
By: Delegates McHale and T. Murphy
Introduced and read first time: February 12, 1996
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Port Commission - Alcohol-Free and Drug-Free Workplace Program- Port**
3 **Facilities**

4 FOR the purpose of establishing a Maryland Port Commission Alcohol-Free and
5 Drug-Free Workplace Program; establishing procedures to prevent alcohol and
6 drug abuse by certain workers at port facilities in the State; establishing procedures
7 for alcohol and drug testing, rehabilitation, and sanctions of certain employees;
8 requiring the Program to comply with certain guidelines for drug-free workplaces;
9 establishing that certain individuals are deemed to be in compliance with this Act;
10 requiring the Commission to adopt certain regulations; prohibiting the standards of
11 the Program from exceeding the standards of a certain program; defining certain
12 terms; and generally relating to the Maryland Port Commission Alcohol-Free and
13 Drug-Free Workplace Program.

14 BY repealing and reenacting, without amendments,
15 Article - Transportation
16 Section 6-101
17 Annotated Code of Maryland
18 (1993 Replacement Volume and 1995 Supplement)

19 BY adding to
20 Article - Transportation
21 Section 6-102.1
22 Annotated Code of Maryland
23 (1993 Replacement Volume and 1995 Supplement)

24 Preamble

25 WHEREAS, The State of Maryland has a significant interest in maintaining a safe,
26 hazard-free working environment in the ports and harbors of the State through programs
27 to ensure that alcohol and substance abuse problems among port facility workers are
28 discouraged, identified, and treated; and

29 WHEREAS, Modern port facilities include sophisticated machinery that require
30 highly skilled, attentive workers to operate the functions of the ports and harbors; and

1 WHEREAS, The interest of the State in an Alcohol-Free and Drug-Free
2 Workplace Program at port facilities in the State to ensure the safe, efficient operation of
3 port facilities that may attract commerce, ensure healthy workers, and encourage the
4 rehabilitation of alcohol and drug-abusing workers is significant enough to warrant
5 alcohol and drug testing of port facilities workers; now, therefore,

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

8 **Article - Transportation**

9 6-101.

10 (a) In this title the following words have the meanings indicated.

11 (b) "Administration" means the Maryland Port Administration.

12 (c) "Commission" means the Maryland Port Commission.

13 (d) "Executive Director" means the Executive Director of the Maryland Port
14 Administration.

15 (e) "Port facility" includes any one or more or combination of:

16 (1) Lands, piers, docks, wharves, warehouses, sheds, transit sheds, elevators,
17 compressors, refrigeration storage plants, buildings, structures, and other facilities,
18 appurtenances, and equipment useful or designed for use in connection with the
19 operation of a port;

20 (2) Every kind of terminal or storage structure or facility useful or designed
21 for use in handling, storing, loading, or unloading freight or passengers at marine
22 terminals;

23 (3) Every kind of transportation facility useful or designed for use in
24 connection with any of these; and

25 (4) An international trade center constituting a facility of commerce and
26 consisting of one or more buildings, structures, improvements, and areas that the
27 Department considers necessary, convenient, or desirable for the centralized
28 accommodation of functions, activities, and services for or incidental to the transportation
29 of persons by water, the exchange, buying, selling, and transportation of commodities and
30 other property in international and national waterborne trade and commerce, the
31 promotion and protection of this trade and commerce, and governmental services related
32 to them and other federal, state, and municipal agencies and services, including foreign
33 trade zones, offices, marketing and exhibition facilities, terminal and transportation
34 facilities, customhouses, custom stores, inspection and appraisal facilities, parking areas,
35 commodity and security exchanges, and, in the case of buildings, structures,
36 improvements, and areas in which such accommodation is afforded, all the buildings,
37 structures, improvements, and areas, although other parts of the buildings, structures,
38 improvements, and areas might not be devoted to purposes of the international trade
39 center other than the production of incidental revenue available for the expenses and
40 financial obligations of the Department in connection with the international trade center
41 and although other parts of the buildings, structures, improvements, and areas might be

3

1 rented or leased for the use or occupancy of departments, bureaus, units, or agencies of
2 the United States, this State, or any political subdivision of this State.

3 (f) "Project" means any port facility acquired, constructed, controlled, or
4 operated by the Administration, including all property acquired for the construction or
5 operation of the port facility.

6 6-102.1.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) "COMMITTEE" MEANS AN ALCOHOL-FREE AND DRUG-FREE
10 WORKPLACE COMMITTEE WITH A MEMBERSHIP CONSISTING OF AN EQUAL NUMBER
11 OF EMPLOYEE AND MANAGEMENT REPRESENTATIVES APPOINTED BY THE
12 COMMISSION TO ADMINISTER THE PROGRAM.

13 (3) "DRUG" MEANS:

14 (I) A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN
15 ARTICLE 27 OF THE CODE; AND

16 (II) A PRESCRIPTION DRUG AS DEFINED IN § 21-201 OF THE HEALTH
17 - GENERAL ARTICLE, TO THE EXTENT THAT THE DRUG AFFECTS JOB
18 PERFORMANCE AND WORKER SAFETY AT A PORT FACILITY.

19 (4) "EMPLOYEE" MEANS ANY INDIVIDUAL WHO IS AN EMPLOYEE,
20 INDEPENDENT CONTRACTOR, SUBCONTRACTOR, OR OTHER INDIVIDUAL WHO
21 PROVIDES LABOR FOR COMPENSATION AT A PORT FACILITY FOR A PERSON.

22 (5) "PROGRAM" MEANS THE MARYLAND PORT COMMISSION
23 ALCOHOL-FREE AND DRUG-FREE WORKPLACE PROGRAM THAT MEETS THE
24 REQUIREMENTS OF THIS SECTION.

25 (B) (1) THERE IS A MARYLAND PORT COMMISSION ALCOHOL-FREE AND
26 DRUG-FREE WORKPLACE PROGRAM.

27 (2) THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING THE
28 PROGRAM AND APPOINTING AN ALCOHOL-FREE AND DRUG-FREE WORKPLACE
29 COMMITTEE TO ADMINISTER THE PROGRAM.

30 (C) THE PROGRAM SHALL:

31 (1) PROHIBIT THE SALE, PURCHASE, TRANSFER, USE, OR POSSESSION OF
32 ALCOHOL OR DRUGS AT A PORT FACILITY;

33 (2) PROVIDE FOR THE NONDISCRIMINATORY ADMINISTRATION OF
34 TESTS FOR THE PRESENCE OF ALCOHOL OR DRUGS IN ACCORDANCE WITH
35 ESTABLISHED TESTING PROCEDURES, INCLUDING RANDOM, PRE-EMPLOYMENT,
36 REASONABLE CAUSE, POST ACCIDENT, AND RETURN-TO-WORK, OR POST
37 TREATMENT TESTING;

38 (3) PROVIDE FOR REHABILITATION PROGRAMS AND DISCIPLINARY
39 AND SANCTION PROCEDURES FOR INDIVIDUALS WHO VIOLATE THE PROGRAM;

4

1 (4) PROVIDE SUFFICIENT NOTICE TO EMPLOYEES OF TESTING
2 PROCEDURES, CONSENT, AND OTHER REQUIREMENTS OF THE PROGRAM;

3 (5) PROVIDE ADEQUATE SECURITY MEASURES FOR COLLECTION,
4 CHAIN OF CUSTODY, AND HANDLING OF TEST MATERIAL; AND

5 (6) ESTABLISH PROCEDURES FOR THE REPORTING, REVIEW, AND
6 APPEAL OF TEST RESULTS.

7 (D) THE PROGRAM SHALL GENERALLY COMPLY WITH THE GUIDELINES FOR
8 A DRUG-FREE WORKPLACE PROGRAM ESTABLISHED BY THE MARYLAND CENTER
9 FOR WORKPLACE SAFETY AND HEALTH.

10 (E) A MEMBER OF A LABOR ORGANIZATION OR OTHER GROUP OF
11 EMPLOYEES AT A PORT FACILITY THAT IS SUBJECT UNDER A LABOR AGREEMENT
12 OR CONTRACT TO AN ALCOHOL AND DRUG PROGRAM THAT GENERALLY
13 CONFORMS TO THE PROVISIONS OF THIS SECTION SHALL BE DEEMED TO BE IN
14 COMPLIANCE WITH THE REQUIREMENTS, TESTING PROCEDURES, AND OTHER
15 PROVISIONS OF THIS SECTION.

16 (F) THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THE
17 PROVISIONS OF THIS SECTION.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the standards,
19 requirements, or regulations adopted for the Maryland Port Commission Alcohol-Free
20 and Drug-Free Workplace Program may not exceed the standards or requirements for
21 alcohol and drug testing that have been established through the labor and management
22 agreement for the Port of Baltimore that was implemented on January 1, 1993, known as
23 the "Management - International Longshoremen's Association Program for Drug and
24 Alcohol Abuse".

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1996.