

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2681

By: Roach of the House

and

Muegge of the Senate

AS INTRODUCED

An Act relating to labor; amending Section 7, Chapter 355, O.S.L. 1993 (40 O.S. Supp. 1995, Section 557), which relates to the Standards for Workplace Drug and Alcohol Testing Act; specifying certain conditions upon authorization of drug testing of hair; providing penalties; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 7, Chapter 355, O.S.L. 1993 (40 O.S. Supp. 1995, Section 557), is amended to read as follows:

Section 557. A. The State Board of Health shall implement and enforce the provisions of the Standards for Workplace Drug and Alcohol Testing Act. The Board shall have the power and duty to promulgate, prescribe, amend and repeal rules for the licensure and regulation of testing facilities and for the establishment and regulation of minimum testing standards and procedures, which shall include, but not be limited to, the following:

1. Qualifications of testing facilities which shall include the requirement that facilities doing urine analysis for initial or confirmation tests either be certified for forensic urine drug testing pursuant to guidelines or regulations of the federal Department of Health and Human Services or be accredited for forensic urine drug testing by the College of American Pathologists or other organizations recognized by the State Board of Health;
2. Qualifications of testing facility personnel;
3. Body component samples that are appropriate for drug and alcohol testing;
4. The drugs in addition to marihuana, cocaine, opiates, amphetamines and phencyclidine, and their metabolites, for which testing may be conducted;
5. Methods of analysis and internal quality control procedures to ensure reliable test results;
6. Internal review and certification process for test results;
7. Security measures to preclude adulteration;
8. Chain-of-custody procedures;
9. Retention and storage procedures and durations to ensure availability of samples for retesting;
10. Procedures for ensuring confidentiality of test results;
11. Proficiency testing;
12. Training and qualifications of review officers which shall include, but not be limited to, licensure to practice medicine and surgery or osteopathic medicine or holding a doctorate in clinical chemistry, forensic toxicology, or a similar biomedical science;
13. Training and qualifications of collection site personnel;
14. Sample collection procedures that ensure the privacy of the individual and prevent and detect tampering with the sample; and
15. Sample documentation, storage and transportation to the testing facility.

B. If the State Board of Health authorizes the use of hair as a testing sample, the following conditions shall apply:

1. The testing shall not be used on a sample which would exceed a ninety-day positive test period;

2. The testing shall be limited to the detection of the presence of only the following, and their metabolites:

- a. marihuana,
- b. cocaine,
- c. opiates,
- d. amphetamines, and
- e. phencyclidine; and

3. The test results shall not be disseminated to any person except the employer of the tested employee, and such test results shall not be used for any purpose other than the purposes specified in the Standards for Workplace Drug and Alcohol Testing Act. Any person convicted of violating the provisions of this paragraph shall be guilty of a felony punishable by a fine for each offense not to exceed:

- a. for a first offense, Five Thousand Dollars (\$5,000.00), and
- b. for a second or subsequent offense committed within one year of the first offense, Twenty-five Thousand Dollars (\$25,000.00).

C. The rules promulgated by the State Board of Health pursuant to the provisions of ~~this act~~ the Standards for Workplace Drug and Alcohol Testing Act shall in all applicable respects be consistent with any federal laws and regulations for drug and alcohol testing in the workplace and shall include safeguards, standards and procedures not less stringent than those applicable to federally regulated drug and alcohol testing in the workplace, except where to do so would create a conflict with a provision of ~~this act~~ the Standards for Workplace Drug and Alcohol Testing Act.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-2-9006

MCD