

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 1028

6 By: Laster

7 COMMITTEE SUBSTITUTE

8 An Act relating to labor, amending 40 O.S. 2001,  
9 Sections 2-406A, as amended by Section 7, Chapter  
10 176, O.S.L. 2006, and as renumbered by Section 29,  
11 Chapter 176, O.S.L. 2006 and 555 (40 O.S. Supp. 2006,  
12 Section 406.1), which relate to the Employment  
13 Security Act of 1980 and the Standards for Workplace  
14 Drug and Alcohol Testing Act; providing that certain  
15 document shall be prima facie evidence of certain  
16 drug and alcohol tests; providing for certain  
17 information to be included in certain written policy  
18 to comply with certain requirements of the Standards  
19 for Workplace Drug and Alcohol Testing Act; and  
20 providing an effective date.

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

22 SECTION 1. AMENDATORY 40 O.S. 2001, Section 2-406A, as  
23 amended by Section 7, Chapter 176, O.S.L. 2006, and as renumbered by  
24 Section 29, Chapter 176, O.S.L. 2006 (40 O.S. Supp. 2006, Section 2-  
406.1), is amended to read as follows:

25 Section 2-406.1 A. An employee discharged on the basis of a  
26 refusal to undergo drug or alcohol testing or a confirmed positive  
27 drug or alcohol test conducted in accordance with the provisions of

1 the Standards for Workplace Drug and Alcohol Testing Act shall be  
2 considered to have been discharged for misconduct and shall be  
3 disqualified for benefits pursuant to the provisions of Section 2-  
4 406 of this title.

5 B. In any claim brought by the discharged employee for  
6 compensation, a copy of the drug or alcohol test shall be accepted  
7 as prima facie evidence of the administration and results of the  
8 drug or alcohol test.

9 SECTION 2. AMENDATORY 40 O.S. 2001, Section 555, is  
10 amended to read as follows:

11 Section 555. A. No employer may request or require an  
12 applicant or employee to undergo drug or alcohol testing unless the  
13 employer has first adopted a written, detailed policy setting forth  
14 the specifics of its drug or alcohol testing program. The written  
15 policy shall be uniformly applied to those covered by the policy and  
16 shall include, but not be limited to, the following information:

17 1. A statement of the employer's policy respecting drug or  
18 alcohol use by employees;

19 2. Which applicants and employees are subject to testing;

20 3. Circumstances under which testing may be requested or  
21 required;

22 4. Substances which may be tested, ~~including the brand or~~  
23 ~~common name, if any, and the chemical name of any drug or its~~  
24 ~~metabolite to be tested.~~ To comply with the provisions of this

1 paragraph, it shall be sufficient for an employer to state in the  
2 written policy that the substances tested shall be for drugs and  
3 alcohol as defined in the Standards for Workplace Drug and Alcohol  
4 Testing Act, including controlled substances approved for testing by  
5 rule by the State Commissioner of Health;

6 5. Testing methods and collection procedures to be used;

7 6. Consequences of refusing to undergo testing;

8 7. Potential adverse personnel action which may be taken as a  
9 result of a positive test result;

10 8. The rights of an applicant and employee to explain, in  
11 confidence, the test results;

12 9. The rights of an applicant and employee to obtain all  
13 information and records related to that individual's testing;

14 10. Confidentiality requirements; and

15 11. The available appeal procedures, remedies and sanctions.

16 B. An employer who is implementing a drug or alcohol testing  
17 policy for the first time, or is implementing changes to its policy,  
18 shall provide at least thirty (30) days' notice to its employees  
19 prior to implementation of the policy or changes to the policy.

20 C. An employer shall post a copy of the drug or alcohol testing  
21 policy, and any changes to the policy, in a prominent employee  
22 access area in the place of employment and shall give a copy of the  
23 policy, and any changes to the policy, to each employee and to each  
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1 applicant upon his or her receipt of a conditional offer of  
2 employment.

3 SECTION 3. This act shall become effective November 1, 2007.

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