

ACT 139

H.B. NO. 1647

A Bill for an Act Relating to Substance Abuse Testing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 329B-4, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§329B-4]]~~ **Laboratory requirements.** (a) Testing pursuant to subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 Federal Register 11986) is exempt from the provisions of this chapter.

(b) All substance abuse testing performed in the State shall be performed by a testing laboratory licensed by the department for that purpose~~], or certified for substance abuse testing by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services, and approved by the director.~~

(c) Testing of samples from this State performed in another state may ~~shall~~ be performed only by laboratories [licensed by that state to conduct substance abuse testing, and whose standards are comparable to those contained in this [chapter]¹, and approved by the director.] certified for substance abuse testing by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services, and approved by the director. No laboratory located outside of the State [may] ~~shall~~ be licensed by the department to perform substance abuse testing.

~~[(b)]~~ (d) The director shall adopt rules governing:

- (1) Standards for approval and licensure of qualified testing laboratories, and suspension and revocation of a license;
- (2) Qualifications of laboratory personnel;
- (3) Body component samples that are appropriate for substance abuse testing;
- (4) [The selection] Selection of [the] medical review officers determined to be qualified by the department, and procedures to be followed by medical review officers in the reception, review, and interpretation of the results of laboratory tests requested by [the] a third party;
- (5) Procedures for taking [of] samples that ensure privacy to the individuals tested and prevent or detect tampering with the sample;

ACT 139

- (6) Methods of analysis and procedures to ensure reliable testing results, including standards for initial screening and confirmatory tests[. Confirmatory]; provided that confirmatory tests for drugs or [the] metabolites of drugs shall utilize a gas chromatograph with a mass spectrometer detector or other reliable methods approved by the director;
- (7) Cutoff levels of alcohol, drugs, or the metabolites of drugs;
- (8) Chain of custody procedures to ensure proper identification, labeling, and handling of the samples to be tested;
- (9) Retention and storage procedures and durations to ensure availability of samples for retesting when necessary;
- (10) Establishing fees for licensing of laboratories;
- (11) Retention of substance abuse test information by the laboratory; and
- (12) Procedures to ensure confidentiality of the substance abuse testing procedures and substance abuse test information.

[(c)] (e) No laboratory [may] shall be licensed to perform substance abuse testing in the State unless the laboratory participates in and continues to demonstrate satisfactory performance in drug proficiency testing as determined by the director.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 21, 1993.)

Note

1. So in original.