

ACT 158

H.B. NO. 199

A Bill for an Act Relating to Substance Abuse Tests.

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

SECTION 1. Chapter 329B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§329B- Exemptions. This chapter does not apply to:

- (1) Toxicology tests used in the direct clinical management of patients;
- (2) Tests for alcohol under chapter 286 or chapter 291;
- (3) Tests made pursuant to subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 Federal Register 11986); and
- (4) Substance abuse testing of individuals under the supervision or custody of the judiciary, the department of public safety, the Hawaii paroling authority, and the office of youth services. However, these state governmental entities shall establish chain of custody procedures which require that all specimens be sealed and coded in the presence of the individual being tested and that the individual shall sign an approved form acknowledging that the specimen has been sealed and coded in the individual's presence. The procedure shall include a tracking form documenting the handling and storage of the specimen from collection to final disposition of the specimen. The individual also shall be afforded the option of a confirmatory test by a licensed, certified laboratory. The cost of the confirmatory test shall be paid for by the State; provided that in those instances where a positive test result is confirmed, the individual shall be charged with the cost of the confirmation test. Test results shall not require review by a medical review officer. Positive test results of substance abuse testing and the availability of a confirmatory test shall be provided to the individual in writing. A positive test result from a substance abuse test that fails to meet the requirements of this section shall not be reported or recorded.”

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SECTION 2. Section 329B-2, Hawaii Revised Statutes, is amended by amending the definition of “substance abuse test” to read as follows:

““Substance abuse test” means any testing procedure[, excluding toxicology tests used in the direct clinical management of patients, tests for alcohol related to chapters 286 and 291, and substance abuse testing of individuals under the custody and care of the department of public safety] designed to take and analyze body fluids or materials from the body for the purpose of measuring the amount of drugs, alcohol, or the metabolites of drugs in the sample tested.”

SECTION 3. Section 329B-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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.] All substance abuse testing performed in the State shall be performed by a testing laboratory licensed by the department for that purpose. Testing performed in another state may 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], and approved by the director. No laboratory located outside of the State may be licensed by the department to perform substance abuse testing.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 1993.)

Note

1. Edited pursuant to HRS §23G-16.5.