

**House Study Bill 179 - Introduced**

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
LABOR AND WORKFORCE BILL BY  
CHAIRPERSON DEYOE)

**A BILL FOR**

- 1 An Act concerning 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, paragraph j, Code  
2 2023, is amended to read as follows:

3 *j. "Safety-sensitive position" means a ~~job~~ position*  
4 designated by the employer as one wherein an accident could  
5 cause loss of human life, serious bodily injury, or significant  
6 property or environmental damage, including a job with duties  
7 that include immediate supervision of a person in a job that  
8 meets the requirement of this paragraph.

9 Sec. 2. Section 730.5, subsection 7, paragraph j,  
10 subparagraph (1), Code 2023, is amended to read as follows:

11 (1) If a confirmed positive test result for drugs or  
12 alcohol for a current employee is reported to the employer  
13 by the medical review officer, the employer shall notify  
14 the employee in writing by certified mail, return receipt  
15 requested, of the results of the test, the employee's right  
16 to request and obtain a confirmatory test of the second  
17 sample collected pursuant to paragraph "b" at an approved  
18 laboratory of the employee's choice, and the fee payable by  
19 the employee to the employer for reimbursement of expenses  
20 concerning the test. The fee charged an employee shall be an  
21 amount that represents the costs associated with conducting  
22 the second confirmatory test, which shall be consistent with  
23 the employer's cost for conducting the initial confirmatory  
24 test on an employee's sample. If the employee, ~~in-person~~  
25 ~~or~~ by certified mail, return receipt requested, requests a  
26 second confirmatory test, identifies an approved laboratory to  
27 conduct the test, and pays the employer the fee for the test  
28 within seven days from the date the employer mails by certified  
29 mail, return receipt requested, the written notice to the  
30 employee of the employee's right to request a test, a second  
31 confirmatory test shall be conducted at the laboratory chosen  
32 by the employee. The results of the second confirmatory test  
33 shall be reported to the medical review officer who reviewed  
34 the initial confirmatory test results and the medical review  
35 officer shall review the results and issue a report to the

1 employer on whether the results of the second confirmatory test  
2 confirmed the initial confirmatory test as to the presence of  
3 a specific drug or alcohol. If the results of the second test  
4 do not confirm the results of the initial confirmatory test,  
5 the employer shall reimburse the employee for the fee paid by  
6 the employee for the second test and the initial confirmatory  
7 test shall not be considered a confirmed positive test result  
8 for drugs or alcohol for purposes of taking disciplinary action  
9 pursuant to [subsection 10](#). In lieu of certified mail, return  
10 receipt requested, an employer may offer an employee the option  
11 to receive notifications and make requests as provided in this  
12 subparagraph by in-person exchange of written materials or by  
13 electronic notification. The employee may choose to receive  
14 notifications and make requests by one of these methods or by  
15 certified mail, return receipt requested.

16 Sec. 3. Section 730.5, subsection 9, paragraph a, Code 2023,  
17 is amended by adding the following new subparagraph:

18 NEW SUBPARAGRAPH. (5) In lieu of certified mail, return  
19 receipt requested, an employer may offer an employee,  
20 prospective employee, or parent of a minor who is an employee  
21 or prospective employee the option to receive copies and  
22 notices as provided in subparagraph (1) or (2) by in-person  
23 exchange of written materials or by electronic notification.  
24 The employee, prospective employee, or parent of a minor who  
25 is an employee or prospective employee may choose to receive  
26 copies and notices by one of these methods or by certified  
27 mail, return receipt requested.

28 Sec. 4. Section 730.5, subsection 15, Code 2023, is amended  
29 to read as follows:

30 15. *Civil remedies.*

31 a. [This section](#) may be enforced through a civil action.

32 ~~(1)~~ b. ~~A person~~ An employer who violates [this section](#)  
33 or who aids in the violation of [this section](#) is liable to an  
34 aggrieved employee or prospective employee for affirmative  
35 relief including reinstatement or hiring, with or without

1 back pay, or any other equitable relief as the court deems  
2 appropriate including reasonable attorney fees and court costs.  
3 An aggrieved employee or prospective employee has the burden of  
4 proving by a preponderance of the evidence that a violation of  
5 this section directly caused any damages for which affirmative  
6 relief is sought.

7 (2) c. When a ~~person~~ an employer commits, is committing,  
8 or proposes to commit, an act in violation of this section, an  
9 injunction may be granted through an action in district court  
10 to prohibit the person from continuing such acts. The action  
11 for injunctive relief may be brought by an aggrieved employee  
12 or prospective employee, the county attorney, or the attorney  
13 general.

14 ~~b.~~ In an action brought under ~~this subsection~~ alleging that  
15 an employer has required or requested a drug or alcohol test  
16 in violation of this section, the employer has the burden of  
17 proving that the requirements of this section were met.

18 EXPLANATION

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

21 This bill relates to Code section 730.5, concerning private  
22 sector employee drug testing.

23 Under current law, "safety-sensitive position", for purposes  
24 of Code section 730.5, is defined as a job wherein an accident  
25 could cause loss of human life, serious bodily injury, or  
26 significant property or environmental damage, including a job  
27 with duties that include immediate supervision of a person  
28 in a safety-sensitive position. The bill provides that the  
29 definition applies to positions designated as safety sensitive  
30 positions by the employer.

31 The bill provides that specified communications required  
32 under current law to be provided by certified mail, return  
33 receipt requested, can also be provided in person or by  
34 electronic notification if an employee or prospective employee  
35 so chooses.

1 The bill modifies language providing that a person violating  
2 Code section 730.5 can be subject to civil remedies to instead  
3 provide that an employer violating Code section 730.5 can be  
4 subject to civil remedies.

5 The bill provides that attorney fees awarded to an aggrieved  
6 employee or prospective employee as part of affirmative relief  
7 in a civil action for a violation of Code section 730.5 must  
8 be reasonable. In such an action, the bill provides that an  
9 aggrieved employee or prospective employee has the burden of  
10 proving by a preponderance of the evidence that a violation  
11 of Code section 730.5 directly caused any damages for which  
12 affirmative relief is sought.

13 The bill strikes language providing that in a legal action  
14 alleging that an employer has required or requested a drug or  
15 alcohol test in violation of Code section 730.5, the employer  
16 has the burden of proving that the requirements of Code section  
17 730.5 were met.