WEST VIRGINIA CODE: §21-3E-8

§21-3E-8. Testing policy requirements.

(a) Testing or retesting for the presence of drugs or alcohol by an employer shall be carried out within the terms of a written policy which has been distributed to every employee subject to testing, and is available for review by prospective employees.

(b) In order to comply with the provisions of this article, employers must provide employees, when requested and/or as appropriate, with information as to the existence and availability of counseling, employee assistance, rehabilitation and/or other drug abuse treatment programs which the employer offers, if any. The employer is not required to offer any of the benefits listed above by this article.

(c) Within the terms of the written policy, an employer may require the collection and testing of samples for, among other legitimate drug abuse prevention and/or treatment purposes, the following:

(1) Deterrence and/or detection of possible illicit drug use, possession, sale, conveyance, or distribution, or manufacture of illegal drugs, intoxicants, or controlled substances in any amount or in any manner, on or off the job, or the abuse of alcohol or prescription drugs;

(2) Investigation of possible individual employee impairment;

(3) Investigation of accidents in the workplace or incidents of workplace theft or other employee misconduct;

(4) Maintenance of safety for employees, customers, clients or the public at large; or

(5) Maintenance of productivity, quality of products or services, or security of property or information.

(d) The collection and testing of samples shall be conducted in accordance with this article and need not be limited to circumstances where there are indications of individual, job-related impairment of an employee or prospective employee.

(e) The employer’s use and disposition of all drug or alcohol test results are subject to the limitations of this article and federal and state law if the employer is to qualify for the legal protections available under this article.

(f) Nothing in this article may be construed to encourage, discourage, restrict, limit, prohibit or require on-site drug or alcohol testing.

WV Legislature