

Senate Bill 394

Sponsored by Senator KRUSE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires each administrative division of state government to adopt rules that establish program requiring preemployment, reasonable suspicion, random and post-accident testing of employees for use of controlled substance in violation of law.

Requires each administrative division of state government to submit biennial report to Legislative Assembly regarding testing program.

A BILL FOR AN ACT

1
2 Relating to drug testing of state government employees.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) "Clinical laboratory" has the meaning given that term in ORS 438.010.

6 (b) "Controlled substance" has the meaning given that term in ORS 475.005.

7 (c) "State government" has the meaning given that term in ORS 174.111.

8 (2) Each administrative division of state government shall adopt rules that establish a
9 program requiring preemployment, reasonable suspicion, random and post-accident testing
10 of employees for the use of a controlled substance in violation of law, including any state or
11 federal law, rule or regulation.

12 (3) In adopting the rules under subsection (2) of this section, each administrative divi-
13 sion:

14 (a) Shall develop requirements that:

15 (A) Promote, to the maximum extent practicable, individual privacy in collection of
16 specimens;

17 (B) For clinical laboratories and testing procedures, ensure that up-to-date scientific and
18 technical guidelines are applied in carrying out this section, including standards requiring
19 the use of the best available technology to ensure the complete reliability and accuracy of
20 controlled substances tests and strict procedures governing the chain of custody of speci-
21 mens collected for controlled substances testing;

22 (C) Require that a clinical laboratory involved in testing under this section have, at the
23 laboratory, the capability of and facility for performing screening and confirmation tests;

24 (D) Provide that any test indicating the use of a controlled substance in violation of law
25 be confirmed by a scientifically recognized method of testing capable of providing quantita-
26 tive information about a controlled substance;

27 (E) Provide that each specimen be subdivided, secured and labeled in the presence of the
28 tested individual and that a part of the specimen be retained in a secure manner to prevent
29 tampering, so that if the individual's confirmation test results are positive, the individual
30 may have the retained part tested by a second confirmation test done independently at an-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 other certified laboratory, if the individual requests the second confirmation test not later
2 than three days after being advised of the results of the first confirmation test;

3 (F) Provide for the confidentiality of test results and medical information of employees,
4 except that this subparagraph does not prevent the use of test results for the orderly im-
5 position of appropriate sanctions under this section;

6 (G) Ensure that employees are selected for tests by nondiscriminatory and impartial
7 methods, so that no employee is harassed by being treated differently from other employees
8 in similar circumstances;

9 (H) Provide that, for preemployment tests, the applicant shall pay the cost of the testing
10 and, if the test results are negative, the administrative division shall reimburse the applicant
11 for the cost; and

12 (I) Provide that the administrative division shall pay the costs of testing employees.

13 (b) Shall require that post-accident testing of an employee be conducted when loss of life
14 occurs.

15 (c) May require that post-accident testing of an employee be conducted when bodily in-
16 jury or significant property damage occurs.

17 (d) Shall establish requirements for rehabilitation programs that provide for the iden-
18 tification and opportunity for treatment of employees who are found to have used a con-
19 trolled substance in violation of law. The administrative division shall determine the
20 circumstances under which those employees shall be required to participate in a rehabili-
21 tation program. The division shall require an employee who participates in a rehabilitation
22 program to pay the costs of the program.

23 (4) Each administrative division shall determine appropriate sanctions for an employee
24 who is found, based on tests conducted and confirmed under the division's program, to have
25 used a controlled substance in violation of law.

26 (5) This section does not supersede a penalty applicable to an employee under another
27 law.

28 (6) Each administrative division shall submit a biennial report to the Legislative Assem-
29 bly, in the manner described in ORS 192.245 and 293.640, describing the division's program for
30 testing of employees for the use of a controlled substance established under this section,
31 providing statistics related to the operation and effectiveness of the program and making any
32 recommendations for further legislative action.

33 **SECTION 2.** (1) By no later than July 1, 2008, each administrative division of state gov-
34 ernment shall adopt rules that establish a program described in section 1 of this 2007 Act.

35 (2) Notwithstanding section 1 (6) of this 2007 Act, the first biennial report submitted to
36 the Legislative Assembly under section 1 of this 2007 Act need not provide statistics related
37 to the operation and effectiveness of the program.

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