

(6) accept gifts, donations, and appropriations from governmental or non-governmental sources and apply for grants from them;

(7) review activities to determine whether the expenditure of program money and other money is in compliance with the neighborhood plans adopted by the policy board and approved by the governing bodies having jurisdiction over the program, and report its findings prior to October 1 of each year to all of the governmental units, agencies, and nongovernmental organizations represented on the policy board; and

(8) prepare annually an administrative budget for the ensuing year, estimating its expenditures and estimated revenues, and forward its proposed budget to the governmental units and agencies and nongovernmental organizations for appropriate action.

Presented to the governor May 2, 1991

Signed by the governor May 6, 1991, 3:34 p.m.

CHAPTER 60—S.F.No. 550

An act relating to health; employee drug testing; clarifying requirements for labs that test employees for drugs; amending Minnesota Statutes 1990, sections 181.950, subdivisions 2, 5, 8, and 10; 181.951, subdivision 1; 181.953, subdivisions 1, 3, 5, and 9; and 626.5562, subdivision 5; repealing Minnesota Statutes 1990, sections 181.950, subdivision 3; and 181.953, subdivision 2; Minnesota Rules, parts 4740.0100 to 4740.1090.

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

Section 1. Minnesota Statutes 1990, section 181.950, subdivision 2, is amended to read:

Subd. 2. **CONFIRMATORY TEST; CONFIRMATORY RETEST.** "Confirmatory test" and "confirmatory retest" mean a drug or alcohol test that uses a method of analysis approved by the commissioner allowed under one of the programs listed in section 181.953, subdivision 1; as being reliable for providing specific data as to the drugs, alcohol, or their metabolites detected in an initial screening test.

Sec. 2. Minnesota Statutes 1990, section 181.950, subdivision 5, is amended to read:

Subd. 5. **DRUG AND ALCOHOL TESTING.** "Drug and alcohol testing," "drug or alcohol testing," and "drug or alcohol test" mean analysis of a body component sample approved by the commissioner under according to the standards established under one of the programs listed in section 181.953, subdivision 1, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 3. Minnesota Statutes 1990, section 181.950, subdivision 8, is amended to read:

Subd. 8. **INITIAL SCREENING TEST.** "Initial screening test" means a drug or alcohol test which uses a method of analysis ~~approved by the commissioner~~ under one of the programs listed in section 181.953, subdivision 1; ~~as being capable of providing data as to general classes of drugs, alcohol, or their metabolites.~~

Sec. 4. Minnesota Statutes 1990, section 181.950, subdivision 10, is amended to read:

Subd. 10. **POSITIVE TEST RESULT.** "Positive test result" means a finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels ~~set by the commissioner~~ contained in the standards of one of the programs listed in section 181.953, subdivision 1.

Sec. 5. Minnesota Statutes 1990, section 181.951, subdivision 1, is amended to read:

Subdivision 1. **LIMITATIONS ON TESTING.** (a) An employer may not request or require an employee or job applicant to undergo drug and alcohol testing except as authorized in this section.

(b) An employer may not request or require an employee or job applicant to undergo drug or alcohol testing unless the testing is done pursuant to a written drug and alcohol testing policy that contains the minimum information required in section 181.952; and, is conducted by a testing laboratory ~~licensed under section 181.953, subdivision 1; except as otherwise permitted under that subdivision; or by a nonlicensed laboratory as transitionally allowed under which~~ participates in one of the programs listed in section 181.953, subdivision 2 1.

(c) An employer may not request or require an employee or job applicant to undergo drug and alcohol testing on an arbitrary and capricious basis.

Sec. 6. Minnesota Statutes 1990, section 181.953, subdivision 1, is amended to read:

Subdivision 1. **USE OF LICENSED, ACCREDITED, OR CERTIFIED LABORATORY REQUIRED.** (a) An employer who requests or requires an employee or job applicant to undergo drug or alcohol testing shall use the services of a testing laboratory ~~licensed by the commissioner under this subdivision; except that, a breath test as an initial screening test for alcohol may be performed by a medical clinic, hospital, or other medical facility not owned or operated by the employer that does not meet the licensing requirements of this section; provided that the breath test meets the standards or requirements adopted by rule under paragraph (b); except clause (1); and any confirmatory test is performed according to the requirements of sections 181.950 to 181.957 and the rules adopted thereunder.~~

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The commissioner shall adopt rules by January 1, 1988, governing:

(1) standards for licensing, suspension, and revocation of a license;

(2) body component samples that are appropriate for drug and alcohol testing;

(3) procedures for taking a sample that ensure privacy to employees and job applicants to the extent practicable, consistent with preventing tampering with the sample;

(4) methods of analysis and procedures to ensure reliable drug and alcohol testing results, including standards for initial screening tests and confirmatory tests;

(5) threshold detection levels for drugs, alcohol, or their metabolites for purposes of determining a positive test result;

(6) chain-of-custody procedures to ensure proper identification, labeling, and handling of the samples being tested; and

(7) retention and storage procedures to ensure reliable results on confirmatory tests or confirmatory retests of original samples.

(c) With respect to paragraph (b), clause (4), the rules must allow testing for alcohol by breath test as an initial screening test, provided that the results are confirmed by blood analysis.

(d) The commissioner shall also grant licenses to laboratories conducting drug and alcohol testing that are located in another state, provided that either: (1) the laboratory is licensed by the other state or by a federal agency to conduct drug and alcohol testing and the other state's or federal agency's rules governing standards, methods, and procedures meet or exceed those adopted under this subdivision; or (2) the laboratory has agreed in writing with the commissioner to comply with the rules adopted under this subdivision. A laboratory licensed under this paragraph must also, as a condition of obtaining and retaining a license, agree in writing with the commissioner to comply with the other requirements for laboratories set forth in sections 181.950 to 181.954 and to be subject to the remedies set forth in section 181.956.

(e) The commissioner shall charge laboratories an annual license fee. The fee may vary depending on the number of Minnesota employee samples tested annually at a laboratory. Fee receipts must be deposited in the state treasury and credited to a special account and are appropriated to the commissioner to administer this subdivision and to purchase or lease laboratory equipment as accumulated fee receipts make equipment purchases or leases possible. Notwithstanding section 144.122, the commissioner shall set the license fee at an amount so that the total fees collected will recover the costs of administering this subdivision and allow an additional amount to be credited to the special account each year sufficient to allow the commissioner to obtain appropriate lab-

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oratory equipment for use in administering this subdivision by July 1, 1994 that meets one of the following criteria for drug testing:

(1) is certified by the National Institute on Drug Abuse as meeting the mandatory guidelines published at 54 Federal Register 11970 to 11989, April 11, 1988;

(2) is accredited by the College of American Pathologists, 325 Waukegan Road, Northfield, Illinois, 60093-2750, under the forensic urine drug testing laboratory program; or

(3) is licensed to test for drugs by the state of New York, department of health, under Public Health Law, article 5, title V, and rules adopted under that law.

(b) For alcohol testing, the laboratory must either be:

(1) licensed to test for drugs and alcohol by the state of New York, department of health, under Public Health Law, article 5, title V, and the rules adopted under that law; or

(2) accredited by the College of American Pathologists, 325 Waukegan Road, Northfield, Illinois, 60093-2750, in the laboratory accreditation program.

Sec. 7. Minnesota Statutes 1990, section 181.953, subdivision 3, is amended to read:

Subd. 3. **LABORATORY TESTING, REPORTING, AND SAMPLE RETENTION REQUIREMENTS.** A testing laboratory that is not certified by the National Institute on Drug Abuse according to subdivision 1 shall follow the chain-of-custody procedures prescribed for employers in subdivision 5. A testing laboratory shall conduct a confirmatory test on all samples that produced a positive test result on an initial screening test. A laboratory shall disclose to the employer a written test result report for each sample tested within three working days after a negative test result on an initial screening test or, when the initial screening test produced a positive test result, within three working days after a confirmatory test. A test report must indicate the drugs, alcohol, or drug or alcohol metabolites tested for and whether the test produced negative or positive test results. A laboratory shall retain and properly store for at least six months all samples that produced a positive test result.

Sec. 8. Minnesota Statutes 1990, section 181.953, subdivision 5, is amended to read:

Subd. 5. **EMPLOYER CHAIN-OF-CUSTODY PROCEDURES.** ~~An employer shall comply with the rules adopted by the commissioner under subdivision 1 pertaining to chain-of-custody procedures. Before those rules are adopted, an employer shall establish its own reliable chain-of-custody procedures to ensure proper record keeping, handling, labeling, and identification of the samples to be tested. The procedures must require the following:~~

New language is indicated by underline, deletions by ~~strikeout~~.

(1) possession of a sample must be traceable to the employee from whom the sample is collected, from the time the sample is collected through the time the sample is delivered to the laboratory;

(2) the sample must always be in the possession of, must always be in view of, or must be placed in a secured area by a person authorized to handle the sample;

(3) a sample must be accompanied by a written chain-of-custody record; and

(4) individuals relinquishing or accepting possession of the sample must record the time the possession of the sample was transferred and must sign and date the chain-of-custody record at the time of transfer.

Sec. 9. Minnesota Statutes 1990, section 181.953, subdivision 9, is amended to read:

Subd. 9. **CONFIRMATORY RETESTS.** An employee or job applicant may request a confirmatory retest of the original sample at the employee's or job applicant's own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the employee or job applicant shall notify the employer in writing of the employee's or job applicant's intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the employer shall notify the original testing laboratory that the employee or job applicant has requested the laboratory to conduct the confirmatory retest or transfer the sample to another laboratory licensed under subdivision 1 to conduct the confirmatory retest. The original testing laboratory shall ensure that the chain-of-custody procedures ~~adopted by the commissioner under subdivision 4~~ in subdivision 3 are followed during transfer of the sample to the other laboratory. The confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the employee or job applicant.

Sec. 10. Minnesota Statutes 1990, section 626.5562, subdivision 5, is amended to read:

Subd. 5. **RELIABILITY OF TESTS.** A positive test result reported under this section must be obtained from a confirmatory test performed by a drug testing laboratory ~~licensed by the department of health. The confirmatory test must meet the standards established under section 181.953, subdivision 4, and the rules adopted under it which meets the requirements of section 181.953, and must be performed according to the requirements for performance of confirmatory tests imposed by the licensing, accreditation, or certification program listed in section 181.953, subdivision 1, in which the laboratory participates.~~

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 11. RENEWAL OF LICENSE; EXCEPTION.

Any licenses issued by the commissioner of health under Minnesota Statutes, section 181.953, and expiring during 1991, need not be renewed.

Sec. 12. REPEALER.

Minnesota Statutes 1990, sections 181.950, subdivision 3; and 181.953, subdivision 2; and Minnesota Rules, parts 4740.0100; 4740.0110; 4740.0120; 4740.0130; 4740.0140; 4740.0150; 4740.0160; 4740.0170; 4740.1010; 4740.1020; 4740.1025; 4740.1040; 4740.1050; 4740.1060; 4740.1065; 4740.1070; 4740.1075; 4740.1080; and 4740.1090, are repealed.

Sec. 13. EFFECTIVE DATE.

Sections 1 to 12 are effective the day following final enactment, except that the changes in section 6 do not apply to a laboratory with a current license from the commissioner until July 1, 1992.

Presented to the governor May 2, 1991

Signed by the governor May 6, 1991, 3:18 p.m.

CHAPTER 61—S.F.No. 732

An act relating to natural resources; offering an alternative to bond or deposit requirements on contracts for cutting timber; allowing reduction in value of letters of credit given as security for timber permits; amending Minnesota Statutes 1990, section 90.173; proposing coding for new law in Minnesota Statutes, chapter 90.

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

Section 1. **[90.162] ALTERNATIVE TO BOND OR DEPOSIT REQUIREMENTS.**

In lieu of the bond or cash deposit required by section 90.161 or 90.173, a purchaser of state timber may, at the time of the bid approval and upon payment by the purchaser to the commissioner of 25 percent of the appraised value under section 90.14, elect in writing on a form prescribed by the attorney general to prepay the purchase price for any designated cutting block identified on the permit before the date the purchaser enters upon the land to begin harvesting the timber.

Sec. 2. Minnesota Statutes 1990, section 90.173, is amended to read:

90.173 PURCHASER'S OR ASSIGNEE'S CASH DEPOSIT IN LIEU OF BOND.

New language is indicated by underline, deletions by ~~strikeout~~.