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The 2025 Florida Statutes

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PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS	

112.0455 Drug-Free Workplace Act.—

- (1) **SHORT TITLE.**—This section shall be known and may be cited as the “Drug-Free Workplace Act.”
- (2) **PURPOSE.**—This section is intended to:
- (a) Promote the goal of drug-free workplaces within government through fair and reasonable drug-testing methods for the protection of public employees and employers.
 - (b) Encourage employers to provide employees who have drug use problems with an opportunity to participate in an employee assistance program or an alcohol and drug rehabilitation program.
 - (c) Provide for confidentiality of testing results.
- (3) **FINDINGS.**—The Legislature finds that:
- (a) Drug use has serious adverse effects upon a significant portion of the workforce, resulting in billions of dollars of lost productivity each year and posing a threat to the workplace and to public safety and security.
 - (b) Maintaining a healthy and productive workforce, safe working conditions free from the effects of drugs, and quality products and services is important to employers, employees, and the general public in this state. The Legislature further finds that drug use creates a variety of workplace problems, including increased injury on the job, increased absenteeism, increased financial burden on health and benefit programs, increased workplace theft, decreased employee morale, decreased productivity, and a decline in the quality of products and services.
 - (c) Certain drug-testing standards are necessary to protect persons participating in workplace drug-testing programs.
 - (d) In balancing the interests of employers, employees, and the welfare of the general public, the establishment of standards to assure fair and accurate testing for drugs in the workplace is in the best interests of all.
- (4) **NO LEGAL DUTY TO TEST.**—All drug testing conducted by employers shall be in conformity with the standards established in this section and all applicable rules promulgated pursuant to this section. However, employers shall not have a legal duty under this section to request an employee or job applicant to undergo drug testing. No testing of employees shall take effect until local drug abuse assistance programs have been identified.
- (5) **DEFINITIONS.**—Except where the context otherwise requires, as used in this act:
- (a) “Chain of custody” refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing for accountability at each stage in handling, testing, storing specimens, and reporting of test results.
 - (b) “Confirmation test,” “confirmed test,” or “confirmed drug test” means a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The confirmation test must be different in scientific principle from that of the initial test procedure. This confirmation method must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.
 - (c) “Drug” means alcohol, including distilled spirits, wine, malt beverages, and intoxicating liquors; amphetamines; cannabinoids; cocaine; phencyclidine (PCP); hallucinogens; methaqualone; opiates; barbiturates; benzodiazepines; synthetic narcotics; designer drugs; or a metabolite of any of the substances listed herein.

(d) “Drug test” or “test” means any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of a drug or its metabolites.

(e) “Employee” means a person who works for salary, wages, or other remuneration for an employer.

(f) “Employee assistance program” means an established program for employee assessment, counseling, and possible referral to an alcohol and drug rehabilitation program.

(g) “Employer” means an agency within state government that employs individuals for salary, wages, or other remuneration.

(h) “Initial drug test” means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens. All initial tests must use an immunoassay procedure or an equivalent, or must use a more accurate scientifically accepted method approved by the Agency for Health Care Administration as more accurate technology becomes available in a cost-effective form.

(i) “Job applicant” means a person who has applied for a position with an employer and has been offered employment conditioned upon successfully passing a drug test.

(j) “Prescription or nonprescription medication” means a drug or medication obtained pursuant to a prescription as defined by s. [893.02](#) or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

(k) “Random testing” means a drug test conducted on employees who are selected through the use of a computer-generated random sample of an employer’s employees.

(l) “Reasonable suspicion drug testing” means drug testing based on a belief that an employee is using or has used drugs in violation of the employer’s policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Reasonable suspicion drug testing may not be required except upon the recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question. Among other things, such facts and inferences may be based upon:

1. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug.
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
3. A report of drug use, provided by a reliable and credible source, which has been independently corroborated.
4. Evidence that an individual has tampered with a drug test during employment with the current employer.
5. Information that an employee has caused, or contributed to, an accident while at work.
6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer’s premises or while operating the employer’s vehicle, machinery, or equipment.

(m) “Special risk” means employees who are required as a condition of employment to be certified under chapter 633 or chapter 943.

(n) “Specimen” means a tissue, hair, or product of the human body capable of revealing the presence of drugs or their metabolites.

(6) NOTICE TO EMPLOYEES.—

(a) Employers with no drug-testing program shall ensure that at least 60 days elapse between a general one-time notice to all employees that a drug-testing program is being implemented and the beginning of actual drug testing. Employers with drug-testing programs in place prior to the effective date of this section are not required to provide a 60-day notice period.

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

1. A general statement of the employer’s policy on employee drug use, which shall identify:
 - a. The types of testing an employee or job applicant may be required to submit to, including reasonable suspicion or other basis; and
 - b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.
2. A statement advising the employee or job applicant of the existence of this section.

3. A general statement concerning confidentiality.
4. Procedures for employees and job applicants to confidentially report the use of prescription or nonprescription medications both before and after being tested. Additionally, employees and job applicants shall receive notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications shall be developed by the Agency for Health Care Administration.
5. The consequences of refusing to submit to a drug test.
6. Names, addresses, and telephone numbers of employee assistance programs and local alcohol and drug rehabilitation programs.
7. A statement that an employee or job applicant who receives a positive confirmed drug test result may contest or explain the result to the employer within 5 working days after written notification of the positive test result. If an employee or job applicant's explanation or challenge is unsatisfactory to the employer, the person may contest the drug test result as provided by subsections (14) and (15).
8. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil actions brought pursuant to this section.
9. A list of all drugs for which the employer will test, described by brand names or common names, as applicable, as well as by chemical names.
10. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission.
11. A statement notifying employees and job applicants of their right to consult the testing laboratory for technical information regarding prescription and nonprescription medication.
 - (c) An employer shall include notice of drug testing on vacancy announcements for those positions where drug testing is required. A notice of the employer's drug-testing policy shall also be posted in an appropriate and conspicuous location on the employer's premises, and copies of the policy shall be made available for inspection by the general public during regular business hours in the employer's personnel office or other suitable locations.
 - (7) TYPES OF TESTING.—Drug testing must be conducted within each agency's appropriation. An employer may conduct, but is not required to conduct, the following types of drug tests:
 - (a) *Job applicant testing*.—An employer may require job applicants to submit to a drug test and may use a refusal to submit to a drug test or a positive confirmed drug test as a basis for refusal to hire the job applicant.
 - (b) *Reasonable suspicion*.—An employer may require an employee to submit to reasonable suspicion drug testing.
 - (c) *Random testing*.—An employer may conduct random testing once every 3 months. The random sample of employees chosen for testing must be computer-generated by an independent third party. A random sample may not constitute more than 10 percent of the total employee population.
 - (d) *Routine fitness for duty*.—An employer may require an employee to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.
 - (e) *Followup testing*.—If the employee in the course of employment enters an employee assistance program for drug-related problems, or an alcohol and drug rehabilitation program, the employer may require the employee to submit to a drug test as a followup to such program, and on a quarterly, semiannual, or annual basis for up to 2 years thereafter.

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

- (a) A sample shall be collected with due regard to the privacy of the individual providing the sample, and in a manner reasonably calculated to prevent substitution or contamination of the sample.
- (b) Specimen collection shall be documented, and the documentation procedures shall include:
 1. Labeling of specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results.

2. A form for the employee or job applicant to provide any information he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication, or other relevant medical information. Such form shall provide notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. The providing of information does not preclude the administration of the drug test, but shall be taken into account in interpreting any positive confirmed results.

(c) Specimen collection, storage, and transportation to the testing site shall be performed in a manner that will reasonably preclude specimen contamination or adulteration.

(d) Each initial and confirmation test conducted under this section, not including the taking or collecting of a specimen to be tested, shall be conducted by a licensed laboratory as described in subsection (12).

(e) A specimen for a drug test may be taken or collected by any of the following persons:

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

2. A qualified person employed by a licensed laboratory.

(f) A person who collects or takes a specimen for a drug test conducted pursuant to this section shall collect an amount sufficient for two drug tests as determined by the Agency for Health Care Administration.

(g) Any drug test conducted or requested by an employer may occur before, during, or immediately after the regular work period of the employee, and shall be deemed to be performed during work time for the purposes of determining compensation and benefits for the employee.

(h) Every specimen that produces a positive confirmed result shall be preserved by the licensed laboratory that conducts the confirmation test for a period of at least 210 days from the time the results of the positive confirmation test are mailed or otherwise delivered to the employer. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 180-day period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee or job applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, chosen by the employee or job applicant. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory that performed the test for the employer is responsible for the transfer of the portion of the specimen to be retested, and for the integrity of the chain of custody during such transfer.

(i) Within 5 working days after receipt of a positive confirmed test result from the testing laboratory, an employer shall inform an employee or job applicant in writing of such positive test result, the consequences of such results, and the options available to the employee or job applicant.

(j) The employer shall provide to the employee or job applicant, upon request, a copy of the test results.

(k) Within 5 working days after receiving notice of a positive confirmed test result, the employee or job applicant may submit information to an employer explaining or contesting the test results, and why the results do not constitute a violation of the employer's policy.

(l) If an employee or job applicant's explanation or challenge of the positive test results is unsatisfactory to the employer, a written explanation as to why the employee or job applicant's explanation is unsatisfactory, along with the report of positive results, shall be provided by the employer to the employee or job applicant. All such documentation shall be kept confidential and exempt from the provisions of s. 119.07(1) by the employer pursuant to subsection (11) and shall be retained by the employer for at least 1 year.

(m) An employer may not discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation of an employee or job applicant on the sole basis of a positive test result that has not been verified by a confirmation test.

(n) Upon successful completion of an employee assistance program or an alcohol and drug rehabilitation program, the employee shall be reinstated to the same or equivalent position that was held prior to such

rehabilitation.

(o) An employer may not discharge, discipline, or discriminate against an employee, or refuse to hire a job applicant, on the basis of any prior medical history revealed to the employer pursuant to this section.

(p) An employer who performs drug testing or specimen collection shall use chain-of-custody procedures as established by the Agency for Health Care Administration to ensure proper recordkeeping, handling, labeling, and identification of all specimens to be tested.

(q) An employer shall pay the cost of all drug tests, initial and confirmation, which the employer requires of employees.

(r) An employee or job applicant shall pay the costs of any additional drug tests not required by the employer.

(s) An employer may not discharge, discipline, or discriminate against an employee solely upon voluntarily seeking treatment, while under the employ of the employer, for a drug-related problem if the employee has not previously tested positive for drug use, entered an employee assistance program for drug-related problems, or entered an alcohol and drug rehabilitation program. However, special risk employees may be subject to discharge or disciplinary action when the presence of illicit drugs, pursuant to s. 893.13, is confirmed.

(t) If testing is conducted based on reasonable suspicion, each employer shall promptly detail in writing the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant the testing. A copy of this documentation shall be given to the employee upon request and the original documentation shall be kept confidential and exempt from the provisions of s. 119.07(1) by the employer pursuant to subsection (11) and retained by the employer for at least 1 year.

(u) If an employee is unable to participate in outpatient rehabilitation, the employee may be placed on leave status while participating in an employee assistance program or an alcohol and drug rehabilitation program. If placed on leave-without-pay status, the employee shall be permitted to use any accumulated leave credits prior to being placed on leave without pay. Upon successful completion of an employee assistance program or an alcohol and drug rehabilitation program, the employee shall be reinstated to the same or equivalent position that was held prior to such rehabilitation.

(9) CONFIRMATION TESTING.—

(a) If an initial drug test is negative, the employer may in its sole discretion and at the employer's expense seek a confirmation test.

(b) Only licensed laboratories as described in subsection (12) shall conduct confirmation drug tests.

(c) All positive initial tests shall be confirmed using gas chromatography/mass spectrometry (GC/MS) or an equivalent or more accurate scientifically accepted method approved by the Agency for Health Care Administration as such technology becomes available in a cost-effective form.

(10) EMPLOYER PROTECTION.—

(a) No employee or job applicant whose drug test result is confirmed as positive in accordance with the provisions of this section shall, by virtue of the result alone, be defined as a person with a "handicap" as cited in the 1973 Rehabilitation Act.

(b) An employer who discharges or disciplines an employee or refuses to hire a job applicant in compliance with this section shall be considered to have discharged, disciplined, or refused to hire for cause.

(c) No physician-patient relationship is created between an employee or job applicant and an employer or any person performing or evaluating a drug test, solely by the establishment, implementation, or administration of a drug-testing program.

(d) Nothing in this section shall be construed to prevent an employer from establishing reasonable work rules related to employee possession, use, sale, or solicitation of drugs, including convictions for drug-related offenses, and taking action based upon a violation of any of those rules.

(e) Nothing in this section shall be construed to operate retroactively.

(f) If an employee or job applicant refuses to submit to a drug test, the employer shall not be barred from discharging or disciplining the employee, or from refusing to hire the job applicant. However, nothing in this paragraph shall abrogate the rights and remedies of the employee or job applicant as otherwise provided in this section.

(g) An employer who refuses to hire a job applicant based on a positive confirmed drug test result shall not be required to hold the employment position vacant while the job applicant pursues administrative action. However, should the job applicant prevail in the actions, the employer shall provide him or her the opportunity of employment in the next available comparable position.

(h) An employer may discharge or discipline an employee following a first-time positive confirmed drug test result. If the employer does not discharge the employee, the employer may refer the employee to an employee assistance program or an alcohol and drug rehabilitation program in which the employee may participate at the expense of the employee or pursuant to a health insurance plan.

1. If an employer refers an employee to an employee assistance program or an alcohol and drug rehabilitation program, the employer must determine whether the employee is able to safely and effectively perform the job duties assigned to the employee while the employee participates in the employee assistance program or the alcohol and drug rehabilitation program.

2. An employee whose assigned duties require the employee to carry a firearm, work closely with an employee who carries a firearm, perform life-threatening procedures, work with heavy or dangerous machinery, work as a safety inspector, work with children, work with detainees in the correctional system, work with confidential information or documents pertaining to criminal investigations, work with controlled substances, hold a position subject to s. [110.1127](#), or hold a position in which a momentary lapse in attention could result in injury or death to another person, is deemed unable to safely and effectively perform the job duties assigned to the employee while the employee participates in the employee assistance program or the alcohol and drug rehabilitation program.

3. If an employer refers an employee to an employee assistance program or an alcohol and drug rehabilitation program and the employer determines that the employee is unable, or the employee is deemed unable, to safely and effectively perform the job duties assigned to the employee before he or she completes the employee assistance program or the alcohol and drug rehabilitation program, the employer shall place the employee in a job assignment that the employer determines the employee can safely and effectively perform while participating in the employee assistance program or the alcohol and drug rehabilitation program.

4. If a job assignment in which the employee may safely and effectively perform is unavailable, the employer shall place the employee on leave status while the employee is participating in an employee assistance program or an alcohol and drug rehabilitation program. If placed on leave status without pay, the employee may use accumulated leave credits before being placed on leave without pay.

(i) This section does not prohibit an employer from conducting medical screening or other tests required by any statute, rule, or regulation for the purpose of monitoring exposure of employees to toxic or other unhealthy substances in the workplace or in the performance of job responsibilities. Such screening or tests shall be limited to the specific substances expressly identified in the applicable statute, rule, or regulation, unless prior written consent of the employee is obtained for other tests.

(11) CONFIDENTIALITY.—

(a) Except as otherwise provided in this subsection, all information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of a drug-testing program are confidential and exempt from the provisions of s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with this section.

(b) Employers, laboratories, employee assistance programs, drug and alcohol rehabilitation programs, and their agents may not release any information concerning drug test results obtained pursuant to this section without a written consent form signed voluntarily by the person tested, except where such release is compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal taken under this section, or where deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. The consent form must contain, at a minimum:

1. The name of the person who is authorized to obtain the information.
2. The purpose of the disclosure.
3. The precise information to be disclosed.

4. The duration of the consent.
5. The signature of the person authorizing release of the information.

(c) Information on drug test results shall not be released or used in any criminal proceeding against the employee or job applicant. Information released contrary to this section shall be inadmissible as evidence in any such criminal proceeding.

(d) Nothing herein shall be construed to prohibit certifying bodies of special risk employees from receiving information on positive confirmed drug test results for the purpose of reviewing certification.

(e) Nothing herein shall be construed to prohibit the employer, agent of the employer, or laboratory conducting a drug test from having access to employee drug test information when consulting with legal counsel in connection with actions brought under or related to this section or where the information is relevant to its defense in a civil or administrative matter.

(12) DRUG-TESTING STANDARDS; LABORATORIES.—

(a) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to this section and part II of chapter 408 and to entities licensed by or applying for such licensure from the Agency for Health Care Administration pursuant to this section. A license issued by the agency is required in order to operate a laboratory.

(b) A laboratory may analyze initial or confirmation drug specimens only if:

1. The laboratory is licensed and approved by the Agency for Health Care Administration using criteria established by the United States Department of Health and Human Services as general guidelines for modeling the state drug testing program and in accordance with part II of chapter 408. Each applicant for licensure and licensee must comply with all requirements of part II of chapter 408.

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

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

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

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

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

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

(c) A laboratory shall disclose to the employer a written test result report within 7 working days after receipt of the sample. All laboratory reports of a drug test result shall, at a minimum, state:

1. The name and address of the laboratory which performed the test and the positive identification of the person tested.

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

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

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

5. Any correlation between medication reported by the employee or job applicant pursuant to subparagraph (8)(b)2. and a positive confirmed drug test result.

No report shall disclose the presence or absence of any drug other than a specific drug and its metabolites listed pursuant to this section.

(d) The laboratory shall submit to the Agency for Health Care Administration a monthly report with statistical information regarding the testing of employees and job applicants. The reports shall include information on the methods of analyses conducted, the drugs tested for, the number of positive and negative results for both initial and confirmation tests, and any other information deemed appropriate by the Agency for Health Care Administration. No monthly report shall identify specific employees or job applicants.

(e) Laboratories shall provide technical assistance to the employer, employee, or job applicant for the purpose of interpreting any positive confirmed test results which could have been caused by prescription or nonprescription medication taken by the employee or job applicant.

(13) RULES.—

(a) The Agency for Health Care Administration may adopt additional rules to support this law and part II of chapter 408, using criteria established by the United States Department of Health and Human Services as general guidelines for modeling drug-free workplace laboratories, concerning, but not limited to:

1. Standards for drug-testing laboratory licensing and denial, suspension, and revocation of a license.
2. Urine, hair, blood, and other body specimens and minimum specimen amounts which are appropriate for drug testing, not inconsistent with other provisions established by law.
3. Methods of analysis and procedures to ensure reliable drug-testing results, including standards for initial tests and confirmation tests, not inconsistent with other provisions established by law.
4. Minimum cutoff detection levels for drugs or their metabolites for the purposes of determining a positive test result, not inconsistent with other provisions established by law.
5. Chain-of-custody procedures to ensure proper identification, labeling, and handling of specimens being tested, not inconsistent with other provisions established by law.
6. Retention, storage, and transportation procedures to ensure reliable results on confirmation tests and retests.
7. A list of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test.

(b) The following standards and procedures are established related to hair testing:

1. Hair cutoff levels for initial drug-screening tests.—The following initial cutoff levels must be used when screening hair specimens to determine whether they are negative for these drugs or their metabolites:
 - a. Marijuana: 10 pg/10 mg of hair;
 - b. Cocaine: 5 ng/10 mg of hair; and
 - c. Opiate/synthetic narcotics and metabolites: 5 ng/10 mg of hair. For the purpose of this section, opiate and metabolites include the following:
 - (I) Codeine;
 - (II) Heroin, monoacetylmorphine (heroin metabolites);
 - (III) Morphine;
 - d. Phencyclidine: 3 ng/10 mg of hair; and
 - e. Amphetamines: 5 ng/10 mg of hair. For the purpose of this section, amphetamines include the following:
 - (I) Amphetamines;
 - (II) Methamphetamine;
2. Hair cutoff levels for drug confirmation testing.—
 - a. All specimens identified as positive on the initial test must be confirmed using gas chromatography/mass spectrometry (GC/MS), mass spectrometry/mass spectrometry (MS/MS) at the following cutoff levels for these drugs on their metabolites. All confirmations must be by quantitative analysis.
 - (I) Marijuana metabolites: 1 pg/10 mg of hair (Delta-9-tetrahydrocannabinol-0-carboxylic acid).
 - (II) Cocaine: must be at or above 5 ng/10 mg of hair. Cocaine metabolites if present will be recorded at the following minimum levels:
 - (A) Benzoylcegonine at 1 ng/10 mg of hair; and
 - (B) Cocaethylene at 1 ng/10 mg of hair.
 - (III) Opiate/synthetic narcotics and metabolites: 5 ng/10 mg of hair; opiate and metabolites include the following:
 - (A) Codeine;
 - (B) 6-Monoacetylmorphine (heroin metabolite); and
 - (C) Morphine.
 - (IV) Phencyclidine: 3 ng/10 mg of hair.

(V) Amphetamines: 5 ng/10 mg of hair. For the purpose of this section, amphetamines include the following:

- (A) Amphetamines; and
- (B) Methamphetamines.

b. All hair specimens undergoing confirmation must be decontaminated using a wash procedure which has been published in the peer-reviewed literature which, as a minimum, has an initial 15-minute organic solvent wash followed by multiple (minimum of three) 30-minute aqueous washes.

c. After hair is washed, the drug entrapped in the hair is released either by digestion (chemical or enzymatic) or by multiple solvent extractions. The resulting digest or pooled solvent extracts are then screened and confirmed by approved methods.

d. All confirmation analysis methods must eliminate the melanin fraction of the hair before analysis. If a nondigestion method is used, the laboratory must present published data in the peer-reviewed literature from a large population study which indicates that the method of extraction does not possess a statistically significant hair-color bias.

e. Additional hair samples may be collected to reconfirm the initial report. The recollected sample shall be retested as specified; however, the confirmation analysis must be performed even if the screening test is negative. A second positive report must be made if the drug concentration in the digest by confirmation methods exceeds the limit of quantitation of the testing laboratory's method. A second test must be offered to anyone disputing a positive hair test result.

3. Hair specimen collection procedures.—

a. Designation of collection site.—Each drug-testing program shall have one or more designated collection sites which have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of hair specimens to a licensed drug-testing facility.

b. Security.—While security is important with any collection, in the case of hair, only the temporary storage area in the designated collection site needs to be secure.

c. Chain of custody.—Chain-of-custody standardized forms shall be properly executed by authorized collection site personnel upon receipt of specimens. Handling and transportation of hair specimens from one authorized individual or place to another shall always be accomplished through chain-of-custody procedures. Every effort shall be made to minimize the number of persons handling specimens.

d. Access to authorized personnel only.—The hair collection site need be off limits to unauthorized personnel only during the actual collection of specimens.

e. Privacy.—Procedures for collecting hair should be performed on one individual at a time to prevent substitutions or interference with the collection of reliable samples. Procedures must ensure that the hair collection does not infringe on the individual's privacy.

f. Integrity and identity of specimen.—Precautions must be taken to ensure that the root end of a hair specimen is indicated for the laboratory which performs the testing. The maximum length of hair that shall be tested is 3.9 cm distal from the head, which on average represents a 3-month time window. The following minimum precautions must be taken when collecting a hair specimen to ensure that specimens are obtained and correctly identified:

(I) When an individual arrives at the collection site, the collection site personnel shall request the individual to present photo identification. If the individual does not have proper photo identification, the collection site personnel shall contact the supervisor of the individual, the coordinator of the drug testing program, or any other employer official who can positively identify the individual. If the individual's identity cannot be established, the collection site personnel shall not proceed with the collection.

(II) If the individual fails to arrive at the assigned time, the collection site personnel shall contact the appropriate authority to obtain guidance on the action to be taken.

(III) The collection site personnel shall note any unusual behavior or appearance on the chain-of-custody form.

(IV) Hair shall be cut as close to the scalp or body, excluding the pubic area, as possible. Upon taking the specimen from the individual, the collection site personnel shall determine that it contains approximately 1/2-inch of hair when fanned out on a ruler (about 40 mg of hair).

(V) Both the individual being tested and the collection site personnel shall keep the specimen in view at all times prior to the specimen container being sealed with a tamper-resistant seal and labeled with the individual's specimen number and other required information.

(VI) The collection site personnel shall label the container which contains the hair with the date, the individual's specimen number, and any other identifying information provided or required by the drug-testing program.

(VII) The individual shall initial the container for the purpose of certifying that it is the specimen collected from the individual.

(VIII) The collection site personnel shall indicate on the chain-of-custody form all information identifying the specimen. The collection site personnel shall sign the chain-of-custody form next to the identifying information or the chain of custody on the specimen container.

(IX) The individual must be asked to read and sign a statement certifying that the specimen identified as having been collected from the individual is in fact that specimen the individual provided.

(X) The collection site personnel shall complete the chain-of-custody form.

g. Collection control.—To the maximum extent possible, collection site personnel shall keep the individual's specimen container within sight both before and after collection. After the specimen is collected, it must be properly sealed and labeled. An approved chain-of-custody form must be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. The date and purpose must be documented on an approved chain-of-custody form each time a specimen is handled or transferred, and every individual in the chain must be identified. Every effort must be made to minimize the number of persons handling specimens.

h. Transportation to the testing facility.—Collection site personnel shall arrange to transport the collected specimens to the drug-testing facility. The specimens shall be placed in containers which shall be securely sealed to eliminate the possibility of undetected tampering. The collection site personnel shall ensure that the chain-of-custody documentation is sealed separately from the specimen and placed inside the container sealed for transfer to the drug-testing facility.

4. Quality assurance and quality control.—

a. Quality assurance.—Testing facilities shall have a quality assurance program which encompasses all aspects of the testing process, including, but not limited to, specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, and validation of analytical procedures. Quality assurance procedures shall be designed, implemented, and reviewed to monitor the conduct of each step of the process of testing for drugs.

b. Quality control.—

(I) Each analytical run of specimens to be screened shall include:

(A) Hair specimens certified to contain no drug;

(B) Hair specimens fortified with known standards; and

(C) Positive controls with the drug or metabolite at or near the threshold (cutoff).

(II) In addition, with each batch of samples, a sufficient number of standards shall be included to ensure and document the linearity of the assay method over time in the concentration area of the cutoff. After acceptable values are obtained for the known standards, those values must be used to calculate sample data. Implementation of procedures to ensure that carryover does not contaminate the testing of an individual's specimen must be documented. A minimum of 5 percent of all test samples must be quality control specimens. The testing facility's quality control samples, prepared from fortified hair samples of determined concentration, must be included in the run and must appear as normal samples to drug-screen testing facility analysis. One percent of each run, with a minimum of at least one sample, must be the testing facility's own quality control samples.

5.a. Proficiency testing.—

(I) Each hair drug-testing facility shall enroll and demonstrate satisfactory performance in a proficiency-testing program established by an independent group.

(II) The drug-testing facility shall maintain records which document the handling, processing, and examination of all proficiency-testing samples for a minimum of 2 years from the date of testing.

(III) The drug-testing facility shall ensure that proficiency-testing samples are analyzed at least three times each year using the same techniques as those employed for unknown specimens.

(IV) The proficiency-testing samples must be included with the routine sample run and tested with the same frequency as unknown samples by the individuals responsible for testing unknown specimens.

(V) The drug-testing facility may not engage in discussions or communications concerning proficiency-testing results with other drug-testing facilities, nor may they send proficiency-testing samples or portions of the samples to another drug-testing facility for analysis.

b. Satisfactory performance.—

(I) The drug-testing facility shall maintain an overall testing-event score equivalent to passing proficiency scores for other drug-testing matrices.

(II) Failure to participate in a proficiency-testing event shall result in a score of 0 percent for that testing event.

c. Unsuccessful performance.—Failure to achieve satisfactory performance in two consecutive testing events, or two out of three consecutive testing events, is determined to be unsuccessful performance.

(c) The Department of Management Services may adopt rules for all executive branch agencies implementing this section.

(d) The State Courts Administrator may adopt rules for the state courts system implementing this section.

(e) The Justice Administrative Commission may adopt rules on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel, and the Judicial Qualifications Commission.

(f) The President of the Senate and the Speaker of the House of Representatives may adopt rules, policies, or procedures for the employees and members of the legislative branch implementing this section.

This section shall not be construed to eliminate the bargainable rights as provided in the collective bargaining process where applicable.

(14) DISCIPLINE REMEDIES.—

(a) An executive branch employee who is disciplined or who is a job applicant for another position and is not hired pursuant to this section, may file an appeal with the Public Employees Relations Commission. Any appeal must be filed within 30 calendar days of receipt by the employee or job applicant of notice of discipline or refusal to hire. The notice shall inform the employee or job applicant of the right to file an appeal, or if available, the right to file a collective bargaining grievance pursuant to s. [447.401](#). Such appeals shall be resolved pursuant to the procedures established in ss. [447.207\(1\)-\(4\)](#), [447.208\(2\)](#), and [447.503\(4\)](#) and (5). A hearing on the appeal shall be conducted within 30 days of the filing of the appeal, unless an extension is requested by the employee or job applicant and granted by the commission or an arbitrator.

(b) The commission shall promulgate rules concerning the receipt, processing, and resolution of appeals filed pursuant to this section.

(c) Appeals to the commission shall be the exclusive administrative remedy for any employee who is disciplined or any job applicant who is not hired pursuant to this section, notwithstanding the provisions of chapter 120. However, nothing in this subsection shall affect the right of an employee or job applicant to file a collective bargaining grievance pursuant to s. [447.401](#) provided that an employee or job applicant may not file both an appeal and a grievance.

(d) An employee or a job applicant who has been disciplined or who has not been hired pursuant to this section must exhaust either the administrative appeal process or collective bargaining grievance-arbitration process.

(e) Upon resolving an appeal filed pursuant to paragraph (c), and finding a violation of this section, the commission may order the following relief:

1. Rescind the disciplinary action, expunge related records from the personnel file of the employee or job applicant and reinstate the employee.
2. Order compliance with paragraph (10)(g).
3. Award back pay and benefits.

4. Award the prevailing employee or job applicant the necessary costs of the appeal, reasonable attorney's fees, and expert witness fees.

(15) NONDISCIPLINE REMEDIES.—

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

1. An order restraining the continued violation of this section.
2. An award of the costs of litigation, expert witness fees, reasonable attorney's fees, and noneconomic damages provided that damages shall be limited to the recovery of damages directly resulting from injury or loss caused by each violation of this section.

(b) Any employer who complies with the provisions of this section shall be without liability from all civil actions arising from any drug testing program or procedure performed in compliance with this section.

(c) Pursuant to any claim alleging a violation of this section, including a claim under this section where it is alleged that an employer's action with respect to a person was based on an incorrect test result, there shall be a rebuttable presumption that the test was valid if the employer complied with the provisions of this section.

(d) No cause of action shall arise in favor of any person based upon the failure of an employer to establish a program or policy for drug testing.

(16) FEDERAL COMPLIANCE.—The drug-testing procedures provided in this section do not apply where the specific work performed requires employees or job applicants to be subject to drug testing pursuant to:

- (a) Federal regulations that specifically preempt state and local regulation of drug testing with respect to such employees and job applicants;
- (b) Federal regulations or requirements enacted or implemented in connection with the operation of federally regulated facilities;
- (c) Federal contracts where the drug testing is conducted for safety, or protection of sensitive or proprietary data or national security; or
- (d) State agency rules that adopt federal regulations applicable to the interstate component of a federally regulated activity.

(17) LICENSE FEE.—Fees from licensure of drug-testing laboratories shall be sufficient to carry out the responsibilities of the Agency for Health Care Administration for the regulation of drug-testing laboratories. In accordance with s. [408.805](#), applicants and licensees shall pay a fee for each license application submitted under this part, part II of chapter 408, and applicable rules. The fee shall be not less than \$16,000 or more than \$20,000 per biennium and shall be established by rule.

History.—s. 1, ch. 89-173; s. 1, ch. 90-238; s. 25, ch. 90-360; s. 1, ch. 91-201; s. 6, ch. 91-279; s. 4, ch. 91-429; s. 40, ch. 92-279; s. 55, ch. 92-326; s. 7, ch. 93-129; s. 2, ch. 95-119; s. 680, ch. 95-147; s. 1, ch. 96-289; s. 32, ch. 96-406; s. 7, ch. 98-136; ss. 5, 71, ch. 98-171; s. 53, ch. 2000-349; s. 25, ch. 2001-53; s. 2, ch. 2001-67; s. 148, ch. 2001-277; s. 37, ch. 2004-267; s. 11, ch. 2006-1; s. 7, ch. 2007-217; s. 1, ch. 2007-230; s. 1, ch. 2012-8; s. 7, ch. 2016-10; s. 23, ch. 2016-145; s. 31, ch. 2023-8.