

## **Mandatory Drug Testing at Construction Sites Bill 2022**

A Bill for an Act which establishes that a new Board under WorkSafe has a mandatory obligation to test all construction sites and its workers onsite for illegal substances. The board will regularly test sites across Victoria to help mitigate and monitor the testing requirements of this Act.

The use of illegal substances on the worksite is too common of a practice and many incidents are caused directly or indirectly by workers under the influence of these substances. This Bill will help aid in reducing the risks and help in eliminating the risks of drug related work incidents all together.

**A Bill for an Act relating to the Mandatory Drug Testing at Construction Sites to be enacted by the YMCA Victoria Youth Parliament;**

**PART I—Preliminary**

**Clause 1 Purpose**

The main purposes of this Act are—

- (a) To decrease drug use in the construction industry, thus improving safety and workplace culture;
- (b) To improve awareness about drug use, its illegality and the negative consequences from drug use in construction.

**Clause 2 Commencement**

This Bill shall commence six months after receiving assent from the Youth Governor of Victoria.

**Clause 3 Definitions**

In this Bill—

- (a) *Tests* means a process to determine the presence or absence of drugs such as illicit drugs and/or alcohol;
- (b) *The Department* refers to the Victorian Department of Justice and Community Safety;
- (c) *The Board* means a board of individuals referred to by Clause 4.3;
- (d) *Database* refers to a digital collection of information related to the employees of a construction site, drug testing, the participation rate of each period of drug testing, the results of all drug tests that had been performed;
- (e) *Support staff* means those who are in support roles with a physical presence on the construction site. This includes bonus surveyors, contractor's cost controllers, clerical staff, etc.;
- (f) *Urinary immunoassay test* is a drug test that utilises antibodies to detect traces of selected drugs and/or their metabolites based on an established cut-off threshold.
- (g) *Gas chromatography–mass spectrometry (GC-MS) test* is a test that involves gas-liquid chromatography (GC) and mass spectrometry (MS) to detect different substances within a sample.

**PART II—Establishment**

**Clause 4 WorkSafe Initiative**

- 4.1 WorkSafe shall create a new department that is responsible for administering and recording the drug tests.
- 4.2 WorkSafe has the ability to create and administer requirements within the construction industry in relation to drug tests through the Board.
- 4.3 The Board shall consist of;
  - (a) A member from each construction industry;
  - (b) Members from the health industry specialising in drug rehabilitation and counselling;
  - (c) Data analysts;
  - (d) Inspectors in charge of testing the construction sites.

- 4.4 The issues that are able to be decided by the Board include, but are not limited to:
- (a) Frequency of the tests;
  - (b) The type of tests used;
  - (c) The penalties for failing to comply;
  - (d) Education strategies in relation to raising awareness of the new initiative.

**Clause 5 Testing and Frequency**

- 5.1 The First test shall be a urinary immunoassay test, testing for any drugs that are illegal on a worksite;
- (a) If the worker fails this test, a second test shall follow.
- 5.2 The second test shall be a Gas chromatography-mass spectrometry (GC-MS);
- (a) While waiting for results of the test, the worker is to be suspended from work.
- 5.3 Tests are to be done monthly on all construction sites.
- 5.4 Before conducting tests, all participants must provide medication history.

**Clause 6 Database Management**

- 6.1 WorkSafe shall create the necessary database, including any other management and recording software and hardware for the use of;
- (a) Record keeping;
  - (b) Issuing of infringements;
  - (c) Tracking of workplaces visited;
  - (d) Test results;
  - (e) Other data that may be appropriate and helpful to;
    - (i) WorkSafe;
    - (ii) The new WorkSafe board;
    - (iii) The Department;
    - (iv) The Victorian Government; or
    - (v) An industry representative body.
- 6.2 The database shall be compliant with WorkSafe's existing policies and standard privacy procedures.

**Clause 7 Location of Testing**

- 7.1 Tests shall be conducted by a representative from the newly established WorkSafe section.
- 7.2 The drug tests shall be conducted on the construction site.
- 7.3 Drug tests are only required to be administered to those with a presence on the work site. This includes, but is not limited to;
- (a) Tradespersons;
  - (b) Site managers and forepersons;
  - (c) Site supervisors; and
  - (d) Support staff.

## **Clause 8 Education and Implementation**

- 8.1 WorkSafe shall provide the necessary materials to be dispersed to all relevant parties for the purpose of education on the matters outlined in Clauses 4-7 & 9. Relevant parties include;
  - (a) Those that are mentioned in Clause 4.
- 8.2 A page shall be established on the WorkSafe website hosting all relevant, previously indicated materials, for the purpose of personal re-education for any interested workers and board members.
- 8.3 For the purpose of implementation, representatives in Clause 7 will need to be adequately proportionate to the population of the construction workforce in Victoria and made aware of the proper procedures relating to matters of:
  - (a) The tested worker's confidentiality;
  - (b) Navigating patient behaviour;
  - (c) Being correctly trained in the testing disciplines outlined in Clause 5.

## **Clause 9 Penalties**

- 9.1 The penalties must only be applied to individuals that have a positive result on the drug tests that have been approved in Clause 5.
- 9.2 Each occasion of an individual having a positive result must have an intervention with the human resources department of the construction company/organisation they were employed under where they will provide the penalties related to the level of their offense.
- 9.3 The application for the penalties is based upon the instances of when a person is positive for a drug test.
- 9.4 Each offense shall relate to 3 separate levels;
  - (a) Level 1 offense penalties are as stated below;
    - (i) 6 penalty units;
    - (ii) The suspension of working at any construction site in Victoria for 30 days.
  - (b) Level 2 offense penalties are as stated below;
    - (i) 27 penalty units;
    - (ii) The suspension of working at any construction site in Victoria for 60 days;
    - (iii) The individual has a choice to either have rehabilitation for 30 days or do community service for the duration of their suspension.
  - (c) Level 3 offense penalties are stated below;
    - (i) 80 penalty units;
    - (ii) The cancelation of working at any construction site in Victoria;
    - (iii) Shall do community service for 90 days.
- 9.5 If an individual does not comply to be tested for any drugs, they shall be applied to the penalties outlined in Clause 9.4.