

HOUSE BILL NO. HB0089

Unemployment compensation-drug testing.

Sponsored by: Representative(s) Madden and Miller and
Senator(s) Peterson

A BILL

for

1 AN ACT relating to unemployment insurance; disqualifying
2 from unemployment benefits persons terminated from
3 employment for illegal use of a controlled substance;
4 requiring controlled substances testing for applicants as
5 specified; providing for suspension of eligibility
6 following a positive test for controlled substances;
7 providing for rules and regulations; and providing for an
8 effective date.

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10 *Be It Enacted by the Legislature of the State of Wyoming:*

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12 **Section 1.** W.S. 27-3-322 is created to read:

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14 **27-3-322. Testing for illegal use of controlled**
15 **substances; disqualification.**

16

1 (a) Pursuant to Section 303(1) of the Social Security
2 Act (42 U.S.C.S. 503), the department may conduct drug
3 tests of applicants for unemployment compensation for the
4 unlawful use of controlled substances as a condition for
5 receiving benefits, if the applicant:

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7 (i) Was terminated from employment with the
8 claimant's most recent employer because of the unlawful use
9 of controlled substances; or

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11 (ii) Is an individual for whom suitable work is
12 only available in an occupation, as determined under
13 regulations issued by the United States secretary of labor,
14 that requires drug testing.

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16 (b) The department may deny benefits to any applicant
17 based on the positive result of a drug test conducted by
18 the department in accordance with this section. A positive
19 drug test result shall be deemed by the department to be a
20 failure to accept suitable work, and shall subject the
21 applicant to disqualification pursuant to W.S.
22 27-3-311(a)(iii).

23

1 (c) During the disqualification period imposed by the
2 department under this subsection, the individual may
3 provide information to end the disqualification period
4 early by submitting acceptable proof to the department of a
5 negative test result from a testing facility approved by
6 the department.

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8 (d) The department shall institute a random drug
9 testing program for all individuals who meet the
10 requirements set forth in this section.

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12 (e) The department shall provide by rule and
13 regulation for the implementation of this section. Rules
14 adopted by the department shall provide that:

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16 (i) An individual who tests positive for
17 controlled substances, unless the substance was obtained
18 directly from, or pursuant to a valid prescription or order
19 of a licensed health care practitioner while acting in the
20 course of his professional practice, is ineligible to
21 receive unemployment benefits unless the individual meets
22 the requirements of subsection (c) of this section;

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1 (ii) Applicants shall be notified of the
2 possibility of drug testing at the time of application for
3 benefits. The notice shall advise the applicant that drug
4 testing may be conducted as a condition for receiving
5 benefits if the applicant is a person described in
6 subsection (a) of this section. The applicant shall be
7 advised that the required drug testing may be avoided if
8 the individual does not apply for unemployment benefits.
9 Dependent children under the age of eighteen (18) are
10 exempt from the drug testing requirement;

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12 (iii) Individuals to be tested for use of
13 controlled substances shall be advised, before the test is
14 conducted, that the individual may, but is not required to,
15 advise the agent administering the test of any prescription
16 or over-the-counter medication the individual is taking;

17

18 (iv) Individuals to be tested shall sign a
19 written acknowledgement that the individual has received
20 and understood the notice and advice provided under
21 paragraphs (ii) and (iii) of this subsection;

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23 (v) Individuals to be tested shall be afforded a
24 reasonable degree of dignity while producing and submitting

1 a sample for drug testing, consistent with the state's need
2 to ensure the reliability of the sample;

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4 (vi) Individuals who test positive shall be
5 provided with a list of substance abuse treatment
6 providers, certified pursuant to W.S. 9-2-2701, available
7 in the area in which the individual resides.

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9 (f) For purposes of this section, "controlled
10 substance" means as defined in W.S. 35-7-1002(a)(iv).

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12 **Section 2.** W.S. 27-3-311 by creating a new subsection
13 (g) is amended to read:

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15 **27-3-311. Disqualifications from entitlement;**
16 **grounds; forfeiture.**

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18 (g) For purposes of subsection (a) of this section, a
19 person shall be deemed to have left work voluntarily
20 without good cause attributable directly to his employment
21 if the person was terminated from employment for the
22 unlawful use of a controlled substance or substances.

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