WEST VIRGINIA CODE: §21-3E-10

§21-3E-10. Sensitive employees.

If the confirmatory drug or alcohol test of an employee is “positive,” and the employee is in a sensitive position where an accident could cause loss of human life, serious bodily injury, or significant property or environmental damage, the employer may permanently remove the employee from the sensitive position and transfer or reassign the employee to an available nonsensitive position with comparable pay and benefits, or may take any other action, including termination or other adverse employment action, consistent with the employer’s policy for confirmed positive drug or alcohol test for employees in sensitive positions, provided there are not applicable contractual provisions that expressly prohibit such action.

Employers obligated to perform drug testing under a federal or state mandated drug testing statute will be required to follow whatever additional requirements are mandated by those statutes.

WV Legislature