

Senate File 32 - Introduced

SENATE FILE 32

BY ZAUN

A BILL FOR

1 An Act relating to private sector employee drug testing.

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

1 Section 1. Section 730.5, subsection 1, paragraphs b and k,
2 Code 2017, are amended to read as follows:

3 *b. "Confirmed positive test result"* means, except for
4 alcohol testing conducted pursuant to [subsection 7](#), paragraph
5 "f", subparagraph (2), the results of a hair, blood, urine, or
6 oral fluid test in which the level of controlled substances or
7 metabolites in the ~~specimen~~ sample analyzed meets or exceeds
8 nationally accepted standards for determining detectable levels
9 of controlled substances as adopted by the ~~federal~~ United
10 States department of health and human services' substance abuse
11 and mental health services administration. If nationally
12 accepted standards for ~~oral fluid~~ tests on a particular
13 specimen have not been adopted by the ~~federal~~ United States
14 department of health and human services' substance abuse and
15 mental health services administration, the standards for
16 determining detectable levels of controlled substances for
17 purposes of determining a confirmed positive test result shall
18 be the same standard that has been ~~established~~ cleared or
19 approved by the ~~federal~~ United States department of health and
20 human services' food and drug administration for the ~~measuring~~
21 ~~instrument used to perform the oral fluid test~~ particular
22 specimen testing utilized.

23 *k. "Sample"* means such sample from the human body capable
24 of revealing the presence of alcohol or other drugs, or their
25 metabolites, which shall include only hair, urine, saliva,
26 breath, and blood. However, "sample" does not mean blood except
27 as authorized pursuant to [subsection 7](#), paragraph "l".

28 Sec. 2. Section 730.5, subsection 7, paragraphs a and b,
29 Code 2017, are amended to read as follows:

30 *a.* The collection of samples shall be performed under
31 sanitary conditions and with regard for the privacy of the
32 individual from whom the ~~specimen~~ sample is being obtained and
33 in a manner reasonably calculated to preclude contamination or
34 substitution of the ~~specimen~~ sample. If the sample collected
35 is urine, procedures shall be established to provide for

1 individual privacy in the collection of the sample unless there
2 is a reasonable suspicion that a particular individual subject
3 to testing may alter or substitute the urine ~~specimen~~ sample
4 to be provided, or has previously altered or substituted a
5 urine ~~specimen~~ sample provided pursuant to a drug or alcohol
6 test. For purposes of this paragraph, "individual privacy"
7 means a location at the collection site where urination can
8 occur in private, which has been secured by visual inspection
9 to ensure that other persons are not present, which provides
10 that undetected access to the location is not possible during
11 urination, and which provides for the ability to effectively
12 restrict access to the location during the time the ~~specimen~~
13 sample is provided. If an individual is providing a urine
14 sample and collection of the urine sample is directly monitored
15 or observed by another individual, the individual who is
16 directly monitoring or observing the collection shall be of
17 the same gender as the individual from whom the urine sample
18 is being collected.

19 b. Collection of a ~~urine~~ sample for testing of current
20 employees shall be performed so that the ~~specimen~~ sample is
21 split into two components at the time of collection in the
22 presence of the individual from whom the sample ~~or specimen~~
23 is collected. The second portion of the ~~specimen or~~ sample
24 shall be of sufficient quantity to permit a second, independent
25 confirmatory test as provided in paragraph "i". ~~The~~ If the
26 sample is urine, the sample shall be split such that the
27 primary sample contains at least thirty milliliters and the
28 secondary sample contains at least fifteen milliliters. Both
29 portions of the sample shall be forwarded to the laboratory
30 conducting the initial confirmatory testing. In addition to
31 any requirements for storage of the initial sample that may be
32 imposed upon the laboratory as a condition for certification
33 or approval, the laboratory shall store the second portion of
34 any sample until receipt of a confirmed negative test result or
35 for a period of at least forty-five calendar days following the

1 completion of the initial confirmatory testing, if the first
2 portion yielded a confirmed positive test result.

3 Sec. 3. Section 730.5, subsection 7, paragraph f,
4 subparagraphs (2) and (3), Code 2017, are amended to read as
5 follows:

6 (2) Notwithstanding any provision of **this section** to the
7 contrary, alcohol testing, including initial and confirmatory
8 testing, may be conducted pursuant to requirements established
9 by the employer's written policy. The written policy shall
10 include requirements governing evidential breath testing
11 devices, alcohol screening devices, and the qualifications
12 for personnel administering initial and confirmatory testing,
13 which shall be consistent with regulations adopted as of
14 ~~January 1, 1999~~ July 1, 2017, by the United States department
15 of transportation governing alcohol testing required to be
16 conducted pursuant to the federal Omnibus Transportation
17 Employee Testing Act of 1991.

18 (3) Notwithstanding any provision of **this section** to the
19 contrary, collection of an oral fluid sample for testing shall
20 be performed in the presence of the individual from whom the
21 ~~sample or specimen~~ is collected. The ~~specimen or~~ sample shall
22 be of sufficient quantity to permit a second, independent,
23 confirmatory test as provided in paragraph "i". In addition to
24 any requirement for storage of the initial sample that may be
25 imposed upon the laboratory as a condition for certification
26 or approval, the laboratory shall store the unused portion of
27 any sample until receipt of a confirmed negative test result or
28 for a period of at least forty-five calendar days following the
29 completion of the initial confirmatory testing, if the portion
30 yielded a confirmed positive test result.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 Under current law, private sector drug testing is permitted
35 only on samples of urine, saliva, breath, and blood, if

1 testing standards for such samples have been adopted by the
2 United States department of health and human services or have
3 been cleared or approved by the United States food and drug
4 administration for drug testing. This bill provides that such
5 private sector drug testing may be conducted on hair samples
6 as well.