

# Senate Bill 540

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) Rules adopted under subsection (2) of this section:

13 (a) Must promote, to the maximum extent practicable, individual privacy in collection of  
14 specimens;

15 (b) Must ensure that clinical laboratories and testing procedures apply up-to-date scien-  
16 tific and technical guidelines in carrying out tests required by rules adopted under this sec-  
17 tion, including standards requiring the use of the best available technology to ensure the  
18 complete reliability and accuracy of controlled substances tests and strict procedures gov-  
19 erning the chain of custody of specimens collected for controlled substances testing;

20 (c) Must require that a clinical laboratory involved in testing under this section have,  
21 at the laboratory, the capability of and facility for performing screening and confirmation  
22 tests;

23 (d) Must provide that any test indicating the use of a controlled substance in violation  
24 of law be confirmed by a scientifically recognized method of testing capable of providing  
25 quantitative information about a controlled substance;

26 (e) Must provide that each specimen be subdivided, secured and labeled in the presence  
27 of the tested individual and that a part of the specimen be retained in a secure manner to  
28 prevent tampering, so that if the individual's confirmation test results are positive, the in-  
29 dividual may have the retained part tested by a second confirmation test done independently  
30 at another clinical laboratory, if the individual requests the second confirmation test not

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 later than three days after being advised of the results of the first confirmation test;

2 (f) Must provide for the confidentiality of test results and medical information of em-  
 3 ployees, except that this paragraph does not prevent the use of test results for the orderly  
 4 imposition of appropriate sanctions under this section;

5 (g) Must ensure that employees are selected for tests by nondiscriminatory and impartial  
 6 methods, so that no employee is discriminated against by being treated differently from  
 7 other employees in similar circumstances;

8 (h) Must provide that, for preemployment tests, the applicant shall pay the cost of the  
 9 testing and, if the test results are negative, the administrative division shall reimburse the  
 10 applicant for the cost;

11 (i) Must provide that the administrative division shall pay the costs of testing employees;

12 (j) Must require that post-accident testing of an employee be conducted when loss of life  
 13 occurs;

14 (k) May require that post-accident testing of an employee be conducted when bodily in-  
 15 jury or significant property damage occurs; and

16 (L) Must establish requirements for rehabilitation programs that provide for the iden-  
 17 tification and opportunity for treatment of employees who are found to have used a con-  
 18 trolled substance in violation of law. The administrative division shall determine the  
 19 circumstances under which those employees shall be required to participate in a rehabili-  
 20 tation program. The administrative division shall require an employee who participates in a  
 21 rehabilitation program to pay the costs of the program not covered by insurance.

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

25 (5) Subsection (4) of this section does not supersede a penalty applicable to an employee  
 26 under another law.

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

33 **SECTION 2.** (1) By no later than July 1, 2010, each administrative division of state gov-  
 34 ernment shall adopt rules that establish a program described in section 1 of this 2009 Act.

35 (2) Notwithstanding section 1 (6) of this 2009 Act, the first biennial report submitted to  
 36 the Legislative Assembly under section 1 of this 2009 Act:

37 (a) Shall be submitted no later than December 31, 2010; and

38 (b) Need not provide statistics related to the operation and effectiveness of the program.

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