

---

**By: Delegate Kach**

Introduced and read first time: January 17, 1996

Assigned to: Environmental Matters

---

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Laboratories - Job-Related Alcohol and Controlled Dangerous Substance**  
3 **Testing**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to adopt  
5 regulations to require laboratories that are certified to conduct job-related alcohol  
6 or controlled dangerous substance testing to label each specimen or its container  
7 with a certain number instead of using the name of the individual who provided the  
8 specimen; and generally relating to regulations governing the certification of  
9 medical laboratories that conduct job-related alcohol or controlled dangerous  
10 substance testing.

11 BY repealing and reenacting, with amendments,  
12 Article - Health - General  
13 Section 17-214  
14 Annotated Code of Maryland  
15 (1994 Replacement Volume and 1995 Supplement)

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

18 **Article - Health - General**

19 17-214.

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

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

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

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

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

2

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

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

5 (1) Have the specimen tested by a laboratory that:

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

7 (ii) Is located outside of the State and is certified or otherwise  
8 approved under subsection (e) of this section; and

9 (2) At the time of testing, at the person's request, inform the person of the  
10 name and address of the laboratory that will test the specimen.

11 (c) (1) An employer who requires any employee, contractor, or other person to  
12 be tested for job-related reasons for the use or abuse of any controlled dangerous  
13 substance or alcohol and who receives notice that an employee, contractor, or other  
14 person has tested positive for the use or abuse of any controlled dangerous substance or  
15 alcohol shall, after confirmation of the test result, provide the employee, contractor, or  
16 other person with:

17 (i) A copy of the laboratory test indicating the test results;

18 (ii) A copy of the employer's written policy on the use or abuse of  
19 controlled dangerous substances or alcohol by employees, contractors, or other persons;

20 (iii) If applicable, written notice of the employer's intent to take  
21 disciplinary action, terminate employment, or change the conditions of continued  
22 employment; and

23 (iv) A statement or copy of the provisions set forth in subsection (d) of  
24 this section permitting an employee to request independent testing of the same sample  
25 for verification of the test result.

26 (2) The information required to be provided to the employee, contractor, or  
27 other person under paragraph (1) of this subsection shall be delivered to the employee,  
28 contractor, or other person:

29 (i) Either in person or by certified mail; and

30 (ii) Within 30 days from the date the test was performed.

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

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

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

3

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

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

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

7 (i) Require that the laboratory comply with the guidelines for  
8 laboratory accreditation as set forth by the College of American Pathologists, the U.S.  
9 Health Care Financing Administration (HCFA), or any other federal government agency  
10 or program designated to certify or approve a laboratory that is acceptable to the  
11 Secretary;

12 (ii) Require that a laboratory performing confirmation tests be  
13 inspected and accredited in forensic urine drug analysis by the College of American  
14 Pathologists, the U.S. Health Care Financing Administration (HCFA), or any other  
15 federal government agency or program designated to inspect and accredit a laboratory  
16 that is acceptable to the Secretary;

17 (iii) Require that the laboratory be a participant in a program of  
18 proficiency testing of urinary drug screening conducted by an organization acceptable to  
19 the Secretary;

20 (iv) Require that the laboratory comply with any federal standards  
21 regarding cutoff levels for positive testing that are established by the United States  
22 Department of Health and Human Services as mandatory guidelines for federal  
23 workplace drug testing programs; [and]

24 (v) Include procedures for annual recertification and inspection; AND

25 (VI) REQUIRE THE LABORATORY TO LABEL EACH SPECIMEN OR ITS  
26 CONTAINER WITH A SPECIMEN NUMBER INSTEAD OF USING THE NAME OF THE  
27 INDIVIDUAL WHO PROVIDED THE SPECIMEN.

28 (f) This section does not apply to:

29 (1) Alcohol or controlled dangerous substance testing of a person under  
30 arrest or held by a law enforcement or correctional agency;

31 (2) Alcohol testing procedures conducted by a law enforcement or  
32 correctional agency on breath testing equipment certified by the State Toxicologist; or

33 (3) Controlled dangerous substance testing by a laboratory facility of a law  
34 enforcement or correctional agency that maintains laboratory testing standards  
35 comparable to the standards in this section.

36 (g) This section applies to job-related alcohol and controlled dangerous  
37 substance testing of any person, including preemployment applicants, employees, and  
38 contractors.

4

1 (h) (1) Except as provided in paragraph (2) of this subsection, in the course of  
2 obtaining information for, or as a result of, conducting job-related alcohol or controlled  
3 dangerous substance testing for an employer under this section, a laboratory, a physician,  
4 including a physician retained by the employer, or any other person may not reveal to the  
5 employer information regarding:

6 (i) The use of a nonprescription drug, excluding alcohol, that is not  
7 prohibited under the laws of the State; or

8 (ii) The use of a medically prescribed drug, unless the person being  
9 tested is unable to establish that the drug was medically prescribed under the laws of the  
10 State.

11 (2) The prohibitions against disclosure of information under paragraph (1)  
12 of this subsection do not apply to the extent that they prevent a person from complying  
13 with the applicable provisions of the Federal Commercial Motor Vehicle Safety Act of  
14 1986 and the Federal Motor Carrier Safety Regulations.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 1996.