

**Representative Trisha S. Beck** proposes the following substitute bill:

**WORKPLACE DRUG TESTING PROGRAMS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Trisha S. Beck**

Senate Sponsor: Allen M. Christensen

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**LONG TITLE**

**General Description:**

This bill modifies provisions applicable to drug testing programs of nongovernmental employers.

**Highlighted Provisions:**

This bill:

- ▶ addresses procedures related to confirmation of tests; and
- ▶ makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**34-38-6**, as enacted by Laws of Utah 1987, Chapter 234

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **34-38-6** is amended to read:

**34-38-6. Requirements for collection and testing.**



26 ~~[All sample]~~ (1) The collection and testing of a sample for drugs and alcohol under this  
27 chapter shall be performed in accordance with ~~[the following conditions:]~~ this section.

28 ~~[(1) the]~~ (2) The collection of [samples] a sample shall be performed under reasonable  
29 and sanitary conditions[;].

30 ~~[(2) samples]~~ (3) A sample shall be collected and tested:

31 (a) with due regard to the privacy of the individual being tested[;]; and

32 (b) in a manner reasonably calculated to prevent ~~[substitutions]~~ a substitution or  
33 interference with the collection or testing of a reliable [samples;] sample.

34 ~~[(3) sample]~~ (4) Sample collection shall be documented, and the documentation  
35 procedures shall include:

36 (a) labeling of ~~[samples]~~ a sample so as reasonably to preclude the probability of  
37 erroneous identification of test results; and

38 (b) an opportunity for ~~[the]~~ an employee or prospective employee to provide  
39 notification of ~~[any]~~ information ~~[which he]~~ that the employee or prospective employee  
40 considers relevant to the test, including:

41 (i) identification of currently or recently used prescription or nonprescription drugs[;];

42 or

43 (ii) other relevant medical information.

44 ~~[(4) sample]~~ (5) Sample collection, storage, and transportation to the place of testing  
45 shall be performed so as reasonably to preclude the probability of sample contamination or  
46 adulteration[; and].

47 ~~[(5) sample]~~ (6) Sample testing shall conform to scientifically accepted analytical  
48 methods and procedures. ~~[Testing]~~

49 (7) (a) Before a test result described in Subsection (7)(b) may be used as a basis for an  
50 action by an employer under Section 34-38-8, testing shall include verification or confirmation  
51 of [any positive] the test result by:

52 (i) (A) gas chromatography[;];

53 (B) gas chromatography-mass spectroscopy[;]; or

54 (C) other comparably reliable analytical method[; ~~before the result of any test may be~~  
55 ~~used as a basis for any action by an employer under Section 34-38-8.]; and~~

56 (ii) if the sample used for a test is a urine sample, a laboratory that is certified by the

57 United States Department of Health and Human Services under the National Laboratory  
58 Certification Program.

59 (b) This Subsection (7) applies to a test result that is:

60 (i) positive;

61 (ii) adulterated;

62 (iii) diluted;

63 (iv) substituted; or

64 (v) invalid.