

SENATE BILL NO. 180—SENATOR SHAFFER

FEBRUARY 12, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Authorizes employer to conduct on-site test for alcohol or controlled substance without license as medical laboratory under certain circumstances. (BDR 53-1161)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~to be omitted~~ is material to be omitted.

AN ACT relating to employment practices; authorizing an employer to conduct an on-site test for alcohol or a controlled substance without a license as a medical laboratory under certain circumstances; prohibiting an employer from taking any adverse action against an employee based upon the results of a test for alcohol or a controlled substance under certain circumstances; requiring an employer who conducts an on-site test to register with the health division of the department of human resources; authorizing the health division to impose a fee; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 613 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 12, inclusive, of this act.
3 **Sec. 2.** *As used in sections 2 to 12, inclusive, of this act, unless the*
4 *context otherwise requires, the words and terms defined in sections 3 to*
5 *7, inclusive, of this act, have the meanings ascribed to them in those*
6 *sections.*
7 **Sec. 3.** *“Department” means the department of human resources.*
8 **Sec. 4.** *“Division” means the health division of the department of*
9 *human resources.*
10 **Sec. 5.** *“Employer” includes any person acting directly or indirectly*
11 *in the interest of an employer in relation to an employee or prospective*
12 *employee.*

1 **Sec. 6. “On-site test for alcohol or a controlled substance” or**
2 **“on-site test” means a device or kit that is used to determine the amount**
3 **of alcohol or the presence of a controlled substance in the specimen of**
4 **an employee or potential employee and which is approved by the Food**
5 **and Drug Administration for commercial use.**

6 **Sec. 7. “On-site screening facility for alcohol or a controlled**
7 **substance” or “on-site screening facility” means a location at which an**
8 **employer conducts an on-site test to determine the amount of alcohol or**
9 **the presence of a controlled substance in the blood or urine of an**
10 **employee or prospective employee.**

11 **Sec. 8. Notwithstanding any other provision of law, an employer**
12 **shall not conduct an on-site test of an employee or potential employee**
13 **unless the employer complies with the provisions of sections 9 to 12,**
14 **inclusive, of this act.**

15 **Sec. 9. An employer shall not conduct an on-site test to diagnose or**
16 **prevent disease.**

17 **Sec. 10. 1. An employer shall register with the division for**
18 **authorization to conduct an on-site test.**

19 **2. An application for registration must be on a form provided by the**
20 **division. The application must include:**

21 **(a) The name and address of the employer;**

22 **(b) The telephone number of the employer;**

23 **(c) The name of a person to contact at each on-site screening facility**
24 **which conducts an on-site test; and**

25 **(d) A statement certifying that:**

26 **(1) The employer conducts each on-site test according to the**
27 **information prepared by the Food and Drug Administration that is**
28 **inserted into the package which contains the on-site test;**

29 **(2) The employer conducts each on-site test according to the**
30 **instructions provided by the manufacturer of the on-site test;**

31 **(3) The manufacturer of the on-site test trains the employer to**
32 **conduct an on-site test;**

33 **(4) The employer maintains a record of the custody of a specimen**
34 **obtained for an on-site test; and**

35 **(5) If the employer obtains a result of an on-site test which**
36 **determines that an employee or prospective employee has a detectable**
37 **amount of alcohol or a controlled substance in his system, the employer**
38 **shall submit the same specimen that produced that result to a medical**
39 **laboratory licensed pursuant to chapter 652 of NRS or an equivalent**
40 **facility in any other state for confirmation of the result.**

1 **3. A medical laboratory licensed pursuant to chapter 652 of NRS or**
2 **an equivalent facility in any other state must confirm that the specimen**
3 **of the employee or prospective employee produced a detectable amount**
4 **of alcohol or a controlled substance in his system before the employer**
5 **takes any adverse action against the employee or prospective employee,**
6 **including, without limitation:**

7 **(a) Denying employment to a person;**

8 **(b) Depriving a person of employment; or**

9 **(c) Denying a benefit to an employee.**

10 **Sec. 11. Each employer that is authorized to conduct an on-site test**
11 **shall pay to the division an annual fee established by the division not to**
12 **exceed \$50 for registration pursuant to section 10 of this act.**

13 **Sec. 12. Each employer that is authorized to conduct an on-site test**
14 **shall post and maintain a notice setting forth a summary of the**
15 **provisions of sections 2 to 12, inclusive, of this act, in a conspicuous**
16 **location at the place of employment where notices to employees and**
17 **applicants for employment are customarily posted and read.**

18 **Sec. 13. Chapter 652 of NRS is hereby amended by adding thereto a**
19 **new section to read as follows:**

20 **An employer who conducts an on-site test pursuant to sections 2 to 12,**
21 **inclusive, of this act, is exempt from the provisions of this chapter.**