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1997 Regular Session
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By: Senators Astle, Hafer, and Teitelbaum
Introduced and read first time: January 30, 1997
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 21, 1997

CHAPTER ____

1 AN ACT concerning

2 **Job-Related Drug Testing**

3 FOR the purpose of ~~clarifying that job-related drug testing is not limited to testing of~~
4 ~~urine or blood samples; authorizing certain hair specimen testing only for~~
5 pre-employment drug testing; clarifying that independent testing applies to all types
6 of job-related drug testing; clarifying that certain laboratory standards be in
7 accordance with regulations for similar laboratory certification; providing for the
8 effective date of this Act; defining a term; and generally relating to job-related drug
9 testing.

10 BY repealing and reenacting, with amendments,
11 Article - Health - General
12 Section 17-214(a), (b), (d), and (e)
13 Annotated Code of Maryland
14 (1994 Replacement Volume and 1996 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Health - General**

18 17-214.

19 (a) In this section the following words have the meanings indicated.

20 (1) "Alcohol or controlled dangerous substance testing" means a procedure
21 used to determine whether or not a specimen contains a controlled dangerous substance
22 or alcohol.

2

1 (2) "Certification" means the approval granted by the Department for a
2 laboratory to engage in job-related alcohol or controlled dangerous substance testing.

3 (3) "Controlled dangerous substance" has the meaning stated in Article 27,
4 § 277 of the Code.

5 (4) "Job-related" means any alcohol or controlled dangerous substance
6 testing used by an employer for a legitimate business purpose.

7 (5) "Laboratory" means a facility or other entity that conducts job-related
8 alcohol or controlled dangerous substance testing.

9 (6) "SPECIMEN" MEANS ~~BLOOD, URINE, OR HAIR DERIVED FROM THE~~
10 ~~HUMAN BODY~~;

11 (I) BLOOD DERIVED FROM THE HUMAN BODY;

12 (II) URINE DERIVED FROM THE HUMAN BODY; OR

13 (III) HAIR DERIVED FROM THE HUMAN BODY AS PROVIDED IN
14 SUBSECTION (B)(2) OF THIS SECTION.

15 (b) (1) An employer who requires any person to be tested for job-related
16 reasons for the use or abuse of any controlled dangerous substance or alcohol shall:

17 [(1)] (I) Have the specimen tested by a laboratory that:

18 [(i)] 1. Holds a permit under this subtitle; or

19 [(ii)] 2. Is located outside of the State and is certified or otherwise
20 approved under subsection (e) of this section; and

21 [(2)] (II) At the time of testing, at the person's request, inform the person of
22 the name and address of the laboratory that will test the specimen.

23 (2) HAIR DERIVED FROM THE HUMAN BODY MAY BE USED AS A
24 SPECIMEN ONLY FOR THE PURPOSES OF PRE-EMPLOYMENT DRUG TESTING.

25 (d) (1) A person who is required to submit to job-related testing, under
26 subsection (b) of this section, may request independent testing of the same [urine or
27 blood sample] SPECIMEN for verification of the test results by a laboratory that:

28 (i) Holds a permit under this subtitle; or

29 (ii) If located outside of the State, is certified or otherwise approved
30 under subsection (e) of this section.

31 (2) The person shall pay the cost of an independent test conducted under
32 this subsection.

33 (e) (1) The Department of Health and Mental Hygiene shall adopt regulations
34 governing the certification of laboratories that conduct job-related alcohol or controlled
35 dangerous substance testing.

36 (2) In addition to any other laboratory standards, the regulations shall:

1 (i) Require that the laboratory comply with the guidelines for
 2 laboratory accreditation, IF ANY, as set forth by the College of American Pathologists, the
 3 U. S. Health Care Financing Administration (HCFA), or any other [federal] government
 4 agency or program designated to certify or approve a laboratory that is acceptable to the
 5 Secretary;

6 (ii) Require that a laboratory performing confirmation tests, FOR
 7 CONTROLLED DANGEROUS SUBSTANCES OR ALCOHOL be inspected and accredited in
 8 forensic [urine] drug analysis by the College of American Pathologists, the U. S. Health
 9 Care Financing Administration (HCFA), or any other [federal] government agency or
 10 program designated to inspect and accredit a laboratory that is acceptable to the
 11 Secretary;

12 (iii) Require that, IF the laboratory PERFORMS JOB RELATED DRUG
 13 TESTING, THE LABORATORY be a participant in a program of proficiency testing of
 14 [urinary] drug screening conducted by an organization acceptable to the Secretary;

15 (iv) Require that the laboratory comply with [any federal] standards
 16 regarding cutoff levels for positive testing that are established by the United States
 17 Department of Health and Human Services OR ESTABLISHED BY THE SECRETARY as
 18 mandatory guidelines for [federal] workplace drug testing programs; and

19 (v) Include procedures for annual recertification and inspection.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Department in
 21 consultation with representatives from the business community and from laboratories that
 22 perform job related drug testing with hair specimens ~~publish~~ adopt regulations for the
 23 certification of laboratories that perform job related drug testing with hair specimens by
 24 ~~October~~ July 1, 1997.

25 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
 26 take effect June 1, 1997.

27 ~~SECTION 3-~~ 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
 28 this Act, this Act shall take effect ~~July~~ October 1, 1997.