

House File 767 - Introduced

HOUSE FILE 767
BY COMMITTEE ON LABOR AND
WORKFORCE

(SUCCESSOR TO HSB 26)

(COMPANION TO SF 110 BY COMMITTEE
ON WORKFORCE)

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:

unofficial

1 Section 1. Section 730.5, subsection 1, paragraph j, Code
2 2025, 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 2025, is amended to read as follows:

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

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

15 Sec. 3. Section 730.5, subsection 9, paragraph a, Code 2025,
 16 is amended by adding the following new subparagraph:

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

27 Sec. 4. Section 730.5, subsection 15, Code 2025, is amended
 28 to read as follows:

29 15. *Civil remedies.*

30 a. This section may be enforced through a civil action.

31 ~~(1)~~ b. ~~A person~~ An employer who violates this section or
 32 who aids in the violation of this section is liable to an
 33 aggrieved employee or prospective employee for affirmative relief
 34 including reinstatement or hiring, with or without back pay,
 35 or any other equitable relief as the court deems appropriate

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

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

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

17 EXPLANATION

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

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

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

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

34 The bill modifies language providing that a person violating
 35 Code section 730.5 can be subject to civil remedies to instead

1 provide that an employer violating Code section 730.5 can be
2 subject to civil remedies.

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

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