

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0090/1dn
GMM:wlj:rs

October 13, 2004

Representative Stone:

This draft makes all of the following changes to 2003 AB 682:

1. The draft specifies that an employee who under any other state or federal law is subject to testing that is at least as strict as the testing required under the draft is not subject to testing under the draft. See s. 103.503 (5), as created by the draft.
2. To clarify that each contractor and subcontractor is responsible only for its own compliance with the draft, the draft requires each contractor and subcontractor to file separate bid statements and affidavits of compliance. See ss. 16.855 (9m), 66.0901 (10), 84.06 (2) (c), and 103.503 (2) and (10), as created by the draft.
3. The draft lowers from five to two the number of working days within which an employee may challenge the results of a test or request a retest. See s. 103.503 (3) (a) 8. and (7) (c), as created by the draft.
4. The draft provides that employers are immune from civil liability for actions taken in good faith, failures to test for or detect the presence of drugs or alcohol or any medical, mental, emotional, or psychological condition, and decisions to suspend or terminate a testing program. See s. 103.503 (8) (d), as created by the draft.
5. The draft makes reasonable suspicion testing permissive, not mandatory. See s. 103.503 (4) (b), as created by the draft.
6. The draft permits only an employee or his or her representative, and not anyone, to request inspection of an employer's records and requires such a request to specify the types of records requested. See s. 103.503 (11) (b), as created by the draft.
7. The draft subject an employer to criminal liability and debarment only if the employer *knowingly* permits an employee to work in violation of the draft. See s. 103.503 (12) (b) and (13) (a), (b), and (d), as created by the draft.
8. The draft lowers the alcohol impairment threshold from .10 to .04 by cross referencing s. 885.235 (1g) (d), rather than s. 340.01 (46m), in s. 103.503 (6) (f), as created by the draft.
9. The draft provides for statewide uniformity by requiring local drug and alcohol testing ordinances to strictly conform to the draft. See s. 103.503 (14), as created by the draft.

If you have any questions or comments about the draft, please do not hesitate to contact me directly at the phone number or e-mail address listed below.

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