
A BILL FOR AN ACT

RELATING TO SUBSTANCE ABUSE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 329B-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "substance abuse on-site
3 screening test" to read as follows:

4 "Substance abuse on-site screening test" means a portable
5 substance abuse test that ~~meets~~:

6 (1) Meets the requirements of the United States Food and
7 Drug Administration for commercial distribution; or

8 (2) Is manufactured in a facility licensed by the United
9 States Food and Drug Administration, or that has
10 received interim approval from the department,

11 and may be used for forensic testing as a workplace testing
12 device;

13 and is approved by the director [~~for such pre-employment~~
14 ~~screening~~]."

15 SECTION 2. Section 329B-5.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§329B-5.5[+] **Substance abuse on-site screening tests,**
18 **testing procedures, and confidentiality.** The substance abuse



1 on-site screening test shall be administered [~~for pre-employment~~
2 ~~purposes only~~] according to the instructions of the manufacturer
3 and this section:

4 (1) Every employer using a substance abuse on-site
5 screening test [~~for pre-employment screening~~] shall
6 administer the test according to the United States
7 Food and Drug Administration package insert that
8 accompanies the substance abuse test~~[7]~~; provided that
9 if there is no United States Food and Drug
10 Administration package insert, then the test shall be
11 administered according to the package insert that
12 accompanies the substance abuse test that is
13 manufactured in a facility licensed by the United
14 States Food and Drug Administration pr that has
15 received interim approval from the department while
16 pursuing Food and Drug Administration approval, and
17 shall adhere to any applicable on-site screening drug
18 test guidelines adopted by the United States Food and
19 Drug Administration. Any on-site screening test shall
20 also be approved by the director [~~for such pre-~~
21 ~~employment screening~~];



1 (2) Every employer using a substance abuse on-site
2 screening test [~~for pre-employment screening~~] shall
3 adhere to the rules adopted pursuant to section 329B-8
4 pertaining to specimen collection, urine specimen,
5 shipping of specimens, chain of custody, and
6 confidentiality that may be applicable to on-site drug
7 testing; provided that employers are authorized to
8 drug test applicants and unions are authorized to drug
9 test members;

10 (3) If a substance abuse on-site screening test obtains a
11 test result that indicates the presence of drugs,
12 alcohol, or the metabolites of drugs; and if the test
13 result may be used to deny or deprive a person of
14 employment or any benefit, or may otherwise result in
15 an adverse action being taken against the person, then
16 the same sample that produced the test result shall be
17 submitted for a confirmatory test to a testing
18 laboratory licensed or approved by the department in
19 accordance with this chapter[-]; provided that if the
20 substance abuse on-site screening test that obtained a
21 test result that indicates the presence of drugs is of
22 the type that is manufactured in a facility licensed



1 by the United States Food and Drug Administration, may
2 be used for forensic testing, and is approved by the
3 director as a workplace testing device, a confirmatory
4 test using a substance abuse on-site screening device
5 that meets the requirements of the United States food
6 and Drug Administration for commercial distribution
7 may be administered. A positive confirmatory test
8 shall be reviewed by a medical review officer licensed
9 by the department in accordance with this chapter; and
10 (4) The operator who administers the substance abuse on-
11 site screening test shall have been trained in the use
12 and administering of the on-site screening test by the
13 manufacturer of the on-site screening test or the
14 manufacturer's designee."

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on January 1, 2050,
18 and shall be repealed on January 1, 2012.



REPORT Title:

Substance Abuse Testing

Description:

Amends definition of "substance abuse on-site screening test" to include tests used for forensic testing as a workplace testing device. Requires that substance abuse testing be conducted according to the manufacturer's package insert, as an alternative to the Food and Drug Administration insert if there is no FDA insert. Eliminates the use of tests for pre-employment screening. Allows for the use of confirmatory test if forensic test result is positive. (SB1636 HD2)

