

## CHAPTER 111

### PRIVATE SECTOR EMPLOYEE DRUG TESTING

#### S.F. 32

AN ACT relating to private sector employee drug testing.

Be It Enacted by the General Assembly of the State of Iowa:

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

b. “Confirmed positive test result” means, except for alcohol testing conducted pursuant to [subsection 7](#), paragraph “f”, subparagraph (2), the results of a hair, blood, urine, or oral fluid test in which the level of controlled substances or metabolites in the specimen sample analyzed meets or exceeds nationally accepted standards for determining detectable levels of controlled substances as adopted by the federal United States department of health and human services’ substance abuse and mental health services administration. If nationally accepted standards for oral fluid tests on a particular specimen have not been adopted by the federal United States department of health and human services’ substance abuse and mental health services administration, the standards for determining detectable levels of controlled substances for purposes of determining a confirmed positive test result shall be the same standard that has been established cleared or approved by the federal United States department of health and human services’ food and drug administration for the measuring instrument used to perform the oral fluid test particular specimen testing utilized.

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

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

a. The collection of samples shall be performed under sanitary conditions and with regard for the privacy of the individual from whom the specimen sample is being obtained and in a manner reasonably calculated to preclude contamination or substitution of the specimen sample. If the sample collected is hair which would entail removal of an article of clothing or urine, procedures shall be established to provide for individual privacy in the collection of the sample unless there is a reasonable suspicion that a particular individual subject to testing may alter or substitute the hair or urine specimen sample to be provided, or has previously altered or substituted a hair or urine specimen sample provided pursuant to a drug or alcohol test. For purposes of this paragraph, “individual privacy” means a location at the collection site where hair collection or urination can occur in private, which has been secured by visual inspection to ensure that other persons are not present, which provides that undetected access to the location is not possible during hair collection or urination, and which provides for the ability to effectively restrict access to the location during the time the specimen sample is provided. If an individual is providing a hair or urine sample and collection of the hair or urine sample is directly monitored or observed by another individual, the individual who is directly monitoring or observing the collection shall be of the same gender as the individual from whom the hair or urine sample is being collected.

b. Collection of a urine sample for testing of current employees shall be performed so that the specimen sample 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”. ~~The~~ If the sample 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. 3. Section 730.5, subsection 7, Code 2017, is amended by adding the following new paragraph:

NEW PARAGRAPH. 0e. Testing of a hair sample shall be limited to samples not longer than one and one-half inches. Testing of a hair sample shall be limited to the portion of the hair that was closest to the skin.

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

(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~~ July 1, 2017, 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.

(3) Notwithstanding any provision of [this section](#) to the contrary, collection of an oral fluid sample for testing shall be performed in the presence of the individual from whom the sample or specimen is collected. The ~~specimen or~~ sample shall be of sufficient quantity to permit a second, independent, confirmatory test as provided in paragraph "i". In addition to any requirement 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 unused 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 portion yielded a confirmed positive test result.

Sec. 5. Section 730.5, subsection 8, Code 2017, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Employers may conduct hair testing of prospective employees only.

Approved May 9, 2017