

21 V.S.A. §512 – Drug testing of employees; prohibitions; exceptions

(a) General prohibition. Except as provided in subsection (c) of this section, an employer shall not, as a condition of employment, promotion, or change of status of employment, or as an expressed or implied condition of a benefit or privilege of employment, do any of the following:

- (1) request or require that an employee take or submit to a drug test;
- (2) administer or attempt to administer a drug test to an employee; or
- (3) request or require that an employee consent, directly or indirectly, to a practice prohibited under this subchapter.

(b) Random or company-wide tests. An employer shall not request, require, or conduct random or company-wide drug tests except when such testing is required by federal law or regulation.

(c) Exception. Notwithstanding the prohibition in subsection (a) of this section, an employer may require an individual employee to submit to a drug test if all the following conditions are met:

(1) Probable cause. The employer or an agent of the employer has probable cause to believe the employee is using or is under the influence of a drug on the job.

(2) Employee assistance program. The employer has available for the employee tested a bona fide rehabilitation program for alcohol or drug abuse and such program is provided by the employer or is available to the extent provided by a policy of health insurance or under contract by a nonprofit hospital service corporation.

(3) Employee may not be terminated. The employee may not be terminated if the test result is positive and the employee agrees to participate in and then successfully completes the employee assistance program; however, the employee may be suspended only for the period of time necessary to complete the program, but in no event longer than three months. The employee may be terminated if, after completion of an employee assistance program, the employer subsequently administers a drug test in compliance with subdivisions (1) and (4) of this subsection and the test result is positive.

(4) Administration of test. The drug test is administered in accordance with section 514 of this title. (Added 1987, No. 61, § 1, eff. Sept. 1, 1987.)

21 V.S.A. § 649 – Injuries no covered; burden of proof (workers' compensation)

Compensation shall not be allowed for an injury caused by an employee's willful intention to injure himself, herself, or another or by or during his or her intoxication or by an employee's failure to use a safety appliance provided for his or her use. The burden of proof shall be upon the employer if he or she claims the benefit of the provisions of this section.

Vermont prohibits random drug-testing and is widely known as having some of the most restrictive drug-testing laws in the nation.

Legal status for workplace drug and alcohol testing in states that have legalized marijuana:

CO – No requirements or restrictions. Allows random drug-testing of employees.

WA – No requirements or restrictions. Allows random drug-testing of employees.

AK – Permitted in all circumstances. Allows random drug-testing of employees – limited to safety-sensitive positions.

ME – Permitted in all circumstances, but with restrictions. Allows random drug-testing of employees – limited to safety-sensitive positions, documents justification, etc.

MA – No requirements or restrictions. Allows random drug-testing of employees – no restrictions, but recommended they be limited to safety-sensitive workers per privacy and case law.

NV – No requirements or restrictions. Allows random drug-testing

OR – No laws regulating or restricting employer's right to conduct random drug-testing.