

By Senator Baxley

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1                                   A bill to be entitled  
2       An act relating to drug-free workplaces; amending s.  
3       112.0455, F.S.; requiring licensed drug-testing  
4       facilities to perform prescreening tests on urine  
5       specimens to determine the specimens' validity;  
6       specifying requirements for such tests; authorizing  
7       such facilities to rely on such tests to determine if  
8       confirmation testing is required; providing that urine  
9       specimens may not be sent to an out-of-state facility  
10      unless the facility complies with certain  
11      requirements; authorizing the Agency for Health Care  
12      Administration to adopt rules; conforming cross-  
13      references; amending s. 440.102, F.S.; revising  
14      definitions; revising information required in a  
15      written policy statement provided to employees and job  
16      applicants before drug testing; revising procedures  
17      for specimen collection, testing, and preservation;  
18      revising qualifications for persons who may take or  
19      collect specimens for a drug test; revising  
20      requirements and procedures for retesting specimens;  
21      deleting and revising confidentiality requirements for  
22      employers relating to certain information; revising  
23      circumstances under which an employer may take certain  
24      actions as to an employee or a job applicant on the  
25      sole basis of certain positive test results; revising  
26      standards for chain-of-custody procedures; revising  
27      requirements and authorized actions relating to  
28      confirmation testing; requiring licensed drug-testing  
29      facilities to perform prescreening tests on urine

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30 specimens to determine the specimens' validity;  
31 specifying requirements for such tests; authorizing  
32 such facilities to rely on such tests to determine if  
33 confirmation testing is required; providing that urine  
34 specimens may not be sent to an out-of-state facility  
35 unless the facility complies with certain  
36 requirements; authorizing the agency to adopt rules;  
37 conforming provisions to changes made by the act;  
38 amending s. 443.101, F.S.; conforming a cross-  
39 reference; providing an effective date.  
40

41 WHEREAS, the State of Florida has a profound interest in  
42 the health and welfare of its citizens, and

43 WHEREAS, new and emerging drug-testing subversion  
44 technologies represent a significant threat to the ability to  
45 properly identify those suffering from addiction and drug abuse,  
46 and

47 WHEREAS, the Legislature, therefore, seeks to require urine  
48 sample validity testing, such that those persons being tested  
49 can be properly and promptly identified for referral to drug  
50 treatment programs and other health care services, NOW,  
51 THEREFORE,

52  
53 Be It Enacted by the Legislature of the State of Florida:

54  
55 Section 1. Present subsections (13) through (17) of section  
56 112.0455, Florida Statutes, are redesignated as subsections (14)  
57 through (18), respectively, a new subsection (13) is added to  
58 that section, and paragraph (b) of subsection (6) and paragraph

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59 (a) of present subsection (15) are amended, to read:

60 112.0455 Drug-Free Workplace Act.—

61 (6) NOTICE TO EMPLOYEES.—

62 (b) Prior to testing, all employees and job applicants for  
63 employment shall be given a written policy statement from the  
64 employer which contains:

65 1. A general statement of the employer's policy on employee  
66 drug use, which shall identify:

67 a. The types of testing an employee or job applicant may be  
68 required to submit to, including reasonable suspicion or other  
69 basis; and

70 b. The actions the employer may take against an employee or  
71 job applicant on the basis of a positive confirmed drug test  
72 result.

73 2. A statement advising the employee or job applicant of  
74 the existence of this section.

75 3. A general statement concerning confidentiality.

76 4. Procedures for employees and job applicants to  
77 confidentially report the use of prescription or nonprescription  
78 medications both before and after being tested. Additionally,  
79 employees and job applicants shall receive notice of the most  
80 common medications by brand name or common name, as applicable,  
81 as well as by chemical name, which may alter or affect a drug  
82 test. A list of such medications shall be developed by the  
83 Agency for Health Care Administration.

84 5. The consequences of refusing to submit to a drug test.

85 6. Names, addresses, and telephone numbers of employee  
86 assistance programs and local alcohol and drug rehabilitation  
87 programs.

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88           7. A statement that an employee or job applicant who  
89 receives a positive confirmed drug test result may contest or  
90 explain the result to the employer within 5 working days after  
91 written notification of the positive test result. If an employee  
92 or job applicant's explanation or challenge is unsatisfactory to  
93 the employer, the person may contest the drug test result as  
94 provided by subsections (15) ~~(14)~~ and (16) ~~(15)~~.

95           8. A statement informing the employee or job applicant of  
96 his or her responsibility to notify the laboratory of any  
97 administrative or civil actions brought pursuant to this  
98 section.

99           9. A list of all drugs for which the employer will test,  
100 described by brand names or common names, as applicable, as well  
101 as by chemical names.

102           10. A statement regarding any applicable collective  
103 bargaining agreement or contract and the right to appeal to the  
104 Public Employees Relations Commission.

105           11. A statement notifying employees and job applicants of  
106 their right to consult the testing laboratory for technical  
107 information regarding prescription and nonprescription  
108 medication.

109           (13) DRUG-TESTING STANDARDS; SAMPLE VALIDITY PRESCREENING.—  
110 Before a drug-testing facility licensed under part II of chapter  
111 408 may perform any drug-screening test on a urine specimen  
112 collected in this state, prescreening tests must be performed to  
113 determine the validity of the specimen. The prescreening tests  
114 must be capable of detecting, or detecting and defeating, novel  
115 or emerging urine drug-testing subversion technologies as  
116 described in this subsection.

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117 (a) The drug-testing facility shall use urine sample  
118 validity screening tests that meet all of the following  
119 criteria:

120 1. A urine sample validity screening test for creatinine  
121 must use a 20 mg/dL cutoff concentration and must have minimal  
122 interferences from bilirubin and blood in the urine. The urine  
123 sample validity screening test must be able to discriminate  
124 between a creatinine level from an unadulterated urine sample  
125 and a creatinine level arising from overhydration or creatine or  
126 protein loading.

127 2. A urine sample validity screening test for oxidants must  
128 be able to detect the presence or effects of oxidant adulterants  
129 up to 6 days after sample collection, under the sample storage  
130 conditions outlined in the laboratory standards guideline  
131 adopted by rule by the Agency for Health Care Administration,  
132 and after any sample transport that is routinely involved.

133 3. Urine sample validity screening tests must be able to  
134 detect synthetic or freeze-dried urine substituted for the  
135 donor's urine for drug testing.

136 4. Urine sample validity screening tests must be validated  
137 for the detection of all of the additional adulterant classes  
138 represented by glutaraldehyde, salt, heavy metals, cationic  
139 detergents, protease, strong alkaline buffers, and strong acidic  
140 buffers. The detection limits of these classes must be at a  
141 sufficient level to detect a nonphysiologic sample or  
142 interference with enzyme immunoassay drug screening tests.

143 (b) The drug-testing facility may use only urine sample  
144 validity screening tests that have undergone validation studies  
145 conducted by the manufacturer to document the product's

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146 conformance to the requirements of this subsection.

147 (c) A drug-testing facility may rely on urine sample  
148 validity screening tests to determine if confirmation testing is  
149 required for any urine sample that has been deemed invalid for  
150 drug screening.

151 (d) Urine specimens collected in this state may not be sent  
152 for drug screening tests to a drug-testing facility located  
153 outside of this state unless such drug-testing facility complies  
154 with all requirements of this subsection.

155 (e) The Agency for Health Care Administration shall adopt  
156 rules necessary for the implementation and enforcement of this  
157 subsection.

158 (16) ~~(15)~~ NONDISCIPLINE REMEDIES.—

159 (a) Any person alleging a violation of ~~the provisions of~~  
160 this section, that is not remediable by the commission or an  
161 arbitrator pursuant to subsection (15) ~~(14)~~, must institute a  
162 civil action for injunctive relief or damages, or both, in a  
163 court of competent jurisdiction within 180 days of the alleged  
164 violation, or be barred from obtaining the following relief.  
165 Relief is limited to:

166 1. An order restraining the continued violation of this  
167 section.

168 2. An award of the costs of litigation, expert witness  
169 fees, reasonable attorney ~~attorney's~~ fees, and noneconomic  
170 damages provided that damages shall be limited to the recovery  
171 of damages directly resulting from injury or loss caused by each  
172 violation of this section.

173 Section 2. Present subsections (9) through (15) of section  
174 440.102, Florida Statutes, are redesignated as subsections (10)

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175 through (16), respectively, a new subsection (9) is added to  
176 that section, and paragraphs (c), (e), and (q) of subsection  
177 (1), paragraph (a) of subsection (3), paragraphs (b) through  
178 (h), (j), (k), and (l) of subsection (5), subsection (6),  
179 paragraph (a) of subsection (7), and paragraphs (b) and (c) of  
180 present subsection (9) of that section are amended, to read:

181 440.102 Drug-free workplace program requirements.—The  
182 following provisions apply to a drug-free workplace program  
183 implemented pursuant to law or to rules adopted by the Agency  
184 for Health Care Administration:

185 (1) DEFINITIONS.—Except where the context otherwise  
186 requires, as used in this act:

187 (c) "Drug" means any form of alcohol, as defined in s.  
188 322.01(2), including a distilled spirit, wine, a malt beverage,  
189 or an intoxicating preparation; any controlled substance  
190 identified under Schedule I, Schedule II, Schedule III, Schedule  
191 IV, or Schedule V of s. 893.03; any controlled substance  
192 identified under Schedule I, Schedule II, Schedule III, Schedule  
193 IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s.  
194 812(c) liquor; an amphetamine; a cannabinoid; cocaine;  
195 phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a  
196 barbiturate; a benzodiazepine; a synthetic narcotic; a designer  
197 drug; or a metabolite of any of the substances listed in this  
198 paragraph. An employer may test an individual for any or all of  
199 such drugs.

200 (e) "Drug test" or "test" means any chemical, biological,  
201 or physical instrumental analysis administered, by a laboratory  
202 certified by the United States Department of Health and Human  
203 Services or licensed by the Agency for Health Care

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204 Administration, for the purpose of determining the presence or  
205 absence of a drug or its metabolites. In the case of testing for  
206 the presence of alcohol, the test must be conducted in  
207 accordance with the United States Department of Transportation  
208 alcohol testing procedures authorized under 49 C.F.R. part 40,  
209 subparts J through M.

210 (q) "Specimen" means tissue, hair, or a product of the  
211 human body capable of revealing the presence of drugs or their  
212 metabolites, as approved by the United States Food and Drug  
213 Administration, ~~or~~ the Agency for Health Care Administration,  
214 the United States Department of Health and Human Services, or  
215 the United States Department of Transportation.

216 (3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.—

217 (a) One time only, before ~~prior to~~ testing, an employer  
218 shall give all employees and job applicants for employment a  
219 written policy statement that ~~which~~ contains:

220 1. A general statement of the employer's policy on employee  
221 drug use, which must identify:

222 a. The types of drug testing an employee or job applicant  
223 may be required to submit to, including reasonable-suspicion  
224 drug testing or drug testing conducted on any other basis.

225 b. The actions the employer may take against an employee or  
226 job applicant on the basis of a positive confirmed drug test  
227 result.

228 2. A statement advising the employee or job applicant of  
229 the existence of this section.

230 3. A general statement concerning confidentiality.

231 4. Procedures for employees and job applicants to  
232 confidentially report to a medical review officer the use of



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233 prescription or nonprescription medications ~~to a medical review~~  
234 ~~officer both before and after being tested.~~

235 5. A list of the most common medications, by brand name or  
236 common name, as applicable, as well as by chemical name, which  
237 may alter or affect a drug test. A list of such medications as  
238 developed by the Agency for Health Care Administration shall be  
239 available to employers through the department.

240 6. The consequences of refusing to submit to a drug test.

241 7. A representative sampling of names, addresses, and  
242 telephone numbers of employee assistance programs and local drug  
243 rehabilitation programs.

244 8. A statement that an employee or job applicant who  
245 receives a positive confirmed test result may contest or explain  
246 the result to the medical review officer within 5 working days  
247 after receiving written notification of the test result; that if  
248 an employee's or job applicant's explanation or challenge is  
249 unsatisfactory to the medical review officer, the medical review  
250 officer shall report a positive test result back to the  
251 employer; and that a person may contest the drug test result  
252 pursuant to law or to rules adopted by the Agency for Health  
253 Care Administration.

254 9. A statement informing the employee or job applicant of  
255 his or her responsibility to notify the laboratory of any  
256 administrative or civil action brought pursuant to this section.

257 10. A list of all drugs for which the employer will test,  
258 described by ~~brand name or~~ common name, as applicable, as well  
259 as by chemical name.

260 11. A statement regarding any applicable collective  
261 bargaining agreement or contract and the right to appeal to the

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262 Public Employees Relations Commission or applicable court.

263 12. A statement notifying employees and job applicants of  
264 their right to consult with a medical review officer for  
265 technical information regarding prescription or nonprescription  
266 medication.

267 (5) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen  
268 collection and testing for drugs under this section shall be  
269 performed in accordance with the following procedures:

270 (b) Specimen collection must be documented, and the  
271 documentation procedures shall include the:

272 ~~1.~~ labeling of specimen containers so as to reasonably  
273 preclude the likelihood of erroneous identification of test  
274 results. For saliva or breath alcohol testing, a specimen  
275 container is not required if the specimen is not being  
276 transported to a laboratory for analysis

277 ~~2. A form for the employee or job applicant to provide any~~  
278 ~~information he or she considers relevant to the test, including~~  
279 ~~identification of currently or recently used prescription or~~  
280 ~~nonprescription medication or other relevant medical~~  
281 ~~information. The form must provide notice of the most common~~  
282 ~~medications by brand name or common name, as applicable, as well~~  
283 ~~as by chemical name, which may alter or affect a drug test. The~~  
284 ~~providing of information shall not preclude the administration~~  
285 ~~of the drug test, but shall be taken into account in~~  
286 ~~interpreting any positive confirmed test result.~~

287 (c) Specimen collection, storage, and transportation to a  
288 laboratory ~~the testing site~~ shall be performed in a manner that  
289 reasonably precludes contamination or adulteration of specimens.

290 (d) Each confirmation test conducted under this section,

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291 not including the taking or collecting of a specimen to be  
292 tested, shall be conducted by a licensed or certified laboratory  
293 as described in subsection (10) ~~(9)~~.

294 (e) A specimen for a drug test may be taken or collected by  
295 any person who meets the qualification standards for urine or  
296 oral fluid specimen collection as specified by the United States  
297 Department of Health and Human Services or the United States  
298 Department of Transportation. For alcohol testing, a person must  
299 meet the United States Department of Transportation standards  
300 for a screening test technician or a breath alcohol technician.  
301 A hair specimen may be collected and packaged by a person who  
302 has been trained and certified by a drug-testing laboratory. A  
303 person who directly supervises an employee subject to testing  
304 may not serve as the specimen collector for that employee unless  
305 there is no other qualified specimen collector available ~~of the~~  
306 ~~following persons:~~

307 1. ~~A physician, a physician assistant, a registered~~  
308 ~~professional nurse, a licensed practical nurse, or a nurse~~  
309 ~~practitioner or a certified paramedic who is present at the~~  
310 ~~scene of an accident for the purpose of rendering emergency~~  
311 ~~medical service or treatment.~~

312 2. ~~A qualified person employed by a licensed or certified~~  
313 ~~laboratory as described in subsection (9).~~

314 (f) A person who collects or takes a specimen for a drug  
315 test shall collect an amount sufficient for two independent drug  
316 tests, one to screen the specimen and one for confirmation of  
317 the screening test results, at a laboratory as determined by the  
318 Agency for Health Care Administration.

319 (g) Every specimen that produces a positive, confirmed test

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320 result shall be preserved by the licensed or certified  
321 laboratory that conducted the confirmation test for a period of  
322 at least 1 year after the confirmation test was conducted ~~210~~  
323 ~~days after the result of the test was mailed or otherwise~~  
324 ~~delivered to the medical review officer~~. However, if an employee  
325 or job applicant undertakes an administrative or legal challenge  
326 to the test result, the employee or job applicant shall notify  
327 the laboratory and the sample shall be retained by the  
328 laboratory until the case or administrative appeal is settled.  
329 During the 60-day ~~180-day~~ period after written notification of a  
330 positive test result, the employee or job applicant who has  
331 provided the specimen shall be permitted by the employer to have  
332 a portion of the specimen retested, at the employee's or job  
333 applicant's expense, at another laboratory, licensed and  
334 approved by the Agency for Health Care Administration, chosen by  
335 the employee or job applicant. The second laboratory must test  
336 the specimen at the limit of detection for the drug or analyte  
337 confirmed by the original at equal or greater sensitivity for  
338 the drug in question as the first laboratory. If the drug or  
339 analyte is detected by the second laboratory, the result must be  
340 reported as reconfirmed positive. The first laboratory that  
341 performed the test for the employer is responsible for the  
342 transfer of the portion of the specimen to be retested, and for  
343 the integrity of the chain of custody during such transfer.

344 (h) Within 5 working days after receipt of a positive  
345 verified ~~confirmed~~ test result from the medical review officer,  
346 an employer shall inform an employee or job applicant in writing  
347 of such positive test result, the consequences of such result  
348 ~~results~~, and the options available to the employee or job

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349 applicant. The employer shall provide to the employee or job  
350 applicant, upon request, a copy of the test results.

351 ~~(j) The employee's or job applicant's explanation or~~  
352 ~~challenge of the positive test result is unsatisfactory to the~~  
353 ~~employer, a written explanation as to why the employee's or job~~  
354 ~~applicant's explanation is unsatisfactory, along with the report~~  
355 ~~of positive result, shall be provided by the employer to the~~  
356 ~~employee or job applicant; and All such documentation of a~~  
357 positive test shall be kept confidential by the employer  
358 pursuant to subsection (8) and shall be retained by the employer  
359 for at least 1 year.

360 (k) An employer may not discharge, discipline, refuse to  
361 hire, discriminate against, or request or require rehabilitation  
362 of an employee or job applicant on the sole basis of a positive  
363 test result that has not been reviewed and verified by a  
364 ~~confirmation test and by~~ a medical review officer, except when a  
365 confirmed positive breath alcohol test was conducted in  
366 accordance with United States Department of Transportation  
367 alcohol testing procedures.

368 (l) An employer that performs drug testing or specimen  
369 collection shall use chain-of-custody procedures established by  
370 the Agency for Health Care Administration, the United States  
371 Department of Health and Human Services, or the United States  
372 Department of Transportation to ensure proper recordkeeping,  
373 handling, labeling, and identification of all specimens tested.

374 (6) CONFIRMATION TESTING.—

375 (a) ~~If an initial drug test is negative, the employer may~~  
376 ~~in its sole discretion seek a confirmation test.~~

377 ~~(b) Only licensed or certified laboratories as described in~~

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378 ~~subsection (9) may conduct confirmation drug tests.~~

379 ~~(e) All laboratory positive initial tests on a urine, oral~~  
380 ~~fluid, blood, or hair specimen shall be confirmed using gas~~  
381 ~~chromatography/mass spectrometry (GC/MS) or an equivalent or~~  
382 ~~more accurate scientifically accepted method approved by the~~  
383 ~~United States Department of Health and Human Services or the~~  
384 ~~United States Department of Transportation Agency for Health~~  
385 ~~Care Administration or the United States Food and Drug~~  
386 ~~Administration as such technology becomes available in a cost-~~  
387 ~~effective form.~~

388 ~~(b)(d) If a ~~an~~ initial drug test of an employee or job~~  
389 ~~applicant is confirmed by the laboratory as positive, the~~  
390 ~~employer's medical review officer shall provide technical~~  
391 ~~assistance to the employer and to the employee or job applicant~~  
392 ~~for the purpose of interpreting the test result to determine~~  
393 ~~whether the result could have been caused by prescription or~~  
394 ~~nonprescription medication taken by the employee or job~~  
395 ~~applicant.~~

396 ~~(c) For a breath alcohol test, an initial positive result~~  
397 ~~must be confirmed by a second breath specimen taken and tested~~  
398 ~~using an evidential breath testing device listed on the~~  
399 ~~conforming products list issued by the National Highway Traffic~~  
400 ~~Safety Administration and conducted in accordance with United~~  
401 ~~States Department of Transportation alcohol testing procedures~~  
402 ~~authorized under 49 C.F.R. part 40, subparts J through M.~~

403 (7) EMPLOYER PROTECTION.—

404 (a) An employee or job applicant whose drug test result is  
405 confirmed or verified as positive in accordance with this  
406 section shall not, by virtue of the result alone, be deemed to

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407 have a "handicap" or "disability" as defined under federal,  
408 state, or local handicap and disability discrimination laws.

409 (9) DRUG-TESTING STANDARDS; SAMPLE VALIDITY PRESCREENING.-

410 Before a drug-testing facility licensed under part II of chapter  
411 408 may perform any drug screening test on a urine specimen  
412 collected in this state, prescreening tests must be performed to  
413 determine the validity of the specimen. The prescreening tests  
414 must be capable of detecting, or detecting and defeating, novel  
415 or emerging urine drug-testing subversion technologies as  
416 described in this subsection.

417 (a) The drug-testing facility shall use urine sample  
418 validity screening tests that meet all of the following  
419 criteria:

420 1. A urine sample validity screening test for creatinine  
421 must use a 20 mg/dL cutoff concentration and must have minimal  
422 interferences from bilirubin and blood in the urine. The urine  
423 sample validity screening test must be able to discriminate  
424 between a creatinine level from an unadulterated urine sample  
425 and a creatinine level arising from overhydration or creatine or  
426 protein loading.

427 2. A urine sample validity screening test for oxidants must  
428 be able to detect the presence or effects of oxidant adulterants  
429 up to 6 days after sample collection, under the sample storage  
430 conditions outlined in the laboratory standards guideline  
431 adopted by rule by the Agency for Health Care Administration,  
432 and after any sample transport that is routinely involved.

433 3. Urine sample validity screening tests must be able to  
434 detect synthetic or freeze-dried urine substituted for the  
435 donor's urine for drug testing.

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436 4. Urine sample validity screening tests must be validated  
437 for the detection of all of the additional adulterant classes  
438 represented by glutaraldehyde, salt, heavy metals, cationic  
439 detergents, protease, strong alkaline buffers, and strong acidic  
440 buffers. The detection limits of these classes must be at a  
441 sufficient level to detect a nonphysiologic sample or  
442 interference with enzyme immunoassay drug-screening tests.

443 (b) The drug-testing facility may use only urine sample  
444 validity screening tests that have undergone validation studies  
445 conducted by the manufacturer to document the product's  
446 conformance to the requirements of this subsection.

447 (c) A drug-testing facility may rely on urine sample  
448 validity screening tests to determine if confirmation testing is  
449 required for any urine sample that has been deemed invalid for  
450 drug screening.

451 (d) Urine specimens collected in this state may not be sent  
452 for drug-screening tests to a drug-testing facility located  
453 outside of this state unless such drug-testing facility complies  
454 with all requirements of this subsection.

455 (e) The Agency for Health Care Administration shall adopt  
456 rules necessary for the implementation and enforcement of this  
457 subsection.

458 (10) ~~(9)~~ DRUG-TESTING STANDARDS FOR LABORATORIES.-

459 (b) A laboratory may analyze initial or confirmation test  
460 specimens only if:

461 1. The laboratory obtains a license under part II of  
462 chapter 408 and s. 112.0455(18) ~~s. 112.0455(17)~~. Each applicant  
463 for licensure and each licensee must comply with all  
464 requirements of this section, part II of chapter 408, and



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465 applicable rules.

466 2. The laboratory has written procedures to ensure the  
467 chain of custody.

468 3. The laboratory follows proper quality control  
469 procedures, including, but not limited to:

470 a. The use of internal quality controls, including the use  
471 of samples of known concentrations which are used to check the  
472 performance and calibration of testing equipment, and periodic  
473 use of blind samples for overall accuracy.

474 b. An internal review and certification process for drug  
475 test results, conducted by a person qualified to perform that  
476 function in the testing laboratory.

477 c. Security measures implemented by the testing laboratory  
478 to preclude adulteration of specimens and drug test results.

479 d. Other necessary and proper actions taken to ensure  
480 reliable and accurate drug test results.

481 (c) A laboratory shall disclose to the medical review  
482 officer a written positive confirmed test result report within 7  
483 working days after receipt of the sample. All laboratory reports  
484 of a drug test result must, at a minimum, state:

485 1. The name and address of the laboratory that performed  
486 the test and the positive identification of the person tested.

487 2. Positive results on confirmation tests only, or negative  
488 results, as applicable.

489 3. A list of the drugs for which the drug analyses were  
490 conducted.

491 4. The type of tests conducted for both initial tests and  
492 confirmation tests and the minimum cutoff levels of the tests.

493 ~~5. Any correlation between medication reported by the~~

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494 ~~employee or job applicant pursuant to subparagraph (5)(b)2. and~~  
495 ~~a positive confirmed drug test result.~~

496

497 A report must not disclose the presence or absence of any drug  
498 other than a specific drug and its metabolites listed pursuant  
499 to this section.

500 Section 3. Paragraph (b) of subsection (11) of section  
501 443.101, Florida Statutes, is amended to read:

502 443.101 Disqualification for benefits.—An individual shall  
503 be disqualified for benefits:

504 (11) If an individual is discharged from employment for  
505 drug use as evidenced by a positive, confirmed drug test as  
506 provided in paragraph (1)(d), or is rejected for offered  
507 employment because of a positive, confirmed drug test as  
508 provided in paragraph (2)(c), test results and chain of custody  
509 documentation provided to the employer by a licensed and  
510 approved drug-testing laboratory is self-authenticating and  
511 admissible in reemployment assistance hearings, and such  
512 evidence creates a rebuttable presumption that the individual  
513 used, or was using, controlled substances, subject to the  
514 following conditions:

515 (b) Only laboratories licensed and approved as provided in  
516 s. 440.102(10) ~~s. 440.102(9)~~, or as provided by equivalent or  
517 more stringent licensing requirements established by federal law  
518 or regulation may perform the drug tests.

519 Section 4. This act shall take effect July 1, 2020.