

1 **SENATE FLOOR VERSION**

2 April 11, 2011

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL NO. 2033

By: Sullivan of the House

and

Anderson of the Senate

6  
7  
8  
9 [ labor - Standards for Workplace Drug and Alcohol  
10 Testing Act - repealer- effective date ]

11  
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 40 O.S. 2001, Section 551, is  
14 amended to read as follows:

15 Section 551. Sections ~~4~~ 551 through ~~15~~ 563 of this ~~act~~ title  
16 shall be known and may be cited as the "Standards for Workplace Drug  
17 and Alcohol Testing Act".

18 SECTION 2. AMENDATORY 40 O.S. 2001, Section 552, as  
19 amended by Section 5, Chapter 190, O.S.L. 2005 (40 O.S. Supp. 2010,  
20 Section 552), is amended to read as follows:

21 Section 552. As used in the Standards for Workplace Drug and  
22 Alcohol Testing Act:

23 1. "Alcohol" means ethyl alcohol or ethanol;  
24

1           2. "Applicant" means a person who has applied for a position  
2 with an employer and received a conditional offer of employment;

3           3. "Board" means the State Board of Health;

4           4. "Confirmation test" means a drug or alcohol test on a sample  
5 to substantiate the results of a prior drug or alcohol test on the  
6 same sample and which uses different chemical principles and is of  
7 equal or greater accuracy than the prior drug or alcohol test;

8           5. "Department" means the State Department of Health;

9           6. "Drug" means amphetamines, cannabinoids, cocaine,  
10 phencyclidine (PCP), hallucinogens, methaqualone, opiates,  
11 barbiturates, benzodiazepines, synthetic narcotics, designer drugs,  
12 or a metabolite of any of the substances listed herein;

13           7. "Drug or alcohol test" means a chemical test administered  
14 for the purpose of determining the presence or absence of a drug or  
15 its metabolites or alcohol in a person's bodily tissue, fluids or  
16 products. Adulteration of a specimen or of a drug or alcohol test  
17 shall be considered as a refusal to test;

18           8. "Employee" means any person who supplies a ~~service~~ labor for  
19 remuneration ~~or pursuant to any contract for hire to a private or~~  
20 ~~public~~ to his or her employer in this state and shall not include an  
21 independent contractor, subcontractor or employees of an independent  
22 contractor; provided, however, an independent contractor,  
23 subcontractor, or employees of an independent contractor, may be  
24 subject to a workplace drug or alcohol testing policy under the

1 terms of the contractual agreement when the drug or alcohol testing  
2 policy applies to other workers at the job site or workers who are  
3 in the same or similar classification or group;

4 9. "Employer" means any person, firm, corporation, partnership,  
5 association, nonprofit organization or public employer, which has  
6 one or more employees within this state, or which has offered or may  
7 offer employment to one or more individuals in this state;

8 10. "Public employer" means the State of Oklahoma or any  
9 political subdivision thereof, including any department, agency,  
10 board, commission, institution, authority, public trust,  
11 municipality, county, district or instrumentalities thereof;

12 ~~11. "Random selection basis" means a mechanism for selecting~~  
13 ~~employees for drug or alcohol testing that:~~

14 a. ~~results in an equal probability that any employee from~~  
15 ~~a group of employees subject to the selection~~  
16 ~~mechanism will be selected, and~~

17 b. ~~does not give an employer discretion to waive the~~  
18 ~~selection of any employee selected under the~~  
19 ~~mechanism;~~

20 ~~12. "Reasonable suspicion" means a belief that an employee is~~  
21 ~~using or has used drugs or alcohol in violation of the employer's~~  
22 ~~written policy drawn from specific objective and articulable facts~~  
23 ~~and reasonable inferences drawn from those facts in light of~~  
24 ~~experience, and may be based upon, among other things:~~

- 1           a. ~~observable phenomena, such as:~~
- 2           ~~(1) the physical symptoms or manifestations of being~~
- 3           ~~under the influence of a drug or alcohol while at~~
- 4           ~~work or on duty, or~~
- 5           ~~(2) the direct observation of drug or alcohol use~~
- 6           ~~while at work or on duty,~~
- 7           b. ~~a report of drug or alcohol use while at work or on~~
- 8           ~~duty, provided by reliable and credible sources and~~
- 9           ~~which has been independently corroborated,~~
- 10          c. ~~evidence that an individual has tampered with a drug~~
- 11          ~~or alcohol test during his employment with the current~~
- 12          ~~employer, or~~
- 13          d. ~~evidence that an employee is involved in the use,~~
- 14          ~~possession, sale, solicitation or transfer of drugs~~
- 15          ~~while on duty or while on the employer's premises or~~
- 16          ~~operating the employer's vehicle, machinery or~~
- 17          ~~equipment;~~

18          ~~13.~~ "Review officer" means a person, qualified by the State

19 Board of Health, who is responsible for receiving results from a

20 testing facility which have been generated by an employer's drug or

21 alcohol testing program, and who has knowledge and training to

22 interpret and evaluate an individual's test results together with

23 the individual's medical history and any other relevant information;

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1       ~~14.~~ 12. "Sample" means tissue, fluid or product of the human  
2 body chemically capable of revealing the presence of drugs or  
3 alcohol in the human body; and

4       ~~15.~~ 13. "Testing facility" means ~~any person, including any~~  
5 ~~laboratory, hospital, clinic or a facility, either off or on the~~  
6 ~~premises of the employer,~~ which provides laboratory services to test  
7 samples for the presence of drugs or alcohol ~~in the human body.~~ The  
8 ~~administration of on site drug or alcohol screening tests to~~  
9 ~~applicants or employees to screen out negative test results are not~~  
10 ~~laboratory services under this paragraph, provided the on site tests~~  
11 ~~used are cleared by the federal Food and Drug Administration for~~  
12 ~~commercial marketing or by the National Highway Traffic Safety~~  
13 ~~Administration for alcohol testing, and all positive results of such~~  
14 ~~tests are confirmed by a testing facility in accordance with the~~  
15 ~~Standards for Workplace Drug and Alcohol Testing Act.~~

16       SECTION 3.       AMENDATORY       40 O.S. 2001, Section 554, as last  
17 amended by Section 11, Chapter 132, O.S.L. 2008 (40 O.S. Supp. 2010,  
18 Section 554), is amended to read as follows:

19       Section 554.   Employers may conduct drug and alcohol testing in  
20 accordance with the Standards for Workplace Drug and Alcohol Testing  
21 Act. Employers who choose to conduct drug or alcohol testing may  
22 only request or require an applicant or employee to undergo testing  
23 under any of the following circumstances:

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1           1. Applicant testing: A public or private employer may request  
2 or require a ~~job~~ an applicant, ~~upon a conditional offer of~~  
3 ~~employment,~~ to undergo drug or alcohol testing and may use a refusal  
4 to undergo testing or a ~~confirmed~~ positive test result as a basis  
5 for refusal to hire, ~~provided that such testing does not violate the~~  
6 ~~provisions of the Americans with Disabilities Act of 1990, 42~~  
7 ~~U.S.C., Section 12101 et seq., and provided that such testing is~~  
8 ~~required for all applicants who have received a conditional offer of~~  
9 ~~employment for a particular employment classification;~~

10           2. ~~Reasonable suspicion~~ For-cause testing: A public or private  
11 employer may request or require an employee to undergo drug or  
12 alcohol testing ~~if the employer has a reasonable suspicion that the~~  
13 ~~employee has violated the employer's written policy~~ at any time it  
14 reasonably believes that the employee may be under the influence of  
15 drugs or alcohol, including, but not limited to, the following  
16 circumstances:

- 17           a.    drugs or alcohol on or about the employee's person or  
18               in the employee's vicinity,
- 19           b.    conduct on the employee's part that suggests  
20               impairment or influence of drugs or alcohol,
- 21           c.    a report of drug or alcohol use while at work or on  
22               duty,
- 23           d.    information that an employee has tampered with drug or  
24               alcohol testing at any time,

1           e. negative performance patterns, or

2           f. excessive or unexplained absenteeism or tardiness;

3           3. Post-accident testing: A public or private employer may  
4 require an employee to undergo drug or alcohol testing if the  
5 employee or another person has sustained ~~a work-related~~ an injury  
6 while at work or the employer's property has been damaged, including  
7 damage to equipment, ~~in an amount reasonably estimated at the time~~  
8 ~~of the accident to exceed Five Hundred Dollars (\$500.00).~~ For  
9 purposes of workers' compensation, no employee who tests positive  
10 for the presence of substances defined and consumed pursuant to  
11 Section 465.20 of Title 63 of the Oklahoma Statutes, alcohol,  
12 illegal drugs, or illegally used chemicals, or refuses to take a  
13 drug or alcohol test required by the employer, shall be eligible for  
14 such compensation ~~unless the employee proves by a preponderance of~~  
15 ~~the evidence that the substances, alcohol, illegal drugs, or~~  
16 ~~illegally used chemicals were not the proximate cause of the injury~~  
17 ~~or accident;~~

18           4. Random testing: A public or private employer may request or  
19 require an employee or all members of an employment classification  
20 or group to undergo drug or alcohol testing ~~on a random selection~~  
21 ~~basis,~~ at random and may limit its random testing programs to  
22 particular employment classifications or groups, except that a  
23 public employer may require random testing only of employees who:

24           a. are police or peace officers,

- 1           b.    have drug interdiction responsibilities,  
2           c.    are authorized to carry firearms,  
3           d.    are engaged in activities which directly affect the  
4           safety of others, ~~or~~  
5           e.    are working for a public hospital including any  
6           hospital owned or operated by a municipality, county,  
7           or public trust, or  
8           f.   work in direct contact with inmates in the custody of  
9           the Department of Corrections or work in direct  
10          contact with juvenile delinquents or children in need  
11          of supervision in the custody of the Department of  
12          Human Services;

13           5.   Scheduled, periodic testing: A public or private employer  
14   may request or require an employee to undergo drug or alcohol  
15   testing if the test is conducted as a routine part of a routinely  
16   scheduled employee fitness-for-duty medical examination or is  
17   scheduled routinely ~~for all members of an employment classification~~  
18   ~~or group and which is~~ as part of the employer's written policy,  
19   except that a public employer may require scheduled, periodic  
20   testing only of employees who:

- 21           a.    are police or peace officers,  
22           b.    have drug interdiction responsibilities,  
23           c.    are authorized to carry firearms,  
24

1 d. are engaged in activities which directly affect the  
2 safety of others, ~~or~~

3 e. are working for a public hospital including any  
4 hospital owned or operated by a municipality, county,  
5 or public trust, or

6 f. work in direct contact with inmates in the custody of  
7 the Department of Corrections or work in direct  
8 contact with juvenile delinquents or children in need  
9 of supervision in the custody of the Department of  
10 Human Services; and

11 6. Post-rehabilitation testing: A public or private employer  
12 may request or require an employee to undergo drug or alcohol  
13 testing ~~without prior notice~~ for a period of up to two (2) years  
14 commencing with the employee's return to work, following a ~~confirmed~~  
15 positive test or following participation in a drug or alcohol  
16 dependency treatment program ~~under an employee benefit plan or at~~  
17 ~~the request of the employer.~~

18 SECTION 4. AMENDATORY 40 O.S. 2001, Section 555, as last  
19 amended by Section 12, Chapter 132, O.S.L. 2008 (40 O.S. Supp. 2010,  
20 Section 555), is amended to read as follows:

21 Section 555. A. ~~No~~ Any employer ~~may request~~ that requests or  
22 ~~require~~ requires an applicant or employee to undergo drug or alcohol  
23 testing ~~unless the employer has~~ shall first ~~adopted~~ adopt a written,  
24 ~~detailed~~ policy setting forth the specifics of its drug or alcohol

1 testing program. ~~The written policy shall be uniformly applied to~~  
2 ~~those covered by the policy and shall, which may include, but is not~~  
3 ~~be limited to, the following information:~~

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

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

7 3. Circumstances under which testing may be requested or  
8 required;

9 4. Substances which may be tested. ~~To comply with the~~  
10 ~~provisions of this paragraph, it~~ It shall be sufficient for an  
11 employer to state in the written policy that the substances tested  
12 shall be for drugs and alcohol ~~as defined in the Standards for~~  
13 ~~Workplace Drug and Alcohol Testing Act, including controlled~~  
14 ~~substances approved for testing by rule by the State Commissioner of~~  
15 ~~Health;~~

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

17 6. Consequences of refusing to undergo testing;

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

20 8. The ~~rights~~ ability of an applicant and employee to explain,  
21 in confidence, the test results;

22 9. The ~~rights~~ ability of an applicant and employee to obtain  
23 copies of all information and records related to that individual's  
24 testing;

1 10. Confidentiality requirements; and

2 11. The available appeal procedures, ~~remedies and sanctions.~~

3 B. An employer who ~~is implementing~~ implements a drug or alcohol  
4 testing policy ~~for the first time, or is implementing~~ changes to its  
5 policy, shall provide at least ~~thirty (30)~~ ten (10) days' notice to  
6 its employees ~~prior to implementation of the policy or changes to~~  
7 ~~the policy.~~

8 C. ~~An employer shall post a copy of the drug or alcohol testing~~  
9 ~~policy, and any changes to the policy, in a prominent employee~~  
10 ~~access area in the place of employment and shall deliver a copy of~~  
11 ~~the policy, and any changes to the policy, to each employee and~~  
12 shall provide a copy of its policy to each applicant upon his or her  
13 ~~receipt of a conditional offer of~~ acceptance of employment.

14 ~~Delivery to employees and persons who are offered employment may be~~  
15 ~~accomplished by:~~

16 1. Hand-delivery of a paper copy of the policy or changes to  
17 the policy;

18 2. Mailing a paper copy of the policy or changes to the policy  
19 through the U.S. Postal Service or a parcel delivery service to the  
20 last address given by the employee or ~~prospective employee to the~~  
21 ~~employer~~ applicant; ~~or~~

22 3. Electronically transmitting a copy of the policy through an  
23 e-mail server ~~or the Internet to an electronic mail address assigned~~  
24 ~~by the employer to the employee or prospective employee with~~

1 ~~documented receipt capability, or to an electronic mail address~~  
2 ~~provided by the employee or prospective employee to the employer for~~  
3 ~~the purpose of receiving employment-related e-mails with documented~~  
4 ~~receipt capability~~ or by posting on the employer's website or  
5 intranet site; or

6 4. Posting a copy in a prominent employee access area.

7 SECTION 5. AMENDATORY 40 O.S. 2001, Section 556, is  
8 amended to read as follows:

9 Section 556. A- Any drug or alcohol testing by an employer  
10 shall ~~occur during or immediately after the regular work period of~~  
11 ~~current employees and shall~~ be deemed work time for purposes of  
12 compensation and benefits for current employees.

13 B- An employer shall pay all costs of testing for drugs or  
14 alcohol required by the employer, ~~including confirmation tests~~  
15 ~~required by this act and the cost of transportation if the testing~~  
16 ~~of a current employee is conducted at a place other than the~~  
17 ~~workplace.~~ Provided, however, if an individual who employee or  
18 applicant requests a retest confirmation test of a sample within  
19 twenty-four (24) hours of receiving notice of a positive test in  
20 order to challenge the results of a positive test, the employee or  
21 applicant shall pay all costs of the ~~retest~~ confirmation test,  
22 unless the ~~retest~~ confirmation test reverses the findings of the  
23 challenged positive test. In such case, the employer shall

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1 reimburse the individual for the costs of the ~~retest~~ confirmation  
2 test.

3 SECTION 6. AMENDATORY 40 O.S. 2001, Section 557, as  
4 amended by Section 3, Chapter 277, O.S.L. 2006 (40 O.S. Supp. 2010,  
5 Section 557), is amended to read as follows:

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

13 1. Qualifications of testing facilities which shall include the  
14 requirement that facilities doing urine analysis ~~for initial or~~  
15 ~~confirmation~~ tests ~~either~~ be certified for forensic urine drug  
16 testing pursuant to guidelines or regulations of the federal  
17 Department of Health and Human Services or be accredited for  
18 forensic urine drug testing by the College of American Pathologists  
19 or other organizations recognized by the State Board of Health;

20 2. Qualifications of testing facility personnel; and

21 3. ~~Body component samples that are appropriate for drug and~~  
22 ~~alcohol testing, to include saliva, urine and hair;~~

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- ~~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;~~
- ~~15. Sample documentation, storage and transportation to the testing facility; and~~
- ~~16. Procedures for the testing facility to provide the necessary documentation of testing procedures and test results to~~

1 the employer requesting testing services as may be required by a  
2 court or administrative proceeding.

3 B. ~~The rules promulgated by the State Board of Health pursuant~~  
4 ~~to the provisions of this act shall in all applicable respects be~~  
5 ~~consistent with any federal laws and regulations for drug and~~  
6 ~~alcohol testing in the workplace and shall include safeguards,~~  
7 ~~standards and procedures not less stringent than those applicable to~~  
8 ~~federally regulated drug and alcohol testing in the workplace,~~  
9 ~~except where to do so would create a conflict with a provision of~~  
10 ~~this act~~ Nothing in the Standards for Workplace Drug and Alcohol  
11 Testing Act shall be construed as prohibiting an employer from  
12 adopting a policy which allows for testing for drugs or alcohol by  
13 another method which is reasonably calculated to detect the presence  
14 of drugs or alcohol, including, but not limited to, breathalyzer  
15 testing, testing by use of a single-use test device, known as an on-  
16 site or quick testing device, to collect, handle, store and ship a  
17 sample collected for testing. Provided, however, a breathalyzer  
18 test shall not be grounds for immediate termination absent a  
19 confirmation test.

20 SECTION 7. AMENDATORY 40 O.S. 2001, Section 560, is  
21 amended to read as follows:

22 Section 560. A. ~~Employers shall maintain all drug and alcohol~~  
23 ~~test results and related information, including, but not limited to,~~  
24 ~~interviews, reports, statements and memoranda, as confidential~~

1 ~~records, separate from other personnel records. Such records,~~  
2 ~~including the records of the testing facility, shall not be used in~~  
3 ~~any criminal proceeding, or any civil or administrative proceeding,~~  
4 ~~except in those actions taken by the employer or in any action~~  
5 ~~involving the individual tested and the employer or unless such~~  
6 ~~records are ordered released pursuant to a valid court order.~~

7       ~~B.~~ ~~The records described in subsection A of this section and~~  
8 Records of all drug and alcohol test results and related information  
9 maintained by the employer shall be the property of the employer  
10 and, upon the request of the applicant or employee tested, shall be  
11 made available for inspection and copying to the applicant or  
12 employee. An employer shall not release such records to any person  
13 other than the applicant, employee or the employer's review officer,  
14 unless the applicant or employee, in writing following receipt of  
15 the test results, has expressly granted permission for the employer  
16 to release such records ~~or pursuant to~~ in order to comply with a  
17 valid ~~court~~ judicial or administrative order. A written record of  
18 the chain of custody of the sample shall be maintained from the time  
19 of the collection of the sample until the sample is no longer  
20 required.

21       ~~C.~~ B. A testing facility, or any agent, representative or  
22 designee of the facility, or any review officer, shall not disclose  
23 to any employer, based on the analysis of a sample collected from an  
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1 applicant or employee for the purpose of testing for the presence of  
2 drugs or alcohol, any information relating to:

3 ~~1. The the general health, pregnancy or other physical or~~  
4 ~~mental condition of the applicant or employee; or~~

5 ~~2. The presence of any drug other than the drug or its~~  
6 ~~metabolites that the employer requested be identified and for which~~  
7 ~~a medically acceptable explanation of the positive result, other~~  
8 ~~than the use of drugs, has not been forthcoming from the applicant~~  
9 ~~or employee.~~

10 ~~Provided, however, a A testing facility shall release the~~  
11 ~~results of the drug or alcohol test, and any analysis and~~  
12 ~~information related thereto, to the individual tested upon his~~  
13 ~~request.~~

14 SECTION 8. AMENDATORY 40 O.S. 2001, Section 562, is  
15 amended to read as follows:

16 Section 562. A. ~~No disciplinary action, except for a temporary~~  
17 ~~suspension or a temporary transfer to another position, may be taken~~  
18 ~~by an employer against an employee based on a positive test result~~  
19 ~~unless the test result has been confirmed by a second test using gas~~  
20 ~~chromatography, gas chromatography mass spectroscopy, or an~~  
21 ~~equivalent scientifically accepted method of equal or greater~~  
22 ~~accuracy as approved by rule of the State Board of Health, at the~~  
23 ~~cutoff levels determined by Board rule~~ An employer's policy shall  
24 state the disciplinary actions that may be taken upon a refusal to

1 undergo a drug or alcohol test or for a positive test for the  
2 presence of drugs or alcohol.

3 B. An employer may take disciplinary action, up to and  
4 including discharge, against an employee who refuses to undergo drug  
5 or alcohol testing conducted in accordance with the provisions of  
6 ~~this act~~ Section 551 et seq. of this title or who tests positive for  
7 the presence of drugs or alcohol.

8 C. An employee discharged on the basis of a refusal to undergo  
9 drug or alcohol testing or a ~~confirmed~~ positive drug or alcohol test  
10 ~~conducted in accordance with the provisions of this act~~ shall be  
11 considered to have been discharged for misconduct for purposes of  
12 unemployment compensation benefits as provided for in Section ~~16~~ 2-  
13 406A of this ~~act~~ title. In order to prove misconduct, the employer  
14 need only provide proof of a testing policy and either a refusal to  
15 take a drug or alcohol test or a positive test result.

16 D. Notwithstanding any provision of law for confidentiality of  
17 drug or alcohol testing results, nothing in the Standards for  
18 Workplace Drug and Alcohol Testing Act shall preclude an employer,  
19 contracting with another employer, from sharing drug or alcohol  
20 testing results of any tested person who works pursuant to such  
21 contractual agreement.

22 SECTION 9. AMENDATORY 40 O.S. 2001, Section 563, is  
23 amended to read as follows:

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1 Section 563. A. Any person aggrieved by a willful violation of  
2 the Standards for Workplace Drug and Alcohol Testing Act may  
3 institute a civil action in a court of competent jurisdiction within  
4 ~~two (2) years~~ one (1) year of the ~~person's discovery of the alleged~~  
5 ~~willful violation or of the exhaustion of any internal~~  
6 ~~administrative remedies available to the person,~~ or be barred from  
7 obtaining the relief provided for in subsection B of this section.  
8 A willful violation of the Standards for Workplace Drug and Alcohol  
9 Testing Act requires proof by the preponderance of the evidence that  
10 the employer had a specific intent to violate the act.

11 B. A prevailing party may be awarded ~~declaratory or injunctive~~  
12 ~~relief and compensatory damages which may include, but not be~~  
13 ~~limited to, employment, reinstatement, promotion, the payment of~~  
14 ~~lost wages and other remuneration~~ to which the person would have  
15 been entitled and ~~payment of and reinstatement to full benefits and~~  
16 ~~seniority rights~~ an additional equal amount as liquidated damages.  
17 Interim earnings or amounts earnable with reasonable diligence by  
18 the aggrieved person shall operate to reduce the lost wages  
19 otherwise allowable. Reasonable costs and attorney fees may be  
20 awarded to the prevailing party, whether plaintiff or defendant.

21 SECTION 10. REPEALER 40 O.S. 2001, Sections 561, 564 and  
22 565, are hereby repealed.

23 SECTION 11. This act shall become effective November 1, 2011.  
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1 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & COMMERCE, dated 4-7-11  
- DO PASS, As Amended.

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