

By: Senator Della

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Assigned to: Rules

Re-referred to: Finance, February 14, 1996

Committee Report: Favorable with amendments

Senate 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 ftpo]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 ~~certain~~

10 ~~exemptions from that certain individuals are deemed to be in compliance with this~~

11 Act; ~~requiring the Commission to adopt certain regulations~~; prohibiting the

12 standards of the ~~Program programs~~ from exceeding the standards of a certain

13 program; defining certain terms; and generally relating to the ~~Maryland Port~~

14 ~~Commission~~ marine facility Alcohol-Free and Drug-Free Workplace ~~Program~~

15 programs.

16 BY repealing and reenacting, without amendments,

17 Article - Transportation

18 Section 6-101

19 Annotated Code of Maryland

20 (1993 Replacement Volume and 1995 Supplement)

21 BY adding to

22 Article - Transportation

23 Section 6-102.1

24 Annotated Code of Maryland

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1 (1993 Replacement Volume and 1995 Supplement)

2 Preamble

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

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

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

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

18 **Article - Transportation**

19 6-101.

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

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

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

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

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

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

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

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

35 (4) An international trade center constituting a facility of commerce and
36 consisting of one or more buildings, structures, improvements, and areas that the
37 Department considers necessary, convenient, or desirable for the centralized
38 accommodation of functions, activities, and services for or incidental to the transportation

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

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

19 6-102.1.

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

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

26 ~~(3)~~ (2) "DRUG" MEANS:

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

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

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

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

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

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

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

5 1. AN OPERATOR OF A CRANE, WINCH, OR TOPLOADER;
6 AND

7 2. A DRIVER OF A HUSTLER OR FORKLIFT.

8 ~~(B) (1) THERE IS A MARYLAND PORT COMMISSION ALCOHOL-FREE AND~~
9 ~~DRUG-FREE WORKPLACE PROGRAM.~~

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

13 (B) THIS SECTION DOES NOT APPLY TO:

14 (1) EMPLOYEES, CONTRACTORS, INDEPENDENT CONTRACTORS, OR
15 AGENTS OF THE MARYLAND PORT ADMINISTRATION;

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

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

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

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

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

32 (3) ~~PROVIDE~~ PROVIDES FOR REHABILITATION PROGRAMS AND
33 DISCIPLINARY AND SANCTION PROCEDURES FOR INDIVIDUALS WHO VIOLATE THE
34 PROGRAM;

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

37 (5) ~~PROVIDE~~ PROVIDES ADEQUATE SECURITY MEASURES FOR
38 COLLECTION, CHAIN OF CUSTODY, AND HANDLING OF TEST MATERIAL; AND

5

1 (6) ~~ESTABLISH~~ ESTABLISHES PROCEDURES FOR THE REPORTING,
2 REVIEW, AND APPEAL OF TEST RESULTS.

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

6 (E) A MEMBER OF A LABOR ORGANIZATION OR OTHER GROUP OF
7 EMPLOYEES AT A ~~PORT~~ MARINE FACILITY THAT IS SUBJECT UNDER A LABOR
8 AGREEMENT OR CONTRACT TO AN ALCOHOL AND DRUG PROGRAM THAT
9 GENERALLY CONFORMS TO THE PROVISIONS OF THIS SECTION ~~IS NOT SUBJECT TO~~
10 SHALL BE DEEMED TO BE IN COMPLIANCE WITH THE REQUIREMENTS, TESTING
11 PROCEDURES, ~~OR~~ AND OTHER PROVISIONS OF THIS SECTION.

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

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

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