



State-by-State Legal Status Guide

Workplace Drug and Alcohol Testing Laws.

March 2015 Update

ABBREVIATIONS:

- Department of Transportation (DOT)
- Substance Abuse and Mental Health Administration (SAMHSA)
- College of American Pathologists (CAP)
- Clinical Laboratory Improvement Amendments (CLIA)
- Employer assistance program (EAP)
- Medical review officer (MRO)
- Workers' compensation (WC)

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ALABAMA

Legal status for workplace drug and alcohol testing

Alabama has a voluntary drug testing law. For companies that wish to qualify for a 5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply with this statute. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

ALABAMA CODE 25-5-330 to 25-5-340 (2000)
ALABAMA CODE 480-5-6-1 to .04 (1996)

Area of focus	Status	Comments
Setting/circumstance	Defined	The following types of testing are required with conditions: pre-employment, periodic, follow-up and for cause. Return-to-duty, post-accident and random permitted, but not required.
Drugs tested (panel)	Defined	Amphetamines, cannabinoids, phencyclidine, methadone, opiates, cocaine, methaqualone, barbiturates, benzodiazepines, propoxyphene, or a metabolite of any of these substances.
Specimens permitted	Defined	Broadly defined: tissue, blood, breath, urine, or other product of the human body capable of revealing the presence of drugs or their metabolites or of alcohol.
POCT screening devices	Restricted	Permitted outside this voluntary law but not by companies that wish to qualify for the WC discount.
Alcohol testing	Permitted with Restrictions	Must comply with U.S. DOT standards; positive equals .04 for safety-sensitive jobs, .08 for all other jobs.
EAP	See Comments	Employers must provide either an EAP or information about how to access EAP-type services.
Certified laboratory	Required	SAMHSA- or CAP-certified labs only.
WC premium discount	Yes	When compliant with law qualifies for 5% discount.
WC claim denial or reduction	Yes	Refer to ALA Code 25-5-51 (2006). Requires compliance with 49 CFR part 40 drug and alcohol testing regulations.
Unemployment denial	Yes	Refer to ALA Code 25-4-78 (Supp. 2005). Requires compliance with 49 CFR part 40 drug and alcohol testing regulations or equivalent standards.

ALASKA

Legal status for workplace drug and alcohol testing

Alaska has a voluntary drug testing law. For companies that wish to qualify for limited legal protections they must comply with this law; other companies are not mandated to comply with this statute. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

ALASKA STATUTES 23.10.600 - 23.10.699

Area of focus	Status	Comments
Setting/circumstance	Defined	Permitted in all circumstances. However, if testing is conducted, it must be done among all employees, including management. As well, pre-employment testing must be post-offer. Random testing is limited to safety-sensitive positions per case law. Post-accident is limited to those believed to have contributed to causing the accident.
Drugs tested (panel)	Defined	Drugs with SAMHSA-established cut-off levels at a minimum. See Alaska Statutes Title 11, Chapter 71 for a list of controlled substances included in the state's definition of "drugs." Notice of other drugs to be tested for and their cut-off levels must be given to donors in advance.
Specimens permitted	Defined	Urine or breath only.
POCT screening devices	Permitted	FDA-cleared devices only; many conditions apply; positives must be confirmed with GC/MS; written record of result must be provided to individual.
Alcohol testing	Permitted	Permitted for employees; not permitted for applicants.
EAP	Not Mentioned	
Certified laboratory	Required	When not using on-site kits lab must be certified by SAMHSA, CAP, American Assn. of Clinical Chemists.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Alaska Statute §23.30.235.
Unemployment denial	Yes	Refer to Alaska Statutes §23.20.379. Requires compliance with voluntary law.

ARIZONA

Legal status for workplace drug and alcohol testing

Arizona has a voluntary drug testing law. For companies that wish to qualify for limited legal protections they must comply with this law; other companies are not mandated to comply. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

ARIZ. REV. STAT. ANN. 23-493 TO -493.11
(1995 & SUPP. 2005)
(TITLE 23, CHAPTER 2, ARTICLE 14)

Area of focus	Status	Comments
Setting/circumstance	Defined	Permitted in all circumstances. If testing is conducted, it must be done among all employees, including management. Post-accident testing is only permitted immediately after event and of those suspected of causing the accident.
Drugs tested (panel)	Defined	Any substance considered unlawful under the schedules of the controlled substances section of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513; 84 Stat. 1247; 21 United States Code section 812) or the metabolite of the substance.
Specimens permitted	Defined	Urine, blood, hair, saliva, breath or other body specimens.
POCT screening devices	See Comments	Even though the law expressly requires drug testing to be done in a laboratory, it contains a clause stating that nothing in the statute "shall be construed to encourage, discourage, restrict, limit, prohibit or require on-site drug testing or alcohol impairment testing." (23-493.04 E)
Alcohol testing	Permitted	Permitted; .08 or above is positive by a "scientifically accepted method."
EAP	Not Mentioned	
Certified laboratory	Required	SAMHSA, CAP or Arizona Dept. of Health Services.
WC premium discount	No	
WC claim denial or reduction	No	Arizona Revised Statutes Annotated §23-1021 was ruled unconstitutional by the AZ Supreme Court in <i>Grammatico v. The Industrial Commission</i> .
Unemployment denial	Yes	Refer to Arizona Revised Statutes §23-619.01; requires employer to conduct drug and alcohol testing in compliance with the guidelines of the voluntary law (Title 23, chapter 2, article 14).

ARKANSAS

Legal status for workplace drug and alcohol testing

Arkansas has a voluntary drug testing law. For companies that wish to qualify for a 5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply with the statute. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

ARK. CODE ANN. 11-14-101 TO 11-14-112
(2002 & SUPP. 2003):
ARK. REGS, RULE 36

Area of focus	Status	Comments
Setting/circumstance	Defined	Permitted in all circumstances. The following is required: -Applicant testing for drugs is required; alcohol is optional. -Reasonable suspicion within 24 hours of report/observation of suspicious behavior. -Post-accident when injury results per DOT procedures: 8 h/alcohol and 32 h/drugs. -Periodic exam if part of routine medical exam per company policy or when such exams are required of all workers in a particular class of job. -Follow-up when rehab is offered to policy violator; permitted but not required for workers who voluntarily enter rehab; testing must occur at least once a year for a 2-year period.
Drugs tested (panel)	Defined	SAMHSA panel.
Specimens permitted	Defined	Specimen means "tissue, fluid, or a product of the human body capable of revealing the presence of alcohol, drugs or their metabolites."
POCT screening devices	Prohibited	
Alcohol testing	Required	Specific requirements for alcohol testing are included in the statute.
EAP	Not Required	Mentioned, but specifically not required. Must provide sampling of info on available EAPs in area.
Certified laboratory	Required	Licensed by state and in compliance with SAMHSA, CAP, or other state-recognized certification.
WC premium discount	Yes	5%.
WC claim denial or reduction	Yes	Refer to Arkansas Code Annotated § 11-9-102(4)(B)(iv).
Unemployment denial	Yes	Refer to Arkansas Code Annotated § 11-10-514(b). Requires drug or alcohol test to be conducted in accordance with DOT regulations and the employer's written policy.

CALIFORNIA

Legal status for workplace drug and alcohol testing

Case law affects who can be tested and under what circumstances. Additionally, San Francisco has an ordinance that restricts drug testing in a number of ways. Employers should consider legal decisions related to drug testing prior to establishing a drug-free workplace program that includes any type of drug testing.

THIS STATE DOES NOT HAVE
DRUG TESTING LEGISLATION.
SEE INTRODUCTION.

Area of focus	Status	Comments
Setting/circumstance	See comments	Definition affected by case law and stringent privacy law. Applicant testing for safety-sensitive occupations is upheld by case law; probably permitted for others, but not in case law. Post-accident only if drug-abuse is suspected and best limited to safety-sensitive workers. Periodic exam only if it is part of a pre-employment exam. Return-to-duty is also restricted to safety-sensitive positions. Random is not recommended, no matter what industry. All other circumstances are restricted.
Drugs tested (panel)	Not defined	
Specimens permitted	Not defined	
POCT screening devices	Restricted	Dept. of Health does not actively seek to restrict on-site tests or POCT. Cal. Business & Professions Code §1206 requires all tests to take place at a certified laboratory.
Alcohol testing	Restricted	Same qualifications apply as for drug testing.
EAP	Not Required	
Certified laboratory	See Comments	Strongly encouraged given the litigious environment in the state. Refer to Cal. Business & Professions Code §1206 for requirement of who can conduct such a test.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to California Labor Code §3600.
Unemployment denial	Yes	Refer to Unemployment Insurance Code §1256.4.

CALIFORNIA, SAN FRANCISCO

Legal status for workplace drug and alcohol testing

San Francisco has a very restrictive drug testing law. Employers' rights are very limited when it comes to when drug testing can take place, and who may be drug tested. Employers are advised to refer to the city's law very carefully before implementing a drug testing program.

SAN FRANCISCO, CAL., POLICE
CODE ART. 33A (1993)

Area of focus	Status	Comments
Setting/circumstance	Defined	Testing is limited to substances that are likely to impact an individual's ability to perform their job safely. Applicant, return-to-duty, and alcohol testing are permitted. Reasonable suspicion is ok if there are reasonable grounds to believe the individual's faculties are impaired on the job and if there is a clear and present danger to the physical safety of the employee or others. Post-accident, periodic, and random are all prohibited.
Drugs tested (panel)	Not Defined	However, testing is limited to substances that are likely to impact an individual's ability to perform their job safely.
Specimens permitted	Not Defined	The law only refers to urine and blood.
POCT screening devices	Restricted	Dept. of Health does not actively seek to restrict employers from conducting on-site tests or POCT. Refer to Cal. Business & Professions Code §1206 for the law that requires all tests to take place at a certified laboratory.
Alcohol testing	Permitted	
EAP	Not Required	
Certified laboratory	See Comments	Strongly encouraged given the litigious environment in the state. Refer to Cal. Business & Professions Code §1206 for the requirement of who can conduct such a test.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to California Labor Code §3600.
Unemployment denial	Yes	Refer to Unemployment Insurance Code §1256.4.

COLORADO

Legal status for workplace drug and alcohol testing

The City of Boulder has a drug testing ordinance (5195) that contains several restrictive elements. Employers in Boulder should consult that city's ordinance. Colorado has a Workers' Compensation Reduction Law that may affect testing. There is a medical marijuana law, but it does not require employers to accommodate workplace use.

THIS STATE DOES NOT HAVE
DRUG TESTING LEGISLATION.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	No Requirements or Restrictions	
Alcohol testing	No Requirements or Restrictions	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to COLO. REV. STAT. §8-42-112.5.
Unemployment denial	Yes	Refer to COLO. REV. STAT. §8-73-108(5)(e)(VIII) & (IX).

COLORADO, BOULDER

Legal status for workplace drug and alcohol testing

Boulder has a restrictive drug testing law that only applies to employers with business operations within the city.

BOULDER, COLO., HUMAN RIGHTS CODE
§§12-3-1 TO -6 (1994)

Area of focus	Status	Comments
Setting/circumstance	Restricted	All testing circumstances are prohibited or restricted. Applicant testing is post-offer only. Reasonable suspicion is permitted if there is clear belief of intoxication or job performance is suffering. Post-accident must meet reasonable suspicion criteria. Return to duty as part of rehabilitation. Follow-up if part of EAP. Periodic and random are prohibited.
Drugs tested (panel)	Not Defined	
Specimens permitted	Not Defined	However, the law requires split specimen confirmation, which may exclude some types of specimen.
POCT screening devices	Permitted	But should not be relied upon as final result.
Alcohol testing	Permitted	
EAP	Not Required	
Certified laboratory	Not Required	Recommended when using a laboratory.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to COLO. REV. STAT. §8-42-112.5.
Unemployment denial	Yes	Refer to COLO. REV. STAT. §8-73-108(5)(e)(VIII) & (IX).

CONNECTICUT

Legal status for workplace drug and alcohol testing

Connecticut is a drug testing friendly state though its law places restrictions on random testing.

TITLE 31. LABOR, CHAPTER 557,
31-51T TO 31-51AA

Area of focus	Status	Comments
Setting/circumstance	Defined	All circumstances are permitted, however some restrictions apply. Applicants must be notified in advance and receive written notice of positive results. Post-accident must meet reasonable suspicion criteria. Random testing must follow federal requirements and limit to safety-sensitive workers, or be part of EAP when employee participates voluntarily.
Drugs tested (panel)	Not Defined	
Specimens permitted	Defined	Only urine testing is mentioned, though other specimens are not specifically prohibited. Oral fluid specifically permitted according to Dept. of Health (Jan. 2011).
POCT screening devices	Permitted	Screen only; laboratory confirmation required.
Alcohol testing	Permitted	
EAP	Not Required	
Certified laboratory	Not Mentioned	Advisable to use SAMHSA or other certified lab.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Connecticut Workers' Compensation Act §31-275(c).
Unemployment denial	Yes	Refer to §31-236.14..

DELAWARE

Legal status for workplace drug and alcohol testing

Delaware is a drug testing friendly state with few requirements or restrictions except in certain industries.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	No Requirements or Restrictions	
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Delaware Code Annotated title 19, § 2353 (1995).
Unemployment denial	No	

DISTRICT OF COLUMBIA

Legal status for workplace drug and alcohol testing

The District of Columbia does not have a drug testing statute.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	Not Defined	However, there is case law that upholds that random testing must be restricted to safety-sensitive occupations. Additionally, a temporary law passed in December 2014 limits applicant testing for marijuana to post-offer circumstances. Additional legislative efforts underway at the time of this printing proposed to prohibit pre-employment testing for marijuana under any circumstance.
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	No Requirements or Restrictions	
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to DC Code §32-1503(d).
Unemployment denial	Yes	Refer to DC Code §51-110(b)(2) and 7 DCMR §312.3.

FLORIDA

Legal status for workplace drug and alcohol testing

Florida has a voluntary drug testing law. For companies that wish to qualify for a 5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply. Certain construction contractors must comply with this law. School bus drivers are required to be drug tested. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

FLORIDA WORKERS'
COMPENSATION CODE
SECTION 440.102

Area of focus	Status	Comments
Setting/circumstance	Defined	Certain types are required: applicant, reasonable suspicion, post-accident, and follow-up. Other types are permitted but not required: periodic exam, return-to-duty, and random.
Drugs tested (panel)	Defined	Amphetamine, marijuana, cocaine, PCP, methadone, methaqualone, opiates, barbiturates, benzodiazepines, propoxyphene, or their metabolites.
Specimens permitted	Defined	“Specimen” means tissue, hair, or a product of the human body capable of revealing the presence of drugs or their metabolites. Florida lab regulations only permit urine testing. (See 59A-24.004 Drugs to be Tested/Body Specimens.)
POCT screening devices	Permitted with limitations	Per July 2009 amendment on-site testing is now permitted as part of the Workers' Comp Premium Discount law. Employers may not deny or terminate employment based on an initial screen result that has not been confirmed by a lab and verified by an MRO. The law clearly limits which professionals are permitted to collect a specimen and it requires a split specimen, all of which may impact the use of a POCT device.
Alcohol testing	Permitted	
EAP	Not Required	Must provide information about EAPs to employees. If employer pays for EAP or rehab, he or she may choose which program an employee participates in.
Certified laboratory	Required	Must be licensed by Florida's Agency for Health Care Administration or SAMHSA.
WC premium discount	Yes	5% upon approval by the state.
WC claim denial or reduction	Yes	Refer to § 440.101 and § 440.09.
Unemployment denial	Yes	Refer to Florida Statute Annotated § 443.101.

GEORGIA

Legal status for workplace drug and alcohol testing

Georgia has a voluntary drug testing law. For companies that wish to qualify for a 7.5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply with this statute. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

GA CODE ANN. 34-9-410
TO -421 (1998 & SUPP. 2003);
GA CODE ANN. 33-9-40.2 (SUPP. 2005)

Area of focus	Status	Comments
Setting/circumstance	Defined	Certain types of testing are required: applicant (post-offer), reasonable suspicion, post-accident, periodic exam, and follow-up. Other types are permitted but not required: return-to-duty and random.
Drugs tested (panel)	Defined	Amphetamine, marijuana, cocaine, PCP, methadone, methaqualone, opiates, barbiturates, benzodiazepines, propoxyphene, or their metabolites.
Specimens permitted	Defined	Tissue, blood, breath, urine, or other product of the human body capable of revealing the presence of drugs or their metabolites or of alcohol. Oral fluid specifically permitted as of 5-29-07 amendment to the law.
POCT screening devices	Permitted	For pre-employment screens only; positives must be confirmed at a lab (urine and oral fluid permitted).
Alcohol testing	Required	By blood, urine, breath of other bodily substance; 0.08 is considered positive.
EAP	Not Required	However, must provide information to employee of other available assistance programs.
Certified laboratory	Required	When using a lab, SAMHSA- and CAP-certified labs only.
WC premium discount	Yes	7.5% upon approval by the state.
WC claim denial or reduction	Yes	Refer to Georgia Code 34-9-17. If an individual refuses to submit to a drug or alcohol test “performed in the manner set forth in Code Section 34-9-415” then a “rebuttable presumption that the accident and injury or death were caused by the consumption of alcohol or the ingestion of marijuana or a controlled substance.”
Unemployment denial	Yes	Refer to Georgia Code 34-8-194. Requires compliance with voluntary law.

HAWAII

Legal status for workplace drug and alcohol testing

Hawaii places no restrictions on drug testing circumstances but has very specific requirements on how drug testing is conducted. The law requires that written notice be given prior to the collection of a sample every time a drug test is conducted.

HAW. REV. STAT. §329B-1 -8 (1998)
HAWAII ADMINISTRATIVE RULES TITLE 11
DEPT. OF HEALTH CHAPTER 13

Area of focus	Status	Comments
Setting/circumstance	Not Defined	All types of testing permitted.
Drugs tested (panel)	Defined	Substances of abuse or their metabolites shall include marijuana, cocaine, amphetamines, opiates, PCP, barbiturates, methaqualone, benzodiazepines, propoxyphene, methadone, alcohol and any other controlled substances defined by Hawaii law.
Specimens permitted	Defined	Urine (and blood under limited circumstances) according the state Dept. of Health is permitted; as of July 2007 POCT oral fluid specifically permitted.
POCT screening devices	Permitted	Must use FDA-cleared device or a device “manufactured by a facility that is minimally certified as meeting ISO 13485 standards”; lab confirmation required; MRO review required; operator must be trained by manufacturer; oral fluid devices permitted as of July 2007 for employee and applicant testing .
Alcohol testing	Permitted	0.02 BAC considered positive.
EAP	Not Mentioned	
Certified laboratory	Required	SAMHSA- or state-certified lab only when a laboratory is utilized.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Hawaii Revised Statutes §386-3.
Unemployment denial	Yes	Refer to Hawaii Revised Statutes §383-30. Admin. Rules 5-12-51 specifically mention intoxication as misconduct.

IDAHO

Legal status for workplace drug and alcohol testing

Idaho has a voluntary drug testing law. For companies that wish to qualify for limited legal protections and/or a reduction in workers’ compensation premiums they must comply with this law; other companies are not mandated to comply with this law. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

IDAHO CODE 72-1701 TO 1716
(1999 & SUPP. 2002)

Area of focus	Status	Comments
Setting/circumstance	Not Defined	All types of testing permitted: however, all employees, including management, must be subject to testing.
Drugs tested (panel)	Not Defined	
Specimens permitted	Not Defined	
POCT screening devices	Permitted	Non-negative results must be confirmed at laboratory.
Alcohol testing	Permitted	Permitted (breath or saliva mentioned; confirmation on initial screen positive required).
EAP	Not Mentioned	
Certified laboratory	Not Mentioned	However, lab confirmation is required.
WC premium discount	Yes	No details specified; qualification and rate are determined by the insurer.
WC claim denial or reduction	Yes	Refer to Idaho Code §72-208.
Unemployment denial	Yes	Refer to Idaho Code §72-1366(5), §72-1707, §72-1709, and §72-1701.

ILLINOIS

Legal status for workplace drug and alcohol testing

Workers' compensation denial law requires compliance with DOT drug and alcohol testing regulations. A separate law exists that mandates and regulates drug testing by public works employers.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Permitted	Urine and oral fluid.
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to 820 ILCS 305/11. Compliance with DOT drug and alcohol testing regulations is required.
Unemployment denial	Yes	Refer to 820 ILCS 405/602. Law defines misconduct as including violation of a known rule or policy. IDES Unemployment Insurance Law Handbook states that violation of a drug-free workplace policy constitutes misconduct under UC denial law.

ILLINOIS PUBLIC WORKS

Legal status for workplace drug and alcohol testing

Public Act 095-063, the "Substance Abuse Prevention on Public Work Projects Act" only applies to an employer that is a "contractor or subcontractor performing a public works project." It does not apply generally to any other employers.

PUBLIC ACT 095-063
(820 ICS 265)

Area of focus	Status	Comments
Setting/circumstance	Defined	Certain types are required: applicant, reasonable suspicion, post-accident, random. Others are permitted but not required: return-to-duty. Others are not mentioned in law: periodic exam, follow-up.
Drugs tested (panel)	Defined	Minimum 9 panel test is required; specific drugs are not listed in the statute. Additionally, alcohol testing is required.
Specimens permitted	Defined	Blood may only be used for post-accident testing; however, it is not mandatory when urine testing is available.
POCT screening devices	Prohibited	Only lab-based testing is permitted.
Alcohol testing	Required	0.02 BAC is considered positive.
EAP	See Comments	Employees who violate the law must be "approved to commence or return to work" on a public works project. The implication being that someone must grant that approval. See also Section 20.3 of law.
Certified laboratory	Required	Must use lab certified by SAMHSA.
WC premium discount	N/A	See Illinois.
WC claim denial or reduction	N/A	See Illinois.
Unemployment denial	N/A	See Illinois.

INDIANA

Legal status for workplace drug and alcohol testing

This state does not have a general drug testing statute; however, drug testing may be required under certain circumstances.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	Not Defined	However, state public works contractors must conduct random testing; child care workers must be subject to drug testing; other occupations may also be required to be subject to drug testing.
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	All specimens permitted.
POCT screening devices	Permitted	
Alcohol testing	Permitted	Required of child care workers.
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Indiana Code §22-3-2-8.
Unemployment denial	Yes	Refer to Indiana Code §22-4-15-1(a) & (d)(6).

IOWA

Legal status for workplace drug and alcohol testing

Iowa is a drug-testing friendly state though some restrictions apply. Virtually all testing circumstances are permitted, drug panel is widely defined, and instant testing is permitted. No burdensome restrictions are placed on how drug testing may be conducted.

IOWA CODE §730.5
IOWA ADMINISTRATIVE CODE
RULE 641-12.1-12.21

Area of focus	Status	Comments
Setting/circumstance	Defined	Pre-employment and employee testing permitted, including random which is subject to collective bargaining agreements where applicable. Post-accident for accidents that total \$1000 in property damage or more.
Drugs tested (panel)	Defined	Substance considered according to & included in Schedule I, II, III, IV, or V under the Federal Controlled Substances Act, 21 U.S.C. §801 et seq.
Specimens permitted	Defined	Urine, blood, breath, and oral fluid. Blood restricted to post-accident when person providing treatment requests it; not by employer request.
POCT screening devices	Permitted	Lab confirmation required for initial screen positives.
Alcohol testing	Permitted	Per SAMHSA/DOT regulations; some conditions apply.
EAP	Not Required	Employers must at a minimum provide information of available local EAP services; cost of rehab mentioned, but not specifically required of employer.
Certified laboratory	Required	SAMHSA or state Department of Health certified lab.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Iowa Code Ann §85.16.
Unemployment denial	Maybe	Refer to Iowa Code Ann §96.5. Misconduct mentioned, but not defined.

KANSAS

Legal status for workplace drug and alcohol testing

This state has workers' compensation reduction and unemployment denial laws that contain specific drug testing requirements for qualification.

KAN. STAT. ANN. 65-1,107 TO -1,108A (2002), 44-706 (SUPP.2005) & KAN. ADMIN. REGS. 28-33 (1997)

Area of focus	Status	Comments
Setting/circumstance	Not Defined	
Drugs tested (panel)	Defined	SAMHSA panel.
Specimens permitted	Defined	Specifically mentions urine, blood and saliva, but does not limit testing to these specimens.
POCT screening devices	Probably Not	Attorney General has concluded that employers using on-site testing kits are not subject to state laboratory regulations; however, the Dept. of Health disagrees and supposedly enforces the law with regard to on-site testing by employers.
Alcohol testing	No Restrictions	
EAP	Not Required	
Certified laboratory	Required	Must be licensed by the state. Lab must meet the requirements of the federal government's Clinical Laboratory Improvement Act amendments of 1988. Federal cut-off levels must be used.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Kansas Stat. Ann. §44-501. See Notes. Article 5, Workers' Compensation. Very specific drug testing procedures are required.
Unemployment denial	Yes	Refer to Kansas Stat. Ann. §44-706(b)(2) & (t). Very specific drug testing procedures are required.

KENTUCKY

Legal status for workplace drug and alcohol testing

This state has a voluntary law that offers a workers' compensation premium discount to qualifying companies (KRS §304.13-167 offers the discount). 803 KAR 25:280 contains the actual drug testing requirements. There is also a mandatory mining industry law that is not reflected in this chart.

803 KAR 25:280

Area of focus	Status	Comments
Setting/circumstance	Defined	The following types of testing are required: applicant, reasonable suspicion, post-accident, random, and follow-up. Periodic and return-to-duty are not mentioned.
Drugs tested (panel)	Defined	11 panel urine test: amphetamines, cannabinoids/THC, cocaine, opiates, phencyclidine (PCP), benzodiazepines, propoxyphene, methaqualone, methadone, barbiturates, and synthetic narcotics.
Specimens permitted	Defined	Urine for drugs; breath for alcohol; programs using other specimen may receive certification anyway if the specimen testing method is as accurate as another equivalent to breath and urine.
POCT screening devices	Prohibited	Lab testing only.
Alcohol testing	Required	Breath; 0.04% maximum cutoff level; after conditional offer of employment; upon reasonable suspicion; post-accident; follow-up. Other requirements apply. See statute for compliance.
EAP	Required	Must be hosted internally or contracted to external provider.
Certified laboratory	Required	NLCP and SAMHSA.
WC premium discount	Yes	5%.
WC claim denial or reduction	Yes	Refer to Kentucky Revised Statutes §342.610(3).
Unemployment denial	Yes	Refer to Kentucky Revised Statutes §341.370(6).

LOUISIANA

Legal status for workplace drug and alcohol testing

Employers may qualify for liability protection when in compliance with the state’s drug testing law. Exclusion language exists for the Oil & Gas Industry.

LOUISIANA REV. STAT. ANN. 49 1001-1012
LOUISIANA ACT NO. 901

Area of focus	Status	Comments
Setting/circumstance	Not Defined	
Drugs tested (panel)	Defined	The law only applies to testing for “marijuana, opioids, cocaine, amphetamines, and phencyclidine”; the law specifically states that it does not preclude or regulate testing for substances found in the federal government’s Schedules I, II, III and IV and alcohol.
Specimens permitted	Defined	Urine, blood, saliva and hair are included in the definition of a “sample.”
POCT screening devices	Permitted	Requires FDA-cleared device; initial screen positives must be confirmed.
Alcohol testing	Not Required	Mentioned but not required; alcohol is listed among the substances for which employers may test.
EAP	Not Mentioned	
Certified laboratory	Required	SAMHSA- or CAP-FUDT–certified lab only.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Louisiana Revised Statutes Annotated § 23:1081. Contains specific drug testing requirements.
Unemployment denial	Yes	Refer to Louisiana Revised Statutes Annotated § 23:1601 (10). Contains specific drug testing requirements.

MAINE

Legal status for workplace drug and alcohol testing

While drug testing is permitted in Maine, its law places many restrictions on employers. This chart provides only a relatively brief overview. It is strongly recommended that readers review the state’s statute before implementing or revising any drug testing practice.

TITLE 26 LABOR AND INDUSTRY
CHAPTER 7 EMPLOYMENT PRACTICES
SUBCHAPTER III-A SUBSTANCE ABUSE TESTING

Area of focus	Status	Comments
Setting/circumstance	Defined	All types of testing are allowed but with restrictions (i.e. safety-sensitive, documented justification, etc.). Exception: periodic exams are most likely prohibited. See statute for specific language.
Drugs tested (panel)	Defined	Any scheduled drug, alcohol or other drug, or any of their metabolites.
Specimens permitted	Defined	Urine only per the DOL 6-12-07; blood can be tested under specific circumstances. See statute for details.
POCT screening devices	Restricted	Only urine POCT allowed per DOL 6-12-07.
Alcohol testing	Restricted	Must meet same restrictions as for drug testing.
EAP	Required	Company w/ more than 20 employees must have EAP in order to drug test. Must be certified by Department of Health and Human Services.
Certified laboratory	Required	NIDA, CAP, AACC, state’s Dept. of Human Services.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Maine Revised Statutes Title 39-A, Chapter 5, §202.
Unemployment denial	Yes	Refer to Maine Revised Statutes Title 26 §1043(23)(A)(7).

MARYLAND

Legal status for workplace drug and alcohol testing

Maryland permits all types of employee testing and job applicant testing. On-site testing is permitted for pre-employment testing only. Very specific requirements apply to laboratories performing tests.

HEALTH-GENERAL TITLE 17 LABORATORIES
SUBTITLE 214-217 MARYLAND
REGULATIONS CODE TITLE 10.10.10.01-.09

Area of focus	Status	Comments
Setting/circumstance	Not Defined	
Drugs tested (panel)	Defined	Drug, substance, or immediate precursor as set forth in Schedules I-V of Criminal Law §5-101 & §5-202.
Specimens permitted	Defined	Urine, blood, oral fluid and, for pre-employment testing only, hair.
POCT screening devices	Permitted	Pre-employment only; must use FDA-approved device; lab confirmation and MRO required for positives; chain of custody procedures; all records from “preliminary testing” must be retained for 1 year; \$50 registration fee required every 2 years.
Alcohol testing	Permitted	Specimens limited to urine, blood, oral fluid and, for pre-employment testing only, hair.
EAP	Not Required	
Certified laboratory	Required	Licensed by the state of Maryland; SAMHSA/CAP/HCFA; at donor’s request employer must provide name and address of the lab that will test the donor’s specimen.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Maryland Code, Article - Labor and Employment (gle) §9-506 (c).
Unemployment denial	See Comments	Refer to Maryland Code §8-1002-1003. Drug use is not listed as misconduct/gross misconduct which is required for denial of benefits.

MASSACHUSETTS

Legal status for workplace drug and alcohol testing

This state does not have a drug testing statute, though there have been landmark legal decisions that have shaped how drug testing can be conducted. The state’s narrow privacy law also impacts workplace drug testing.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	However, it is recommended that random testing be limited to safety-sensitive workers per privacy and case law.
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Permitted	
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	See Comments	Refer to General Laws Part 1, Title XXI, Ch. 152, Sec. 27 concerning willful misconduct. Law does not specifically refer to drug or intoxication in connection with misconduct.
Unemployment denial	Yes	Refer to General Laws Part 1, Title XXI, Ch. 151A, Sec. 25.

MICHIGAN

Legal status for workplace drug and alcohol testing

Michigan does not have a state drug testing law.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Permitted	
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	See Comments	Refer to MCL §418.305 concerning willful misconduct. The law does not mention drug testing or intoxication constituting willful misconduct.
Unemployment denial	Yes	Refer to Michigan Employment Security Act §421.29.

MINNESOTA

Legal status for workplace drug and alcohol testing

Minnesota has a restrictive state drug testing law with many detailed requirements. It is strongly recommended that employers and others refer directly to the state's statutory language to ensure compliance.

MINNESOTA STATUTE ANNOTATED §§ 181.950 TO -.957

Area of focus	Status	Comments
Setting/circumstance	Restricted	All types of testing permitted with restrictions (i.e. post-offer only for applicant, safety-sensitive only, etc.). See statute.
Drugs tested (panel)	Not Defined	Not specified; "drug" means a controlled substance.
Specimens permitted	Defined	Body component sample.
POCT screening devices	Prohibited	Must use laboratory.
Alcohol testing	Permitted	All testing must take place at a certified laboratory.
EAP	Not Mentioned	
Certified laboratory	Required	"NIDA" (SAMHSA)/CAP/state of New York.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Minn. Stat. Ann. §176.021(1).
Unemployment denial	Yes	Refer to Minn. Stat. Ann. §268.095(6).

MISSISSIPPI

Legal status for workplace drug and alcohol testing

This state has a voluntary drug testing law that provides limited legal protections to employers that conduct drug and alcohol testing in compliance with the guidelines contained in the statute. A 5% workers' compensation discount program is also available and administered directly by insurers.

TITLE 15 – MISSISSIPPI DEPT. OF HEALTH, PT. III – OFFICE OF HEALTH PROTECTION, SUBPART 01 – HEALTH FACILITIES LICENSURE & CERTIFICATION, CHAPT. 53 TITLE 71 LABOR AND INDUSTRY CHAP. 7 DRUG & ALCOHOL TESTING

Area of focus	Status	Comments
Setting/circumstance	Restricted	All types of testing are permitted with restrictions (i.e. written notice for applicant, reasonable suspicion for post-accident, etc.). See statute.
Drugs tested (panel)	Defined	Amphetamine, marijuana, cocaine, phencyclidine, methadone, methaqualone, opiates, barbiturates, benzodiazepines, propoxyphene, or their metabolites... other controlled substances with federal cut-off levels established.
Specimens permitted	Defined	Urine for drugs; breath or saliva for initial alcohol screen, and blood for alcohol confirmation per Dept. of Health (Title 15).
POCT screening devices	Permitted	Confirmation testing and chain of custody protocols are required.
Alcohol testing	Permitted	Breath or saliva for screens; positives confirmed with blood.
EAP	Required	Must either provide internal EAP or resource file of external EAP type services available to employee.
Certified laboratory	Required	CLIA, SAMHSA, CAP, or state Board of Health. Required for confirmation testing.
WC premium discount	Yes	
WC claim denial or reduction	Yes	Refer to Mississippi Code §71-3-7(d). This law was amended and approved by the governor of Mississippi on 5-14-2012. The changes took effect 1 July 2012.
Unemployment denial	Yes	Refer to Mississippi Code §71-7-13(3) & §71-5-513(1)(b). Caution: §71-5-513, which classifies misconduct as means for denial of benefits, has been repealed effective July 1, 2014. As of that date, the statutory language may change. §71-3-13, which classifies discharge for drug/alcohol abuse as misconduct, has not been repealed.

MISSOURI

Legal status for workplace drug and alcohol testing

While Missouri does not have a drug testing statute, employers must meet certain drug testing requirements in order to challenge workers' and unemployment comp claims.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	Except for workers'/unemployment comp cases. In which case, types of testing must be clearly stated in written policy.
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	No restrictions apply except for employers who wish to contest a workers' or unemployment compensation claim, in which case "specimen" means tissue, fluid, or a product of the human body capable of revealing the presence of alcohol or drugs or their metabolites..."
POCT screening devices	Permitted	Lab analysis required for programs that wish to challenge workers' or unemployment compensation claims.
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	Except in workers'/unemployment comp cases.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Missouri Rev. Stat. §287.120.6.
Unemployment denial	Yes	Refer to Missouri Rev. Stat. §288.045, 050(2).

MONTANA

Legal status for workplace drug and alcohol testing

Montana places detailed restrictions regarding the circumstances under which drug testing can be conducted; references to federal drug testing requirements are found throughout the Montana law.

MONT. CODE ANN. §39-2-205-211
(1995 & SUPP. 1998; 2005 amendments)

Area of focus	Status	Comments
Setting/circumstance	Restricted	All types of testing are permitted with restrictions (i.e. reasonable suspicion and damages over \$1,500 for post-accident, etc.). Employers must meet several conditions in order to conduct random testing.
Drugs tested (panel)	Defined	SAMHSA panel (other substances may be tested for as long as procedures used are as stringent as those in 49 CFR Part 40).
Specimens permitted	Defined	Urine or oral fluid; breath for alcohol.
POCT screening devices	See Comments	Probably. Positives must be confirmed at lab. Chain of custody and other testing procedures should be at least as stringent as those in 49 CFR Part 40 and the device used must be FDA-approved.
Alcohol testing	Permitted	Per DOT regs. Device from Conforming Products List only, 0.04 or greater is positive. Administered by certified BAT only.
EAP	Not Required	Policy must include information about available EAP services.
Certified laboratory	Required	Requires compliance with 49 CFR part 40.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Montana Code Ann. §39-71-407(5–7).
Unemployment denial	Maybe	Refer to Montana Code Ann. §39-51-2303 concerning “misconduct” and ARM §24.11.461 for “specific acts of misconduct.”

NEBRASKA

Legal status for workplace drug and alcohol testing

Nebraska has a very open workplace drug testing law. For example, all types of testing are permitted.

NEBRASKA REVISED STATUTES
CHAPTER 48-1901-1910

Area of focus	Status	Comments
Setting/circumstance	Not Defined	
Drugs tested (panel)	Not Defined	
Specimens permitted	Defined	Body fluid and breath.
POCT screening devices	Permitted	For screens only; confirm positives at lab.
Alcohol testing	Permitted	Breathalyzer required; employee may request confirmatory retest with blood.
EAP	Not Required	
Certified laboratory	Required	CLIA labs required for confirmation testing.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Nebraska Revised Statute §§48-102, 48-127.
Unemployment denial	Yes	Refer to Nebraska Revised Statutes §48-628(2).

NEVADA

Legal status for workplace drug and alcohol testing

Nevada does not have a drug testing statute and there are no restrictions on the type of testing an employer can conduct, who can be tested, and under what circumstances a test can be required. The only exception to this is that the state Attorney General has determined that drug tests must take place at a laboratory.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Prohibited	NAC 652 regulates point-of-care testing, but makes it very difficult to comply.
Alcohol testing	Permitted	
EAP	Not Required	
Certified laboratory	Not Required	Recommended.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Nevada Rev. Stat. §616C.230(1)(c)(d).
Unemployment denial	Yes	Refer to Nevada Rev. Stat. §612.385, concerning misconduct. Case law upholds that alcohol or drug use against an employer's drug-free workplace policy constitutes misconduct.

NEW HAMPSHIRE

Legal status for workplace drug and alcohol testing

New Hampshire does not restrict drug testing.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Permitted	
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to New Hampshire Statutes §281-A:14.
Unemployment denial	Yes	Refer to New Hampshire Statutes §282-A:34(I).

NEW JERSEY

Legal status for workplace drug and alcohol testing

New Jersey's state constitution contains privacy language that limits drug testing to situations when there is reasonable cause.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUE.

Area of focus	Status	Comments
Setting/circumstance	Restricted	Privacy language in the state constitution restricts testing to reasonable suspicion situations. Random is permitted in safety-sensitive occupations per case law.
Drugs tested (panel)	Not Defined	
Specimens permitted	Not Defined	
POCT screening devices	Restricted	Testing location may need to be licensed through state as a laboratory. Only FDA-cleared devices are permitted.
Alcohol testing	Permitted	
EAP	Caution	Case law underscores the importance of educating workers.
Certified laboratory	Required	State has a laboratory licensing law that applies to drug testing.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to New Jersey Statutes Annotated §34:15-7.
Unemployment denial	Yes	Refer to New Jersey Statutes Annotated §34:21-5.

NEW MEXICO

Legal status for workplace drug and alcohol testing

New Mexico does not have a drug testing statute; however, in workers' compensation denial cases employers must demonstrate compliance with the DOT drug and alcohol testing regulations.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	DOT drug and alcohol testing procedures must be observed in workers' compensation denial cases.
Specimens permitted	No Requirements or Restrictions	DOT drug and alcohol testing procedures must be observed in workers' compensation denial cases.
POCT screening devices	Permitted	
Alcohol testing	Permitted	DOT drug and alcohol testing procedures must be observed in workers' compensation denial cases.
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	DOT drug and alcohol testing procedures must be observed in workers' compensation denial cases.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to New Mexico Stat. Ann. §52-1-11, 12, & 12.1. Full denial if intoxication is cause of accident. 10% reduction if intoxication is only contributing factor. Must follow DOT regs. in order to use drug test result as proof of intoxication.
Unemployment denial	No	Refer to New Mexico Stat. Ann. §51-1-7(2) concerning misconduct as means for disqualification; intoxication is not specified as misconduct in statutory language.

NEW YORK

Legal status for workplace drug and alcohol testing

New York does not have a drug testing statute. However, Code Rule 60 is a voluntary program that permits employers to put certain safety-related programs in place that qualify them for workers' compensation credits. This chart does not reflect the requirements of Code Rule 60.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	See Comments	On-site testing facilities are subject to regulation under the state's clinical laboratory licensing law per the Dept. of Health.
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	Required	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to NY Workers Compensation Law §10 and §21.
Unemployment denial	Maybe	Refer to NYS Article 18 Title 7 Section 593 concerning "misconduct." The law does not provide a definition of misconduct.

NORTH CAROLINA

Legal status for workplace drug and alcohol testing

North Carolina is a drug-testing-friendly state. Few restrictions apply.

NC GEN. STAT. 95-230 TO 95-235 (2003)
NC ADMINISTRATIVE CODE TITLE 13 R. 20.0100 TO 20.0602 (2004)

Area of focus	Status	Comments
Setting/circumstance	No Restrictions	All types of testing are permitted, as long as they take place at a certified laboratory. The only exception is applicant testing where one may use an on-site testing device.
Drugs tested (panel)	Not Defined	
Specimens permitted	Defined	Urine, blood, hair or oral fluids.
POCT screening devices	See Comments	For prospective employees only; confirmation of positives required with GC/MS (See No. Carolina Admin. Code 20.0203).
Alcohol testing	Permitted	
EAP	Not Required	
Certified laboratory	Required	CAP or SAMHSA.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to North Carolina Gen. Stat. §97-12.
Unemployment denial	Yes	Refer to North Carolina Gen. Stat. §96-14(2).

NORTH DAKOTA

Legal status for workplace drug and alcohol testing

While North Dakota does not have a drug testing statute, in order to move to deny workers' compensation benefits an employer must conduct drug/alcohol testing in accordance with certain requirements established by the state, such as, in some circumstances, compliance with some aspects of the U.S. DOT regulations.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Permitted	
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to North Dakota Century Code §65-01-02(10)(b)(3). Refusal to submit to a drug test is also grounds for denial of benefits. Refer to N.D. Cent. Code §65-01-11.
Unemployment denial	Maybe	Refer to North Dakota Century Code §52-06-02(2) concerning "misconduct." According to the North Dakota Job Services Unemployment Insurance Claim Guide, violation of a posted or known company rule is means for disqualification.

OHIO

Legal status for workplace drug and alcohol testing

Ohio has a voluntary drug testing law. For companies that wish to qualify for a discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply. Additionally, the state's workers' compensation law contains very specific requirements relative to drug/alcohol testing. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	Defined	All types of testing are required and certain conditions apply (applicant, reasonable suspicion, post-accident, return-to-duty, random, and follow-up). Exceptions: periodic exam is not required and sometimes alcohol is not required.
Drugs tested (panel)	Defined	Opiates, cocaine, marijuana, amphetamines and PCP. Additionally "those acknowledged as drugs of abuse in the company's local communities," prescription meds, barbiturates, benzodiazepines, methadone, and propoxyphene; outside program no restrictions apply.
Specimens permitted	Defined	Urine for drug testing; breath or blood for alcohol testing. Saliva may be permitted for alcohol testing.
POCT screening devices	See Comments	Follow SAMHSA guidelines; the old program was amended to permit on-site testing but the new program makes no mention of alternative testing methods or specimens, but continually refers to the SAMHSA guidelines.
Alcohol testing	In Some Cases	See Setting / Circumstances; 0.04 BAC recommended
EAP	See Comments	Requirements vary depending on level of participation.
Certified laboratory	Required	SAMHSA-certified lab only.
WC premium discount	Yes	4-7% plus bonus discounts for qualifying participants in the program.
WC claim denial or reduction	Yes	Refer to Ohio Admin. Code §4123.54. See statute for exact details; many restrictions apply.
Unemployment denial	Yes	Refer to Ohio Admin Code §4141.29(D)(1)(b), concerning "misconduct."

OKLAHOMA

Legal status for workplace drug and alcohol testing

This is a drug testing friendly state. Oklahoma’s Title 40 was amended by the passage of OK53RHB 2033 (May 9, 2011) as well as OK53HRB 2204 (May 8, 2012). The changes went into effect November 1, 2011 and May 8, 2012 respectively and are reflected here. [This law applies to public and private sector employers.](#)

OKLAHOMA STATUTES ANNOTATED TITLE 40. LABOR
CHAPTER 15. STANDARDS FOR WORKPLACE
DRUG AND ALCOHOL TESTING ACT
OKLAHOMA ADMINISTRATIVE CODE 310:638

Area of focus	Status	Comments
Setting/circumstance	Restricted	All types of testing are permitted but some restrictions apply (i.e. post-offer only for applicant, safety-sensitive only for periodic exam, return to duty, etc.).
Drugs tested (panel)	Defined*	“Drug means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite thereof.” *Department of Health lists drugs approved for testing in urine and saliva, and different, shorter list of drugs approved for testing in hair.
Specimens permitted	Defined	“Sample means tissue, fluid or product of the human body chemically capable of revealing the presence of drugs or alcohol in the human body.” Board of Health lists urine, saliva and hair for drug screens and confirmations; breath or saliva for alcohol screens and breath or blood for confirmation.
POCT screening devices	Permitted	FDA-approved devices only for drug testing; NHTSA conforming products list for alcohol testing; confirmation required for positives.
Alcohol testing	Permitted	Law was amended (May 8, 2012) via HB 2204. Language requiring confirmation of a breathalyzer test before dismissal has been removed. State Board of Health still has power to promulgate, prescribe, amend and repeal rules for licensure/regulation of testing facilities.
EAP	Not Required	Prior requirement repealed in 2011.
Certified laboratory	Required	Consistent with federal regulations/State Bd. of Health; labs certified for urine testing by SAMHSA and CAP-FUDT; other lab certifications may be acceptable.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Oklahoma Statute Annotated Title 85 § 312(3).
Unemployment denial	Yes	Refer to Oklahoma Statute Annotated Title 40, §2-406.1. This law was amended in May 2012.

OREGON

Legal status for workplace drug and alcohol testing

Oregon has two laws that regulate laboratory-related issues; however, some components of those laws directly impact how drug testing is conducted.

OR. REV. STAT. 438.435 (2005)
OR ADMIN. R. 333-024-0305
TO 333-024-0365 (2004)

Area of focus	Status	Comments
Setting/circumstance	Not Defined	
Drugs tested (panel)	Not Defined	
Specimens permitted	Defined	Body fluids obtained from a live person.
POCT screening devices	Permitted	Employers conducting on-site tests must register with the Health Div. of the Dept. of Human Services and pay a registration fee of no more than \$50; FDA-approved device only. Other requirements apply.
Alcohol testing	Permitted	May conduct reasonable suspicion alcohol tests or when the individual gives consent to be tested; device must be NHTSA-approved and conform to 49 CFR part 40; employer must pay for the test.
EAP	Not Required	
Certified laboratory	Required	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Oregon Rev. Stat. § 656.005(7)(b)(C).
Unemployment denial	Yes	Refer to Oregon Rev. Stat. § 657.176; OR Admin. R.471-030-0036, 0-0125, 0126.

PENNSYLVANIA

Legal status for workplace drug and alcohol testing

Pennsylvania is a drug testing-friendly state with no restrictive statute in place.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Permitted	
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Pennsylvania Unconsolidated Statutes §77-431.
Unemployment denial	Yes	Refer to Unemployment Compensation Law 1936-1 Article IV, Section 402 (e.1).

RHODE ISLAND

Legal status for workplace drug and alcohol testing

Rhode Island limits drug testing of employees to circumstances in which there is suspicion of drug use or impairment. First-time positives may not result in termination. Employers are responsible to pay for treatment services for employees. Other restrictions apply.

GEN. LAWS 28-6.5-1 TO 28-6.5-2

Area of focus	Status	Comments
Setting/circumstance	Restricted	The following types of testing are permitted: applicant (post-offer), reasonable suspicion, post-accident (with reasonable suspicion), return-to-duty, and follow-up. The following types of testing are prohibited: periodic exam and random.
Drugs tested (panel)	Not Defined	
Specimens permitted	Defined	“Urine, blood or any other bodily fluid or tissue.”
POCT screening devices	Permitted	Confirmation of initial screen positives is required even for pre-employment screens.
Alcohol testing	Permitted	
EAP	See Comments	Must refer to treatment services before termination.
Certified laboratory	Not Mentioned	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Rhode Island General Laws §28-33-2.
Unemployment denial	Maybe	Refer to Rhode Island General Laws §28-44-18 concerning “misconduct”; law does not mention drugs, alcohol, intoxication, or drug testing; it does state that violation of a company rule or policy does constitute misconduct.

SOUTH CAROLINA

Legal status for workplace drug and alcohol testing

This state has a voluntary drug testing law. For companies that wish to qualify for a 5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply. Employers have wide latitude in the development of their programs. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

SC CODE ANN. 41-1-15 (SUPP 2005) & 38-73-500 (2002)

Area of focus	Status	Comments
Setting/circumstance	Defined	All types of testing are permitted. Random is required of all workers who receive wages or compensation in any form.
Drugs tested (panel)	Not Defined	
Specimens permitted	Not Defined	
POCT screening devices	Permitted	
Alcohol testing	Permitted	
EAP	Not Required	
Certified laboratory	Not Mentioned	
WC premium discount	Yes	At least 5%.
WC claim denial or reduction	Yes	Refer to South Carolina Code Ann. §42-9-60.
Unemployment denial	Yes	Refer to South Carolina Code Ann. §41-35-120(3) & (4)(iv).

SOUTH DAKOTA

Legal status for workplace drug and alcohol testing

South Dakota does not restrict how or when drug testing is conducted or whom employers can require to be drug tested.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	Schedule I or II drugs for denying workers' compensation claims.
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Permitted	
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to South Dakota Codified Laws Ann. §62-4-37.
Unemployment denial	Maybe	Refer to South Dakota Codified Laws Ann. §61-6-14 and -14.1 concerning "misconduct." Law defines misconduct as breaking a company rule or standard, but does not mention drug testing or intoxication as part of definition.

TENNESSEE

Legal status for workplace drug and alcohol testing

Tennessee has a voluntary drug testing law. For companies that wish to qualify for a 5% discount (including self-insured companies) on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

TENN. CODE ANN. 50-9-101 TO -112 (2005); TENN. COMP. R. & REGS. CH. 0800-2-12 (1999)

Area of focus	Status	Comments
Setting/circumstance	Defined	All types of testing required except for random (which is permitted but not required) and return-to-duty (which is not mentioned). Some conditions apply to all types of required testing (such as post-offer for applicant, follow up for employees who voluntarily submit to rehab).
Drugs tested (panel)	Defined	SAMHSA panel plus alcohol.
Specimens permitted	Defined	"Tissue, fluid or a product of the human body capable of revealing the presence of alcohol or drugs or their metabolites" ... however, oral fluid and hair testing are prohibited under the voluntary law.
POCT screening devices	Prohibited	
Alcohol testing	See Comments	Required in some instances involving safety-sensitive workers. Breath and saliva per the federal guidelines.
EAP	Not Required	However, must provide information on EAPs in policy.
Certified laboratory	Required	SAMHSA, CAP, or other authority recognized by the state; lab must comply with DOT lab regulations or other procedures approved by the state.
WC premium discount	Yes	5%.
WC claim denial or reduction	Yes	Refer to Tenn. Comp. R. & Regs. §0800-2-.12-.01 (1)(a) & (d).
Unemployment denial	Yes	Refer to T.C.A. §50-7-303(a)(2).

TEXAS

Legal status for workplace drug and alcohol testing

Texas has a drug test cheating law. There is also a law that requires certain employers to report positive drug test results to the state Department of Transportation.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Permitted	
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Texas Lab. Code Ann. §406.032 (and §401.013 for definition of "Intoxication").
Unemployment denial	Yes	Refer to Texas Lab. Code Ann. §207.044. SB 21 (2013) added drug testing requirements to UC law. There is significant case law that affects this. See TWC Appeal No. 97-003744-10-040997.

UTAH

Legal status for workplace drug and alcohol testing

Utah has a voluntary drug testing law. For companies that wish to qualify for limited legal protection they must comply with this law; other companies are not mandated to comply. Workers' or unemployment compensation appeals involving substance abuse require compliance with the voluntary law. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	Defined	All types of testing are permitted. The only condition is that if testing is conducted, it must be conducted of all employees, including management. Post-accident also includes theft.
Drugs tested (panel)	Not Defined	However, definition of drug includes "a substance recognized as a drug in the United States Pharmacopoeia, the National Formulary, the Homeopathic Pharmacopoeia, or other drug compendia, or supplement to any of those compendia."
Specimens permitted	Defined	Urine, blood, breath, saliva, or hair.
POCT screening devices	Permitted	Positives must be confirmed.
Alcohol testing	Permitted	
EAP	Not Required	
Certified laboratory	Required	Certified by US Dept. of Health and Human Services under the National Laboratory Certification Program.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Utah Code Ann. §34A-2-302. Employer must comply with the requirements found in UTAH CODE ANN. 34-38-1 TO 34-38-15 as outlined in this chart in order to qualify to deny benefits.
Unemployment denial	Yes	Refer to Utah Rule R994-405-208 (7). Employer must comply with the requirements found in UTAH CODE ANN. 34-38-1 to 34-38-15 as outlined in this chart in order to qualify to deny benefits.

VERMONT

Legal status for workplace drug and alcohol testing

Vermont's drug testing law is one of the most restrictive in the nation. Random testing is prohibited. Some type of EAP or referral service is required in order to conduct drug testing. This law also applies to public sector workplace drug testing.

VT STAT. ANN. TITLE 21, 511-520 (2003)
VT ADC 13140 003 (2003)

Area of focus	Status	Comments
Setting/circumstance	Restricted	All types of testing except for random permitted but restrictions apply (i.e. must have reasonable suspicion, post-offer for applicant, reasonable suspicion and post-accident must meet definition, etc.). Random is prohibited.
Drugs tested (panel)	Defined	Schedule I drugs and others listed in the statute.
Specimens permitted	Defined	Urine or hair for drug testing/breath for alcohol testing/donor may request a blood sample be drawn at the time of the urine or breath collection.
POCT screening devices	Prohibited	Only refers to lab-based testing & qualifications of labs.
Alcohol testing	Permitted	Breath only; technician must be certified by state; BAC of 0.02 shall be reported as a positive; confirmation test required within 10-20 minutes after screen.
EAP	Required	Must have an EAP or be able to refer employees to available services in the community.
Certified laboratory	Required	At lab approved by Vermont Dept. of Health.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Vermont Stat. Ann. §21-649.
Unemployment denial	Yes	Refer to Vermont Stat. Ann. §21-17-1344 concerning "gross misconduct" and "intoxication."

VIRGINIA

Legal status for workplace drug and alcohol testing

A voluntary law exists with a up to 5% workers' compensation premium discount available for companies that comply with criteria established by insurer; companies in the mining industry are required to comply with the provisions of the "voluntary" law. This chart does not reflect the requirements that apply to the mining industry.

THIS STATE DOES NOT HAVE A DRUG-TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	Mining industry must test for the following substances: amphetamines, cannabis/THC, cocaine, opiates, phencyclidine (PHP), benzodiazepines, propoxyphene, methaqualone, methadone, barbiturates, and synthetic narcotics.
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Permitted	
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	SAMHSA lab as part of mining industry drug testing.
WC premium discount	Yes	Refer to Virginia Code Ann. §65.2-813.2. Up to 5%.
WC claim denial or reduction	Yes	Refer to Virginia Code Ann. §65.2-306.
Unemployment denial	Yes	Refer to Virginia Code Ann. §60.2-618(2)(b) & (3)(d).

WASHINGTON

Legal status for workplace drug and alcohol testing

Washington does not have a drug testing statute; therefore, no statutory restrictions apply.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	
Drugs tested (panel)	No Requirements or Restrictions	
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Permitted	
Alcohol testing	Permitted	
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	No	
Unemployment denial	Maybe	Refer to R.C.W. §50-20-060 concerning misconduct.

WEST VIRGINIA

Legal status for workplace drug and alcohol testing

West Virginia does not have a general mandatory drug testing statute; however, important case law limits drug testing situations to safety-sensitive and reasonable suspicion. As well, the state does mandate drug and alcohol testing of certain workers involved in Public Works Improvement projects.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	Restricted	Case law limits testing to safety-sensitive and reasonable suspicion.
Drugs tested (panel)	No Requirements or Restrictions	Public Works drug testing program must include the following drugs: marijuana, cocaine, opiates (including hydromorphone, oxycodone, hydrocodone), phencyclidine, amphetamines, barbiturates, benzodiazepines, methadone and propoxyphene.
Specimens permitted	No Requirements or Restrictions	For public improvement contractors and subcontractors urine for drug and alcohol testing.
POCT screening devices	Permitted	
Alcohol testing	Permitted	For public improvement contractors and subcontractors urine for drug and alcohol testing.
EAP	No Requirements or Restrictions	Required for public improvement contractors and subcontractors.
Certified laboratory	No Requirements or Restrictions	SAMHSA-certified lab is required as part of a public works employer's program.
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to West Virginia Code §23-4-2(a).
Unemployment denial	Yes	Refer to West Virginia Code §21A-6-3(2).

WISCONSIN

Legal status for workplace drug and alcohol testing

Wisconsin is a drug-testing friendly state with no restrictions on workplace drug testing.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Setting/circumstance	No Requirements or Restrictions	Reasonable suspicion, post-accident, and random are required of public works contractors and subcontractors.
Drugs tested (panel)	No Requirements or Restrictions	Public workers programs require the SAMHSA panel; otherwise, no restrictions apply.
Specimens permitted	No Requirements or Restrictions	
POCT screening devices	Permitted	
Alcohol testing	Permitted	Required of public works contractors and subcontractors (and must comply with federal regulations).
EAP	No Requirements or Restrictions	
Certified laboratory	No Requirements or Restrictions	
WC premium discount	No	
WC claim denial or reduction	Yes	Refer to Wisconsin Statutes §102.58. 15% discount not exceeding \$15,000.
Unemployment denial	Yes	Refer to Wisconsin Statutes §108.04(5), concerning misconduct.

WYOMING

Legal status for workplace drug and alcohol testing

Wyoming has a voluntary drug testing law. For companies that wish to qualify for a 5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

RULES, REGULATIONS AND FEE SCHEDULES
OF THE WYOMING WORKERS' SAFETY AND
COMPENSATION DIVISION
CHAPTER 1, CHAPTER, 2, & CHAPTER 10

Area of focus	Status	Comments
Setting/circumstance	Defined	The following types of testing are required and have conditions: applicant, reasonable suspicion, post-accident, random. The following types of testing are permitted but not required: periodic exam, return-to-duty, follow-up.
Drugs tested (panel)	Defined	Cocaine, marijuana, opiates, amphetamines and PCP
Specimens permitted	Defined	Lab-based urine only for employee drug testing; urine, hair or saliva for applicant testing (lab or on-site).
POCT screening devices	Limited	Specifically allowed for random, reasonable suspicion, and pre-employment. Post-accident must follow DOT rules – thus no POCT.
Alcohol testing	Permitted	Mirror DOT regs in most ways. 0.08 or higher is considered positive; EBT or “QED” saliva devices are permitted for alcohol screening; BAT or STT required.
EAP	Not Required	Not required to have an EAP, but must inform employees of the availability of EAP services either through the company or in the community; must maintain a “resource file” of available EAP services.
Certified laboratory	Required	SAMHSA-certified lab per DOT/SAMHSA regs except for pre-employment testing which may be on-site.
WC premium discount	Yes	Up to 5%.
WC claim denial or reduction	Yes	Refer to Wyoming Code Ann. §27-14-102 (a)(xi)(B)(l).
Unemployment denial	Yes	Refer to Wyoming Statutes Ann. §27-3-311 concerning misconduct.

NOTES



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More Information

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