WEST VIRGINIA CODE: §21-3E-12

§21-3E-12. Cause of action.

(a) No cause of action is or shall be established for any person against an employer who has established a program of drug or alcohol testing in accordance with this article, unless the employee's action was based on a false positive test result, and the employer had actual knowledge that the result was in error, and ignored the true test result because of disregard for the truth and/or the willful intent to deceive or be deceived.

(b) In any claim, including a claim under this article, where it is alleged that an employer's action was based on a false positive test result:

(1) There is a rebuttable presumption that the test result was valid if the employer complied with the provisions of this article; and

(2) The employer is not liable for monetary damages if its reliance on a false positive test result was reasonable and in good faith.

(c) There is no employer liability for any action taken related to a false negative drug or alcohol test.

WV Legislature