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~~By: Delegate Owings~~ Delegates Owings, Weir, Ciliberti, Redmer, and Stup

Introduced and read first time: January 24, 1997

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 20, 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 the use of certain hair specimen testing only for~~
5 ~~pre-employment drug testing; requiring employers that use hair specimens for~~
6 ~~pre-employment drug testing to adhere to certain standards; prohibiting employers~~
7 ~~that use hair specimens for pre-employment drug testing from using the specimens~~
8 ~~to determine certain information;~~ clarifying that independent testing applies to all
9 types of job-related drug testing; clarifying that certain laboratory standards be in
10 accordance with regulations for similar laboratory certification; defining a term; and
11 generally relating to job-related drug testing.

12 BY repealing and reenacting, with amendments,
13 Article - Health - General
14 Section 17-214(a), ~~(b)~~, (d), and (e)
15 Annotated Code of Maryland
16 (1994 Replacement Volume and 1996 Supplement)

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

19 **Article - Health - General**

20 17-214.

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

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

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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) (I) AN EMPLOYER WHO REQUIRES ANY PERSON TO BE TESTED
24 FOR JOB-RELATED REASONS FOR THE USE OR ABUSE OF ANY CONTROLLED
25 DANGEROUS SUBSTANCE MAY USE HAIR DERIVED FROM THE HUMAN BODY AS A
26 SPECIMEN IN ACCORDANCE WITH THIS PARAGRAPH.

27 (II) AN EMPLOYER MAY USE HAIR DERIVED FROM THE HUMAN
28 BODY AS A SPECIMEN ONLY FOR PRE-EMPLOYMENT PURPOSES.

29 (III) IF AN EMPLOYER USES HAIR DERIVED FROM THE HUMAN
30 BODY AS A SPECIMEN, THE EMPLOYER MAY NOT:

31 A. USE A SPECIMEN THAT IS LONGER THAN ONE AND
32 ONE-HALF INCHES MEASURED FROM THE HUMAN BODY; OR

33 B. USE THE SPECIMEN FOR ANY PURPOSE OTHER THAN
34 TESTING FOR CONTROLLED DANGEROUS SUBSTANCES.

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

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

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

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

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

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

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

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

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

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

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

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Department, in
30 consultation with representatives from the business community and from laboratories that
31 perform job-related drug testing with hair specimens, publish~~proposed~~ regulations for the
32 certification of laboratories that perform job-related drug testing with hair specimens by
33 October 1, 1997.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 ~~July~~ October 1, 1997.

