

HOUSE No. 1792

By Ms. Gobi of Spencer (by request), petition of Steven Drury for legislation to regulate drug testing of employees by public and private employers as a condition for employment in the Commonwealth. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT TO PREVENT PRIVATE EMPLOYERS AND STATE GOVERNMENT TO REQUIRE DRUG TESTING AS A CONDITION OF EMPLOYMENT, WORK OF ANY NATURE, WITHIN COMMONWEALTH OF MASSACHUSETTS REPUBLIC.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. A law that ALL Employers, including Labor unions
2 and members therein, and/or appointed agents employed by state or
3 private to include All Government, state agency or private owners of
4 companies or corporations within the state of Massachusetts who are
5 private or foreign who perform any said contracts for projects by the
6 state or through the state or private that come to use the resource of
7 labor by way of the inhabitants, to :—lawful citizens or person
8 through permits or alike who are laboring in the state of the Com-
9 monwealth of Massachusetts that come to apply or ask or are in fact
10 now employed or cause to be hired for labor “at an at will status” or
11 by union contractual or private contract within the jurisdiction or
12 applying within the sovereign State republic of Massachusetts who
13 have in past and shall not be required since the enactment of this law
14 if or Shall by hired through state or privately by any employer will
15 come and is to be restricted from Drug Testing as a condition of
16 employment and thereafter the enactment of this law. The only
17 exemption shall be with due process of law or “probable cause”. An
18 employer may drug test a citizen or inhabitant or come to require
19 such testing thereafter employment begins but only for probable
20 cause. The act of drug testing for employment as a prerequisite shall
21 be illegal under this state law and no person or inhabitant shall be

22 required to be tested for drugs as conditions for employment for any
23 reason whatsoever. There shall be No exemption for “Probable
24 Cause” upon employment or applying thereof nor shall any
25 contractual agreement stand as legal It shall be a requirement of
26 every employer to show probable cause in writing, or proof by court
27 conviction to test an employee. To issue such cause to the said party
28 or parties, and allow said party or parties to be tested their right to
29 bring suit in any court is hereby protected when an employer come
30 to make or demand an employee to perform such a test under their
31 order or threat or agreement shall be illegal. Any employee if agreed
32 to be drug tested shall be told of any drug the search is required in
33 detail such test shall be allowed to be executed by their own doctors.
34 And it shall be illegal to anyone other then their doctor to be present
35 when the taking is underway any requirement, orders, threat of lost
36 of consideration of employment opportunity without evidence shall
37 be a wrong toward the employee and that all probable cause writs
38 must be given in copy to said employee stating a statement and
39 signed by a witness and what drug is under request for testing.
40 Employee shall not waive any rights at any time. The employer shall
41 provide a signed affidavit with each and every witness act therein
42 and or decision or description that comes to justifying the testing for
43 drugs which is an invasion to ones person and a search. The affidavit
44 shall state to the Facts and said reason and cause, signed by
45 employer and witness. The drug testing agreements being said or
46 any regulation thereto to Law shall require proof to discharge an
47 employee for drug use and the drug test must show impairment at
48 the time of hire. The employee shall be paid in full for all time lost
49 when not allowed to work, due to safety issue until the test is
50 revealed. The required Drug testing or performance testing as an
51 issue for prerequisite condition of any job applicant within the state
52 concerning their performance duties as employees for applied job
53 opportunity shall not be questioned and shall be illegal by all
54 employers or union agreement or contractual agreements within the
55 jurisdiction of the state or performed within the state.

1 SECTION 2. The drug testing law shall take effect and the objec-
2 tion to all as to protect employment and the right to livelihoods of
3 the inhabitants of Massachusetts. The Conclusion of ongoing testing
4 has only come to exclude not by performance but by residue thereby

5 being less than 01% of the state employment force thereby testing
6 any and everyone has not and has failed to show testing has stopped
7 industrial accidents by employers and said union agreement and
8 such a windfall as to back credit has been awarded by insurance for
9 such drug free employment programs. This shall be illegal in Massa-
10 chusetts The writing by insurance companies to force the public
11 work force to such invasions of their persons shall be restricted and
12 their contracts will no longer be legal and for cause. The employee
13 shall have the right to bring said lawsuit to be heard in the closest
14 court of law to the employees home. Employers are restricted to
15 such Testing without “proof of probable cause” while on their prop-
16 erty or while under contract or payment of earning. The employer
17 shall be restricted beyond that order. A witness and his or her signa-
18 ture statement will be consider proof for cause providing a statement
19 is written and describe what drugs are to be tested, however if
20 having no drugs found in the system of the employee he or she shall
21 have the right to remedy by court action if discharged for this or any
22 related reason. Drugs the employer or any one hired by said
23 employer shall not take action on any other employee coming to the
24 aid of another or vice versa that person shall not be restricted for
25 collection a testing purpose nor shall his or her earning be restricted
26 or come to unemployment and if so that person shall be allowed to
27 file for remedy for earning within any court jurisdiction such action
28 if rewarded shall allow 3 times the sum of the earning and court cost
29 shall be rewarded to that employee in any case this apply to the sub-
30 ject as well.

1 SECTION 3. The employer shall have the burden of all cost for
2 testing and re-testing of subjects specimen the employee shall have
3 the right to [2] two specimens one must be blood specimen check in
4 by certified record chain of command and one of other. All per-
5 sonnel shall sign every stage of the collection with time stamp and
6 ID.

1 SECTION 4. All laws or actions to come before this law will be
2 null and void. No union labor contracts shall continue to have legal
3 binding between parties if they are inhabitants of the state or state
4 citizens a clause to allow drug testing as a condition of employment
5 shall never again take hold in the state of Massachusetts and just

6 thinking shall be considered a subject to invasions of ones person
7 and right to earn a living. It shall be the right of the said employee to
8 not work and bring suit to any employer who continues to drug test
9 as a condition of employment within the state.

10 Every employer taking up such condition to test any employee
11 shall be fined \$250.00 and shall not be waive the employers right to
12 judicial hearing shall; not be restricted such action or right shall be
13 heard and the employee shall at such time give notice to bring suit. If
14 the employee “he or she” agrees to testing for drugs and waives the
15 right that shall be record and held in state record as a waiver any
16 action within the courts by them shall be taken to have waive his or
17 her rights within a jurisdiction or venue of Massachusetts. That
18 person where he or she resides shall be given a pink license plate for
19 their car. An employer shall lose all rights therein; if testing any
20 employee without his or her permission to any state contracts for life
21 of that person or company or corporation. The testing that show no
22 drugs usage shall be posted within the employment work place
23 thereof, however if the records shows such results of drugs the
24 employer shall be allowed to discharge at once no court action shall
25 be entertained. If any employer finds drugs within the testing results
26 the state shall be given the test results and criminal action shall be
27 allowed upon conviction of an employer or employee.

28 If employer is found guilty for testing for drugs as a condition of
29 employment it shall be a felony. Upon conviction in any court of law
30 such violation by said employer shall be punishable in a state jail or
31 prison with a term of five (5) years imprisonment, or fine of \$250.00
32 paid to the state coffer if the state should be the employer the fine
33 shall be waive to the employee.

34 If an employee is found to be convicted of usage of drugs during
35 employment by testing results he shall as well as being discharged
36 and if brought in to court with said results of the test shall be pun-
37 ished by said drug laws and their punishments.

38 SUCH ACTION’S shall be brought in a court of record within the
39 judicial branch of the State, of Commonwealth of Massachusetts
40 having jurisdiction and venue of the crime and it shall be a crime.

41 PROCEDURE to implement this Act:—

42 The Judicial Committee of the Legislature shall within 60 days
43 after enactment of this law, prepare and order the printing of special
44 complaint forms, for use by any citizen or resident alien, living

45 within the geographical jurisdiction of the state known as Common-
46 wealth of Massachusetts, to initiate this criminal action against any
47 employer for drug testing upon employee.