

114TH CONGRESS
1ST SESSION

S. 806

To amend section 31306 of title 49, United States Code, to recognize hair as an alternative specimen for preemployment and random controlled substances testing of commercial motor vehicle drivers and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 19, 2015

Mr. BOOZMAN (for himself, Mr. MANCHIN, and Ms. HEITKAMP) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend section 31306 of title 49, United States Code, to recognize hair as an alternative specimen for pre-employment and random controlled substances testing of commercial motor vehicle drivers and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drug Free Commercial
5 Driver Act of 2015”.

1 **SEC. 2. AUTHORIZATION OF HAIR TESTING AS AN ACCEPT-**
2 **ABLE PROCEDURE FOR PREEMPLOYMENT**
3 **AND RANDOM CONTROLLED SUBSTANCE**
4 **TESTS.**

5 Section 31306 of title 49, United States Code, is
6 amended—

7 (1) in subsection (b)(1)—

8 (A) by redesignating subparagraph (B) as
9 subparagraph (C); and

10 (B) in subparagraph (A), by striking “The
11 regulations shall permit such motor carriers to
12 conduct preemployment testing of such employ-
13 ees for the use of alcohol.” and inserting the
14 following:

15 “(B) The regulations prescribed under subparagraph
16 (A) shall permit motor carriers—

17 “(i) to conduct preemployment testing of com-
18 mercial motor vehicle operators for the use of alco-
19 hol; and

20 “(ii) to use hair testing as an acceptable alter-
21 native to urinalysis—

22 “(I) in conducting preemployment screen-
23 ing for the use of a controlled substance; and

24 “(II) in conducting random screening for
25 the use of a controlled substance by individuals

1 who were subject to preemployment screening.”;

2 and

3 (2) in subsection (c)(2)—

4 (A) in subparagraph (B), by striking

5 “and” at the end;

6 (B) in subparagraph (C), by inserting

7 “and” after the semicolon; and

8 (C) by adding at the end the following:

9 “(D) laboratory protocols and cut-off levels
10 for hair testing to detect the use of a controlled
11 substance;”.

12 **SEC. 3. EXEMPTION FROM MANDATORY URINALYSIS.**

13 (a) IN GENERAL.—Any motor carrier that dem-
14 onstrates, to the satisfaction of the Administrator of the
15 Federal Motor Carrier Safety Administration, that it can
16 carry out an applicable hair testing program, consistent
17 with generally accepted industry standards, to detect the
18 use of a controlled substance by commercial motor vehicle
19 operators, may apply to the Administrator for an exemp-
20 tion from the mandatory urinalysis testing requirements
21 set forth in subpart C of part 382 of title 49, Code of
22 Federal Regulations until a final rule is issued imple-
23 menting the amendments made by section 2.

24 (b) EVALUATION OF APPLICATIONS.—In evaluating
25 applications for exemptions under subsection (a), the Ad-

1 administrator shall determine if the applicant's testing pro-
2 gram employs procedures and protections similar to fleets
3 that have carried out hair testing programs for at least
4 1 year. A testing program may not receive an exemption
5 under subsection (a) unless it uses a laboratory—

6 (1) whose hair testing assays have been cleared
7 by the Food and Drug Administration under section
8 510(k) of the Federal Food, Drug and Cosmetic Act
9 (21 U.S.C. 360(k)); and

10 (2) has obtained laboratory accreditation for
11 hair testing from the College of American Patholo-
12 gists.

13 (c) REPORTING REQUIREMENT.—Any motor carrier
14 that is granted an exemption under subsection (a) shall
15 submit records to the national clearinghouse established
16 under section 31306a of title 49, United States Code, re-
17 lating to all positive test results and test refusals from
18 the hair testing program described in that subsection.

19 **SEC. 4. GUIDELINES FOR HAIR TESTING.**

20 Not later than 1 year after the date of the enactment
21 of this Act, the Secretary of Health and Human Services
22 shall issue scientific and technical guidelines for hair test-
23 ing as a method of detecting the use of a controlled sub-
24 stance for purposes of section 31306 of title 49, United
25 States Code, as amended by section 2.

1 **SEC. 5. ANNUAL REPORT TO CONGRESS.**

2 The Secretary of Transportation shall submit an an-
3 nual report to Congress that—

4 (1) summarizes the results of preemployment
5 and random drug testing using both hair testing and
6 urinalysis;

7 (2) evaluates the efficacy of each method; and

8 (3) determines which method provides the most
9 accurate means of detecting the use of controlled
10 substances over time.

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