

H-3/30/99 Labor

FILED MAR 11 1999

SENATE FILE 408
BY COMMITTEE ON BUSINESS
AND LABOR RELATIONS

(SUCCESSOR TO SF 138)

Passed Senate, Date ^(P 850) 3/30/99 Passed House, Date _____
Vote: Ayes 49 Nays 6 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to drug and alcohol testing of private sector
2 employees and prospective employees pursuant to an employer's
3 drug and alcohol testing program.

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

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SF 408

1 Section 1. Section 730.5, subsection 1, Code 1999, is
2 amended by adding the following new paragraph after paragraph
3 c:

4 NEW PARAGRAPH. cc. "Employee assistance program" means a
5 workplace focused program, established by an employer or
6 union, which is designed to assist employees in identifying
7 and planning solutions for personal concerns including alcohol
8 or drug-related issues that may affect job performance and to
9 provide training and consultation services for work
10 organizations addressing issues related to such personal
11 concerns.

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

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

28 Sec. 3. Section 730.5, subsection 9, paragraph h, Code
29 1999, is amended to read as follows:

30 h. In order to conduct drug or alcohol testing under this
31 section, an employer shall require supervisory personnel of
32 the employer involved with drug or alcohol testing under this
33 section to attend a minimum of two hours of initial training
34 and to attend, on an annual basis thereafter, a minimum of one
35 hour of subsequent training. The training shall include, but

1 is not limited to, information concerning the recognition of
2 evidence of employee alcohol and other drug abuse, the
3 documentation and corroboration of employee alcohol and other
4 drug abuse, and the referral of employees who abuse alcohol or
5 other drugs to the employee assistance program or to the
6 resource file ~~of-employee-assistance-services-providers~~
7 maintained by the employer pursuant to paragraph "c",
8 subparagraph (2).

9 EXPLANATION

10 This bill defines an employee assistance program for
11 purposes of private sector drug and alcohol testing. The new
12 definition specifies the scope of such a program and that the
13 program is established by a particular employer or union. The
14 bill further eliminates the requirement that an employer post
15 and provide employees with lists of employee assistance
16 program providers if the employer does not have such a
17 program.

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SENATE FILE 408

S-3123

1 Amend Senate File 408 as follows:

2 1. Page 1, line 2, by striking the words "new
3 paragraph" and inserting the following: "new
4 paragraphs".

5 2. Page 1, by inserting after line 11 the
6 following:

7 "NEW PARAGRAPH. cd. "Employee testing compliance
8 officer" means a licensed chiropractor, nurse
9 practitioner, or physician assistant who has knowledge
10 of substance abuse disorders and has appropriate
11 medical training to perform tasks delegated by a
12 medical review officer consistent with the mandatory
13 guidelines for federal workplace drug testing
14 programs.

15 Sec. _____. Section 730.5, subsection 1, paragraph
16 f, Code 1999, is amended by striking the paragraph and
17 inserting in lieu thereof the following:

18 f. "Medical review officer" means a physician
19 licensed to practice medicine and surgery or
20 osteopathic medicine and surgery who receives
21 laboratory results generated by an employer's drug or
22 alcohol testing program and who interprets and
23 evaluates an individual's confirmed positive test
24 result, along with the individual's medical history
25 and any other relevant biomedical information,
26 consistent with the mandatory guidelines for federal
27 workplace drug testing programs.

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

30 g. A medical review officer shall, prior to the
31 results being reported to an employer, review and
32 interpret any confirmed positive test results,
33 including both quantitative and qualitative test
34 results, to ensure that the chain of custody is
35 complete and sufficient on its face and that any
36 information provided by the individual pursuant to
37 paragraph "c", subparagraph (2), is considered. An
38 employee testing compliance officer may assist a
39 medical review officer in conducting the review
40 required by this paragraph.

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

43 h. In conducting drug or alcohol testing pursuant
44 to this section, the laboratory, the medical review
45 officer, an employee testing compliance officer, if
46 applicable, and the employer shall ensure, to the
47 extent feasible, that the testing only measure, and
48 the records concerning the testing only show or make
49 use of information regarding, alcohol or drugs in the
50 body."

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1 3. Page 2, by inserting after line 8 the
2 following:

3 "Sec. _____. Section 730.5, subsection 13, paragraph
4 b, Code 1999, is amended to read as follows:

5 b. An employee, or a prospective employee, who is
6 the subject of a drug or alcohol test conducted under
7 this section pursuant to an employer's written policy
8 and for whom a confirmed positive test result is
9 reported shall, upon written request, have access to
10 any records relating to the employee's drug or alcohol
11 test, including records of the laboratory where the
12 testing was conducted and any records relating to the
13 results of any relevant certification or review by a
14 medical review officer or an employee testing
15 compliance officer, if applicable. However, a
16 prospective employee shall be entitled to records
17 under this paragraph only if the prospective employee
18 requests the records within fifteen calendar days from
19 the date the employer provided the prospective
20 employee written notice of the results of a drug or
21 alcohol test as provided in subsection 7, paragraph
22 "i", subparagraph (2).

23 Sec. _____. Section 730.5, subsection 13, paragraph
24 c, Code 1999, is amended to read as follows:

25 c. Except as provided by this section and as
26 necessary to conduct drug or alcohol testing under
27 this section and to file a report pursuant to
28 subsection 16, a laboratory, an employee testing
29 compliance officer, and a medical review officer
30 conducting drug or alcohol testing under this section
31 shall not use or disclose to any person any personally
32 identifiable information regarding such testing,
33 including the names of individuals tested, even if
34 unaccompanied by the results of the test.

35 Sec. _____. Section 730.5, subsection 14, paragraph
36 a, Code 1999, is amended to read as follows:

37 a. Any laboratory, employee testing compliance
38 officer, or medical review officer which discloses
39 information in violation of the provisions of
40 subsection 7, paragraph "h" or "k", or any employer
41 who, through the selection process described in
42 subsection 1, paragraph "k", improperly targets or
43 exempts employees subject to unannounced drug or
44 alcohol testing, shall be subject to a civil penalty
45 of one thousand dollars for each violation. The
46 attorney general or the attorney general's designee
47 may maintain a civil action to enforce this
48 subsection. Any civil penalty recovered shall be
49 deposited in the general fund of the state.

50 Sec. _____. Section 730.5, subsection 14, paragraph

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1 b, Code 1999, is amended to read as follows:

2 b. A laboratory, employee testing compliance
3 officer, or medical review officer involved in the
4 conducting of a drug or alcohol test pursuant to this
5 section shall be deemed to have the necessary contact
6 with this state for the purpose of subjecting the
7 laboratory, employee testing compliance officer, or
8 medical review officer to the jurisdiction of the
9 courts of this state."

10 4. By renumbering as necessary.

By STEVE KING

S-3123 FILED MARCH 23, 1999

Withdrawn
3/30/99
(p. 850)