection 9, paragraph
6 c, subparagraph (2), Code 1999, is amended to read as
7 follows:

8 (2) If an employer does not have an employee
9 assistance program, the employer must maintain a
10 resource file of ~~employee-assistance-services~~
11 ~~providers~~, alcohol and other drug abuse programs
12 certified by the Iowa department of public health,
13 mental health providers, and other persons, entities,
14 or organizations available to assist employees with
15 personal or behavioral problems. The employer shall
16 provide all employees information about the existence
17 of the resource file and a summary of the information
18 contained within the resource file. The summary
19 should contain, but need not be limited to, all
20 information necessary to access the services listed in
21 the resource file. ~~In-addition,-the-employer-shall~~
22 ~~post-in-conspicuous-places-a-listing-of-multiple~~
23 ~~employee-assistance-providers-in-the-area-~~

24 Sec. _____. Section 730.5, subsection 9, paragraph
25 g, unnumbered paragraph 1, Code 1999, is amended to
26 read as follows:

27 Upon receipt of a confirmed positive alcohol test
28 which indicates an alcohol concentration greater than
29 the concentration level established by the employer
30 pursuant to this section ~~but-less-than-the~~
31 ~~concentration-level-in-section-321J.2-for-operating~~
32 ~~while-under-the-influence-of-alcohol~~, and if the
33 employer has at least fifty employees, and if the
34 employee has been employed by the employer for at
35 least twelve of the preceding eighteen months, and if
36 rehabilitation is agreed upon by the employee, and if
37 the employee has not previously violated the
38 employer's substance abuse prevention policy pursuant
39 to this section, the written policy shall provide for
40 the rehabilitation of the employee pursuant to
41 subsection 10, paragraph "a", subparagraph (1), and
42 the apportionment of the costs of rehabilitation as
43 provided by this paragraph.

44 Sec. _____. Section 730.5, subsection 9, paragraph
45 h, Code 1999, is amended to read as follows:

46 h. In order to conduct drug or alcohol testing
47 under this section, an employer shall require
48 supervisory personnel of the employer involved with
49 drug or alcohol testing under this section to attend a
50 minimum of two hours of initial training and to

S-3298

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Page 2

1 attend, on an annual basis thereafter, a minimum of
 2 one hour of subsequent training. The training shall
 3 include, but is not limited to, information concerning
 4 the recognition of evidence of employee alcohol and
 5 other drug abuse, the documentation and corroboration
 6 of employee alcohol and other drug abuse, and the
 7 referral of employees who abuse alcohol or other drugs
 8 to the employee assistance program or to the resource
 9 ~~file of employee assistance services providers~~
 10 maintained by the employer pursuant to paragraph "c",
 11 subparagraph (2)."

12 2. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3298 FILED APRIL 7, 1999

Senate Concurred 4/14/99 (p. 1137)

SENATE FILE 115

S-3390

1 Amend the amendment, S-3298, to Senate File 115, as
 2 passed by the Senate, as follows:

3 1. Page 1, by inserting after line 4 the
 4 following:

5 "Sec. ____ . Section 730.5, subsection 9, paragraph
 6 b, Code 1999, is amended to read as follows:

7 b. The employer's written policy shall provide
 8 uniform consistent requirements for what disciplinary
 9 or rehabilitative actions an employer shall take
 10 against an employee or prospective employee upon
 11 receipt of a confirmed positive drug or alcohol test
 12 result or upon the refusal of the employee or
 13 prospective employee to provide a testing sample. The
 14 policy shall provide that any action taken against an
 15 employee or prospective employee shall be based only
 16 on the results of the drug or alcohol test. The
 17 written policy shall also provide that if
 18 rehabilitation is required pursuant to paragraph "g",
 19 the employer shall not take adverse employment action
 20 against the employee so long as the employee complies
 21 with the requirements of rehabilitation and
 22 successfully completes rehabilitation."

23 2. Page 2, by inserting after line 11 the
 24 following:

25 "____ . Title page, line 1, by inserting after the
 26 words "relating to" the following: "drug and"."

27 3. By renumbering as necessary.

By STEVE KING

S-3390 FILED APRIL 14, 1999

LOST

(p. 1139)

SENATE FILE 115

-3387

1 Amend the House amendment, S-3298, to Senate File
2 115, as passed by the Senate, as follows:

3 1. Page 1, by striking lines 3 through 23 and
4 inserting the following:

5 "____. Page 1, by inserting after line 33 the
6 following:

7 "Sec. _____. Section 730.5, subsection 7, paragraph
8 c, subparagraph (2), Code 1999, is amended to read as
9 follows:

10 (2) An employee or prospective employee shall be
11 provided an opportunity to provide any information
12 which may be considered relevant to the test,
13 including identification of prescription or
14 nonprescription drugs currently or recently used, or
15 other relevant medical information. ~~To assist an~~
16 ~~employee or prospective employee in providing the~~
17 ~~information described in this subparagraph, the~~
18 ~~employer shall provide an employee or prospective~~
19 ~~employee with a list of the drugs to be tested."~~

20 _____. Page 3, by inserting after line 5 the
21 following:

22 "Sec. _____. Section 730.5, subsection 9, paragraph
23 c, subparagraph (2), Code 1999, is amended to read as
24 follows:

25 (2) If an employer does not have an employee
26 assistance program, the employer must maintain a
27 resource file of ~~employee assistance services~~
28 ~~providers~~, alcohol and other drug abuse programs
29 certified by the Iowa department of public health,
30 mental health providers, and other persons, entities,
31 or organizations available to assist employees with
32 personal or behavioral problems. The employer shall
33 provide all employees information about the existence
34 of the resource file and a summary of the information
35 contained within the resource file. The summary
36 should contain, but need not be limited to, all
37 information necessary to access the services listed in
38 the resource file. ~~In addition, the employer shall~~
39 ~~post in conspicuous places a listing of multiple~~
40 ~~employee assistance providers in the area.~~

41 Sec. _____. Section 730.5, subsection 9, paragraph
42 c, Code 1999, is amended by adding the following new
43 subparagraph:

44 NEW SUBPARAGRAPH. (3) To assist employee
45 assistance program providers and other alcohol and
46 drug abuse program providers in providing drug and
47 alcohol counseling and assistance to employees, the
48 employer shall make available to such providers, upon
49 request, a list of drugs for which the employer has
50 tested.""

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S-3387

Page 2

- 1 2. Page 2, by inserting after line 11, the
- 2 following:
- 3 "____. Title page, line 1, by inserting after the
- 4 words "relating to" the following: "drug and".
- 5 3. By renumbering as necessary.

By STEVE KING

S-3387 FILED APRIL 14, 1999

LOST (p.1134)

SENATE FILE 115

S-3388

- 1 Amend the House amendment, S-3298, to Senate File
- 2 115, as passed by the Senate, as follows:
- 3 1. Page 1, by inserting after line 43 the
- 4 following:
- 5 "Sec. _____. Section 730.5, subsection 9, paragraph
- 6 g, Code 1999, is amended by adding the following new
- 7 subparagraph:
- 8 NEW SUBPARAGRAPH. (4) However, unless the
- 9 employee establishes by a preponderance of the
- 10 evidence that the violation of the employer's
- 11 substance abuse policy occurred while at the work
- 12 site, subparagraphs (1) through (3) shall not apply
- 13 and the employee shall be responsible for the costs of
- 14 rehabilitation."

By STEVE KING

S-3388 FILED APRIL 14, 1999

LOST (p.1135)

SENATE FILE 115

S-3389

- 1 Amend the House amendment, S-3298, to Senate File
- 2 115, as passed by the Senate, as follows:
- 3 1. Page 1, by inserting after line 43 the
- 4 following:
- 5 "Sec. _____. Section 730.5, subsection 9, paragraph
- 6 g, unnumbered paragraph 2, Code 1999, is amended to
- 7 read as follows:
- 8 Rehabilitation required pursuant to this paragraph
- 9 shall not preclude an employer from taking any adverse
- 10 employment action against the employee during the
- 11 rehabilitation based on the employee's failure to
- 12 comply with any requirements of the rehabilitation,
- 13 including any action by the employee to invalidate a
- 14 test sample provided by the employee pursuant to the
- 15 rehabilitation. For purposes of this paragraph,
- 16 "adverse employment action" includes the repayment of
- 17 costs incurred by an employer in providing
- 18 rehabilitation as provided by this paragraph."

By STEVE KING

S-3389 FILED APRIL 14, 1999

LOST (p.1136)

SENATE FILE 115

H-1379

1 Amend Senate File 115, as passed by the Senate, as
2 follows:

3 1. Page 3, by inserting after line 5 the
4 following:

5 "Sec. ____ Section 730.5, subsection 9, paragraph
6 g, unnumbered paragraph 1, Code 1999, is amended to
7 read as follows:

8 Upon receipt of a confirmed positive alcohol test
9 which indicates an alcohol concentration greater than
10 the concentration level established by the employer
11 pursuant to this section ~~but-less-than-the~~
12 ~~concentration-level-in-section-3218.2-for-operating~~
13 ~~while-under-the-influence-of-alcohol~~, and if the
14 employer has at least fifty employees, and if the
15 employee has been employed by the employer for at
16 least twelve of the preceding eighteen months, and if
17 rehabilitation is agreed upon by the employee, and if
18 the employee has not previously violated the
19 employer's substance abuse prevention policy pursuant
20 to this section, the written policy shall provide for
21 the rehabilitation of the employee pursuant to
22 subsection 10, paragraph "a", subparagraph (1), and
23 the apportionment of the costs of rehabilitation as
24 provided by this paragraph."

25 2. By renumbering as necessary.

By NELSON of Marshall
SUKUP of Franklin

H-1379 FILED APRIL 1, 1999

Adapted
4/6/99 (P. 1097)

SENATE FILE 115

H-1393

1 Amend the amendment, H-1379, to Senate File 115, as
2 passed by the Senate, as follows:

3 1. Page 1, line 14, by striking the word "fifty"
4 and inserting the following: "fifty twenty".

By DOTZLER of Black Hawk

H-1393 FILED APRIL 5, 1999

Withdrawn
4-6-99 (P. 1097)

SENATE FILE 115

H-1258

1 Amend Senate File 115, as passed by the Senate, as
2 follows:

3 1. By striking page 2, line 18, through page 3,
4 line 5, and inserting the following:

5 "(2) Notwithstanding any provision of this section
6 to the contrary, alcohol testing, including initial
7 and confirmatory testing, may be conducted pursuant to
8 rules adopted by the Iowa department of public health.
9 The rules shall be consistent with regulations adopted
10 by the United States department of transportation
11 governing alcohol testing as contained in 49 C.F.R.,
12 pt. 40.

13 Sec. ____ . Section 730.5, subsection 7, paragraph
14 g, Code 1999, is amended to read as follows:

15 g. A medical review officer shall, prior to the
16 results being reported to an employer, review and
17 interpret any confirmed positive test results,
18 including both quantitative and qualitative test
19 results, to ensure that the chain of custody is
20 complete and sufficient on its face and that any
21 information provided by the individual pursuant to
22 paragraph "c", subparagraph (2), is considered.
23 However, this paragraph shall not apply to alcohol
24 testing conducted pursuant to paragraph "f",
25 subparagraph (2).

26 Sec. ____ . Section 730.5, subsection 9, paragraph
27 g, unnumbered paragraph 1, Code 1999, is amended to
28 read as follows:

29 Upon receipt of a confirmed positive alcohol test
30 which indicates an alcohol concentration greater than
31 the concentration level established by the employer
32 pursuant to this section ~~but-less-than-the~~
33 ~~concentration-level-in-section-321J.2-for-operating~~
34 ~~while-under-the-influence-of-alcohol~~, and if the
35 employer has at least ~~fifty~~ twenty employees, and if
36 the employee has been employed by the employer for at
37 least twelve of the preceding eighteen months, and if
38 rehabilitation is agreed upon by the employee, and if
39 the employee has not previously violated the
40 employer's substance abuse prevention policy pursuant
41 to this section, the written policy shall provide for
42 the rehabilitation of the employee pursuant to
43 subsection 10, paragraph "a", subparagraph (1), and
44 the apportionment of the costs of rehabilitation as
45 provided by this paragraph."

46 2. By renumbering as necessary.

By TAYLOR of Linn

H-1258 FILED MARCH 25, 1999

*Lost
4/6/99
(P. 1095)*

SENATE FILE 115

H-1476

1 Amend the amendment, H-1379, to Senate File 115, as
2 passed by the Senate, as follows:

3 1. Page 1, by inserting after line 4 the
4 following:

5 "Sec. _____. Section 730.5, subsection 9, paragraph
6 c, subparagraph (2), Code 1999, is amended to read as
7 follows:

8 (2) If an employer does not have an employee
9 assistance program, the employer must maintain a
10 resource file of ~~employee-assistance-services~~
11 ~~providers~~, alcohol and other drug abuse programs
12 certified by the Iowa department of public health,
13 mental health providers, and other persons, entities,
14 or organizations available to assist employees with
15 personal or behavioral problems. The employer shall
16 provide all employees information about the existence
17 of the resource file and a summary of the information
18 contained within the resource file. The summary
19 should contain, but need not be limited to, all
20 information necessary to access the services listed in
21 the resource file. ~~In addition, the employer shall~~
22 ~~post in conspicuous places a listing of multiple~~
23 ~~employee-assistance-providers-in-the-area."~~

4 2. Page 1, by inserting after line 24 the
5 following:

6 "Sec. _____. Section 730.5, subsection 9, paragraph
7 h, Code 1999, is amended to read as follows:

8 h. In order to conduct drug or alcohol testing
9 under this section, an employer shall require
10 supervisory personnel of the employer involved with
11 drug or alcohol testing under this section to attend a
12 minimum of two hours of initial training and to
13 attend, on an annual basis thereafter, a minimum of
14 one hour of subsequent training. The training shall
15 include, but is not limited to, information concerning
16 the recognition of evidence of employee alcohol and
17 other drug abuse, the documentation and corroboration
18 of employee alcohol and other drug abuse, and the
19 referral of employees who abuse alcohol or other drugs
20 to the employee assistance program or to the resource
21 file of ~~employee-assistance-services-providers~~
22 maintained by the employer pursuant to paragraph "c",
23 subparagraph (2)."

By HUSER of Polk

H-1476 FILED APRIL 6, 1999

adapted

4/6/99

(p. 1097)

AN ACT

RELATING TO ALCOHOL TESTING OF PRIVATE SECTOR EMPLOYEES AND PROSPECTIVE EMPLOYEES AND PROVIDING AN EFFECTIVE DATE.

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

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

b. Sample collection for testing of current employees, except for the collection of a sample for alcohol testing conducted pursuant to paragraph "f", subparagraph (2), shall be performed so that the specimen is split into two components at the time of collection in the presence of the individual from whom the sample or specimen is collected. The second portion of the specimen or sample shall be of sufficient quantity to permit a second, independent confirmatory test as provided in paragraph "i". If the specimen is urine, the sample shall be split such that the primary sample contains at least thirty milliliters and the secondary sample contains at least fifteen milliliters. Both portions of the sample shall be forwarded to the laboratory conducting the initial confirmatory testing. In addition to any requirements for storage of the initial sample that may be imposed upon the laboratory as a condition for certification or approval, the laboratory shall store the second portion of any sample until

receipt of a confirmed negative test result or for a period of at least forty-five calendar days following the completion of the initial confirmatory testing, if the first portion yielded a confirmed positive test result.

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

(1) Samples, except for samples collected for alcohol testing conducted pursuant to paragraph "f", subparagraph (2), shall be labeled so as to reasonably preclude the possibility of misidentification of the person tested in relation to the test result provided, and samples shall be handled and tracked in a manner such that control and accountability are maintained from initial collection to each stage in handling, testing, and storage, through final disposition.

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

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

(1) For drug or alcohol testing, except for alcohol testing conducted pursuant to subparagraph (2), confirmation shall be by use of a different chemical process than was used in the initial screen for drugs or alcohol. The confirmatory drug or alcohol test shall be a chromatographic technique such as gas chromatography/mass spectrometry, or another comparably reliable analytical method.

(2) Notwithstanding any provision of this section to the contrary, alcohol testing, including initial and confirmatory

testing, may be conducted pursuant to requirements established by the employer's written policy. The written policy shall include requirements governing evidential breath testing devices, alcohol screening devices, and the qualifications for personnel administering initial and confirmatory testing, which shall be consistent with regulations adopted as of January 1, 1999, by the United States department of transportation governing alcohol testing required to be conducted pursuant to the federal Omnibus Transportation Employee Testing Act of 1991.

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

g. A medical review officer shall, prior to the results being reported to an employer, review and interpret any confirmed positive test results, including both quantitative and qualitative test results, to ensure that the chain of custody is complete and sufficient on its face and that any information provided by the individual pursuant to paragraph "c", subparagraph (2), is considered. However, this paragraph shall not apply to alcohol testing conducted pursuant to paragraph "f", subparagraph (2).

Sec. 5. Section 730.5, subsection 9, paragraph c, subparagraph (2), Code 1999, is amended to read as follows:

(2) If an employer does not have an employee assistance program, the employer must maintain a resource file of ~~employee-assistance-services-providers~~, alcohol and other drug abuse programs certified by the Iowa department of public health, mental health providers, and other persons, entities, or organizations available to assist employees with personal or behavioral problems. The employer shall provide all employees information about the existence of the resource file and a summary of the information contained within the resource file. The summary should contain, but need not be limited to, all information necessary to access the services listed in the resource file. ~~In-addition, the employer shall post in~~

~~conspicuous-places-a-listing-of-multiple-employee-assistance providers-in-the-area-~~

Sec. 6. Section 730.5, subsection 9, paragraph g, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Upon receipt of a confirmed positive alcohol test which indicates an alcohol concentration greater than the concentration level established by the employer pursuant to this section ~~but less than the concentration level in section 321B.2 for operating while under the influence of alcohol~~, and if the employer has at least fifty employees, and if the employee has been employed by the employer for at least twelve of the preceding eighteen months, and if rehabilitation is agreed upon by the employee, and if the employee has not previously violated the employer's substance abuse prevention policy pursuant to this section, the written policy shall provide for the rehabilitation of the employee pursuant to subsection 10, paragraph "a", subparagraph (1), and the apportionment of the costs of rehabilitation as provided by this paragraph.

Sec. 7. Section 730.5, subsection 9, paragraph h, Code 1999, is amended to read as follows:

h. In order to conduct drug or alcohol testing under this section, an employer shall require supervisory personnel of the employer involved with drug or alcohol testing under this section to attend a minimum of two hours of initial training and to attend, on an annual basis thereafter, a minimum of one hour of subsequent training. The training shall include, but is not limited to, information concerning the recognition of evidence of employee alcohol and other drug abuse, the documentation and corroboration of employee alcohol and other drug abuse, and the referral of employees who abuse alcohol or other drugs to the employee assistance program or to the resource file ~~of employee-assistance-services-providers maintained by the employer pursuant to paragraph "c", subparagraph (2).~~

Sec. 8. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 115, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved April 26, 1999

THOMAS J. VILSACK
Governor