

34-38-13 Confidentiality of test-related information.

- (1) For purposes of this section, "test-related information" means the following received by the employer through the employer's drug or alcohol testing program:
 - (a) information;
 - (b) interviews;
 - (c) reports;
 - (d) statements;
 - (e) memoranda; or
 - (f) test results.
- (2) Except as provided in Subsections (3) and (6), test-related information is a confidential communication and may not be:
 - (a) used or received in evidence;
 - (b) obtained in discovery; or
 - (c) disclosed in any public or private proceeding.
- (3) Test-related information:
 - (a) shall be disclosed to the Division of Occupational and Professional Licensing:
 - (i) in the manner provided in Subsection 58-13-5(3); and
 - (ii) only to the extent required under Subsection 58-13-5(3); and
 - (b) may only be used in a proceeding related to:
 - (i) an action taken by the Division of Occupational and Professional Licensing under Section 58-1-401 when the Division of Occupational and Professional Licensing is taking action in whole or in part on the basis of test-related information disclosed under Subsection (3)(a);
 - (ii) an action taken by an employer under Section 34-38-8; or
 - (iii) an action under Section 34-38-11.
- (4) Test-related information shall be the property of the employer.
- (5) An employer is entitled to use a drug or alcohol test result as a basis for action under Section 34-38-8.
- (6) An employer may not be examined as a witness with regard to test-related information, except:
 - (a) in a proceeding related to an action taken by the employer under Section 34-38-8;
 - (b) in an action under Section 34-38-11; or
 - (c) in an action described in Subsection (3)(b)(i).

Amended by Chapter 152, 2004 General Session