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1996 Regular Session
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CF 6lr2755

By: Delegates McHale and T. Murphy

Introduced and read first time: February 12, 1996

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 1996

CHAPTER ____

1 AN ACT concerning

2 ~~Maryland Port Commission~~ **Marine Facilities** - Alcohol-Free and Drug-Free Workplace

3 ~~Program Programs - Port Facilities~~

4 [TAG ftpt]FOR the purpose of establishing a ~~Maryland Port Commission~~ marine facility

5 Alcohol-Free and Drug-Free Workplace ~~Program programs~~; establishing

6 procedures to prevent alcohol and drug abuse by certain workers at ~~port~~marine

7 facilities in the State; establishing procedures for alcohol and drug testing,

8 rehabilitation, and sanctions of certain employees; requiring the ~~Program programs~~

9 to comply with certain guidelines for drug-free workplaces; establishing that certain

10 individuals are deemed to be in compliance with this Act; ~~requiring the Commission~~

11 ~~to adopt certain regulations~~; prohibiting the standards of the ~~Program programs~~

12 from exceeding the standards of a certain program; defining certain terms; and

13 generally relating to the ~~Maryland Port Commission~~ marine facility Alcohol-Free

14 and Drug-Free Workplace ~~Program programs~~.

15 BY repealing and reenacting, without amendments,

16 Article - Transportation

17 Section 6-101

18 Annotated Code of Maryland

19 (1993 Replacement Volume and 1995 Supplement)

20 BY adding to

21 Article - Transportation

22 Section 6-102.1

23 Annotated Code of Maryland

24 (1993 Replacement Volume and 1995 Supplement)

2

1 Preamble

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

6 WHEREAS, Modern ~~port~~ marine facilities include sophisticated machinery that
7 require highly skilled, attentive workers to operate the functions of the ports and harbors;
8 and

9 WHEREAS, The interest of the State in ~~an~~ Alcohol-Free and Drug-Free
10 Workplace ~~Program~~ programs at ~~port~~ marine facilities in the State to ensure the safe,
11 efficient operation of ~~port~~ marine facilities that may attract commerce, ensure healthy
12 workers, and encourage the rehabilitation of alcohol and drug-abusing workers is
13 significant enough to warrant alcohol and drug testing of ~~port~~ marine facilities workers;
14 now, therefore,

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

17 **Article - Transportation**

18 6-101.

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

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

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

22 (d) "Executive Director" means the Executive Director of the Maryland Port
23 Administration.

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

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

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

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

34 (4) An international trade center constituting a facility of commerce and
35 consisting of one or more buildings, structures, improvements, and areas that the
36 Department considers necessary, convenient, or desirable for the centralized
37 accommodation of functions, activities, and services for or incidental to the transportation
38 of persons by water, the exchange, buying, selling, and transportation of commodities and
39 other property in international and national waterborne trade and commerce, the

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1 promotion and protection of this trade and commerce, and governmental services related
 2 to them and other federal, state, and municipal agencies and services, including foreign
 3 trade zones, offices, marketing and exhibition facilities, terminal and transportation
 4 facilities, customhouses, custom stores, inspection and appraisal facilities, parking areas,
 5 commodity and security exchanges, and, in the case of buildings, structures,
 6 improvements, and areas in which such accommodation is afforded, all the buildings,
 7 structures, improvements, and areas, although other parts of the buildings, structures,
 8 improvements, and areas might not be devoted to purposes of the international trade
 9 center other than the production of incidental revenue available for the expenses and
 10 financial obligations of the Department in connection with the international trade center
 11 and although other parts of the buildings, structures, improvements, and areas might be
 12 rented or leased for the use or occupancy of departments, bureaus, units, or agencies of
 13 the United States, this State, or any political subdivision of this State.

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

17 6-102.1.

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 19 INDICATED.

20 ~~(2) "COMMITTEE" MEANS AN ALCOHOL-FREE AND DRUG-FREE~~
 21 ~~WORKPLACE COMMITTEE WITH A MEMBERSHIP CONSISTING OF AN EQUAL NUMBER~~
 22 ~~OF EMPLOYEE AND MANAGEMENT REPRESENTATIVES APPOINTED BY THE~~
 23 ~~COMMISSION TO ADMINISTER THE PROGRAM.~~

24 ~~(3)~~ (2) "DRUG" MEANS:

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

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

30 ~~(4)~~ (3) "EMPLOYEE" MEANS ANY INDIVIDUAL WHO IS AN EMPLOYEE,
 31 INDEPENDENT CONTRACTOR, SUBCONTRACTOR, OR OTHER INDIVIDUAL WHO
 32 PROVIDES LABOR FOR COMPENSATION AT A ~~PORT~~ MARINE FACILITY FOR A
 33 PERSON.

34 (4) "MARINE FACILITY" MEANS A TERMINAL OR STORAGE STRUCTURE
 35 OR FACILITY USED FOR THE PURPOSE OF HANDLING, STORING, LOADING, OR
 36 UNLOADING FREIGHT IN THE PORT OF BALTIMORE.

37 (5) "PROGRAM" MEANS ~~THE MARYLAND PORT COMMISSION AN~~
 38 ALCOHOL-FREE AND DRUG-FREE WORKPLACE PROGRAM FOR A MARINE FACILITY
 39 THAT MEETS THE REQUIREMENTS OF THIS SECTION.

40 (6) (I) "SAFETY-SENSITIVE EMPLOYEE" MEANS AN EMPLOYEE WHO
 41 OPERATES HEAVY MACHINERY.

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1 (II) "SAFETY-SENSITIVE EMPLOYEE" INCLUDES, BUT IS NOT
 2 LIMITED TO:

3 1. AN OPERATOR OF A CRANE, WINCH, OR TOP LOADER;
 4 AND

5 2. A DRIVER OF A HUSTLER OR FORKLIFT.

6 ~~(B) (1) THERE IS A MARYLAND PORT COMMISSION ALCOHOL FREE AND~~
 7 ~~DRUG FREE WORKPLACE PROGRAM.~~

8 ~~(2) THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING THE~~
 9 ~~PROGRAM AND APPOINTING AN ALCOHOL FREE AND DRUG FREE WORKPLACE~~
 10 ~~COMMITTEE TO ADMINISTER THE PROGRAM.~~

11 (B) THIS SECTION DOES NOT APPLY TO:

12 (1) EMPLOYEES, CONTRACTORS, INDEPENDENT CONTRACTORS, OR
 13 AGENTS OF THE MARYLAND PORT ADMINISTRATION;

14 (2) VESSEL EMPLOYEES WHO DO NOT HANDLE CARGO; OR

15 (3) INDIVIDUALS OR EMPLOYEES REQUIRED BY FEDERAL OR STATE
 16 LAW TO COMPLY WITH 49 CFR PARTS 40 AND 382 OF THE FEDERAL MOTOR CARRIER
 17 SAFETY REGULATIONS.

18 (C) PERSONS THAT LEASE SPACE AT A MARINE FACILITY FROM THE
 19 PROGRAM MARYLAND PORT ADMINISTRATION SHALL IMPLEMENT A PROGRAM
 20 THAT:

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

23 (2) PROVIDE FOR PROVIDES A PLAN THAT INCLUDES THE
 24 NONDISCRIMINATORY ADMINISTRATION OF TESTS FOR THE PRESENCE OF
 25 ALCOHOL OR DRUGS IN ACCORDANCE WITH ESTABLISHED TESTING PROCEDURES,
 26 INCLUDING RANDOM, PRE-EMPLOYMENT, REASONABLE CAUSE, POST ACCIDENT,
 27 AND RETURN-TO-WORK, OR POST TREATMENT TESTING OF SAFETY-SENSITIVE
 28 EMPLOYEES, AND PRE-EMPLOYMENT TEST FOR THE PRESENCE OF DRUGS, OF
 29 EMPLOYEES;

30 (3) PROVIDE PROVIDES FOR REHABILITATION PROGRAMS AND
 31 DISCIPLINARY AND SANCTION PROCEDURES FOR INDIVIDUALS WHO VIOLATE THE
 32 PROGRAM;

33 (4) PROVIDE PROVIDES SUFFICIENT NOTICE TO EMPLOYEES OF
 34 TESTING PROCEDURES, CONSENT, AND OTHER REQUIREMENTS OF THE PROGRAM;

35 (5) PROVIDE PROVIDES ADEQUATE SECURITY MEASURES FOR
 36 COLLECTION, CHAIN OF CUSTODY, AND HANDLING OF TEST MATERIAL; AND

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

5

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

4 (E) A MEMBER OF A LABOR ORGANIZATION OR OTHER GROUP OF
5 EMPLOYEES AT A ~~PORT~~ MARINE FACILITY THAT IS SUBJECT UNDER A LABOR
6 AGREEMENT OR CONTRACT TO AN ALCOHOL AND DRUG PROGRAM THAT
7 GENERALLY CONFORMS TO THE PROVISIONS OF THIS SECTION SHALL BE DEEMED
8 TO BE IN COMPLIANCE WITH THE REQUIREMENTS, TESTING PROCEDURES, AND
9 OTHER PROVISIONS OF THIS SECTION.

10 ~~(F) THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THE~~
11 ~~PROVISIONS OF THIS SECTION.~~

12 SECTION 2. AND BE IT FURTHER ENACTED, That the standards,
13 requirements, or regulations adopted for ~~the Maryland Port Commission~~ amarine facility
14 Alcohol-Free and Drug-Free Workplace ~~Program~~ program established in accordance
15 with this Act may not exceed the standards or requirements for alcohol and drug testing
16 that have been established through the labor and management agreement for the Port of
17 Baltimore that was implemented on January 1, 1993, known as the "Management -
18 International Longshoremen's Association Program for Drug and Alcohol Abuse".

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