



State-by-State Legal Status Guide

Legal Status for Hair Drug and Alcohol Testing.

HAIR DRUG AND ALCOHOL STATE-BY-STATE LEGAL STATUS GUIDE

This document contains basic requirements for drug and alcohol testing programs using hair specimens. It is not a complete or exhaustive guide to all drug testing requirements, only those that are immediately pertinent to hair testing.

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ABBREVIATIONS

- Clinical Laboratory Improvement Amendments (CLIA)
- Custody control form (CCF)
- Department of Transportation (DOT)
- Employee assistance program (EAP)
- Food and Drug Administration (FDA)
- Gas chromatography mass spectrometry (GC-MS)
- Medical review officer (MRO)
- Point of care testing (POCT)
- Substance Abuse and Mental Health Administration (SAMHSA)
- United States Department of Health and Human Services (USHHS)

ALABAMA

Legal status for hair drug and alcohol testing

Alabama has a voluntary drug testing law. For companies that wish to qualify for a 5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply with this statute. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

ALABAMA CODE 25-5-330 to 25-5-340 (2000)
ALABAMA CODE 480-5-6-1 to .04 (1996)

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	Specimen is broadly defined: tissue, blood, breath, urine, or other product of the human body capable of revealing the presence of drugs or their metabolites or of alcohol.
Hair Alcohol Testing Service	Permitted	Specimen is broadly defined: tissue, blood, breath, urine, or other product of the human body capable of revealing the presence of drugs or their metabolites or of alcohol.
Collection Procedures	Required	The law defines who is an authorized collector.
Chain of Custody Protocol	Required	
Split Specimen	No Requirement	No details provided.
Cutoff Levels	No Requirement	
Confirmation Testing	Required	GC-MS or equivalent technology.
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Prohibited	Refer to ALA Code 25-5-51 (2006). Requires compliance with 49 CFR part 40 drug and alcohol testing regulations.
Unemployment Denial Law – Hair Testing	Prohibited	Refer to ALA Code 25-4-78 (Supp. 2005). Requires compliance with 49 CFR part 40 drug and alcohol testing regulations or equivalent standards.

ALASKA

Legal status for hair drug and alcohol testing

Alaska has a voluntary drug testing law. For companies that wish to qualify for limited legal protections they must comply with this law; other companies are not mandated to comply with this statute. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

ALASKA STATUTES 23.10.600 - 23.10.699

Area of focus	Status	Comments
Hair Drug Testing Service	Prohibited	Statute authorizes testing of urine or breath, but does not mention hair testing. Outside voluntary law, not prohibited.
Hair Alcohol Testing Service	Prohibited	Statute authorizes testing of urine or breath, but does not mention hair testing. Outside voluntary law, not prohibited.
Collection Procedures	Required	Collections must take place under “reasonable” and “sanitary” conditions. Hair testing prohibited.
Chain of Custody Protocol	Required	Loosely described. Hair testing prohibited.
Split Specimen	No Requirement	
Cutoff Levels	Required	Per SAMHSA levels or else employee must be informed.
Confirmation Testing	Required	All positives must be confirmed with GC-MS.
Medical Review Officer	Required	All confirmed positives must be reviewed by MRO.
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Alaska Statute §23.30.235. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Prohibited	Refer to Alaska Statutes §23.20.379. Requires compliance with voluntary law.

ARIZONA

Legal status for hair drug and alcohol testing

Arizona has a voluntary drug testing law. For companies that wish to qualify for limited legal protections they must comply with this law; other companies are not mandated to comply. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

ARIZ. REV. STAT. ANN. 23-493 to -493.11
(1995 & Supp. 2005)
(Title 23, chapter 2, article 14)

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	Specimen is broadly defined: urine, blood, hair, saliva, breath or other body specimens.
Hair Alcohol Testing Service	Permitted	Specimen is broadly defined: urine, blood, hair, saliva, breath or other body specimens.
Collection Procedures	Required	Collections must take place under “reasonable” and “sanitary” conditions.
Chain of Custody Protocol	Required	Statute contains specific details for testing procedures; see statute for full information.
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	Required	For employee positives; employers are not required to confirm applicant positives; GC-MS or equivalent.
Medical Review Officer	No Requirement	
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	N/A	Arizona Revised Statutes Annotated §23-1021 was ruled unconstitutional by the AZ Supreme Court in <i>Grammatico v. The Industrial Commission</i> .
Unemployment Denial Law – Hair Testing	Permitted	Refer to Arizona Revised Statutes §23-619.01; requires employer to conduct drug and alcohol testing in compliance with the guidelines of the voluntary law (Title 23, chapter 2, article 14).

ARKANSAS

Legal status for hair drug and alcohol testing

Arkansas has a voluntary drug testing law. For companies that wish to qualify for a 5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply with the statute. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

ARK. CODE ANN. 11-14-101 to 11-14-112
(2002 & Supp. 2003):
ARK. REGS, RULE 099.36

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	Specimen means "tissue, fluid, or a product of the human body capable of revealing the presence of alcohol, drugs or their metabolites."
Hair Alcohol Testing Service	Permitted	Specimen means "tissue, fluid, or a product of the human body capable of revealing the presence of alcohol, drugs or their metabolites."
Collection Procedures	Required	Per federal DOT regulations, including chain of custody procedures.
Chain of Custody Protocol	Required	Per federal DOT regulations.
Split Specimen	Required	Per federal DOT regulations.
Cutoff Levels	Required	Per federal DOT regulations.
Confirmation Testing	Required	Using a testing process different from the screening process.
Medical Review Officer	Required	For positive tests and 5% of negative tests; adulterated specimens must be reported to MRO.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Arkansas Code Annotated § 11-9-102(4)(B)(iv). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Prohibited	Refer to Arkansas Code Annotated § 11-10-514(b). Requires drug or alcohol test to be conducted in accordance with DOT regulations and the employer's written policy.

CALIFORNIA

Legal status for hair drug and alcohol testing

Case law affects who can be tested and under what circumstances. Additionally, San Francisco has an ordinance that restricts drug testing in a number of ways. Employers should consider legal decisions related to drug testing prior to establishing a drug-free workplace program that includes any type of drug testing.

THIS STATE DOES NOT HAVE
DRUG TESTING LEGISLATION.
SEE INTRODUCTION.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	Confidentiality in the process is strongly recommended.
Chain of Custody Protocol	No Requirement	Recommended given litigious nature of state.
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	SAMHSA levels recommended.
Confirmation Testing	No Requirement	Recommended given litigious nature of state.
Medical Review Officer	No Requirement	Recommended given litigious nature of state.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to California Labor Code §3600. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Unemployment Insurance Code §1256.4. Law does not mention drug testing procedures.

CALIFORNIA, SAN FRANCISCO

Legal status for hair drug and alcohol testing

San Francisco has a very restrictive drug testing law. Employers’ rights are very limited when it comes to when drug testing can take place and who may be drug tested. Employers are advised to refer to the city’s law very carefully before implementing a drug testing program.

SAN FRANCISCO, CAL.,
POLICE CODE art. 33A (1993)

Area of focus	Status	Comments
Hair Drug Testing Service	Prohibited	Only permits blood or urine tests.
Hair Alcohol Testing Service	Prohibited	Only permits blood or urine tests.
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to California Labor Code §3600. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Unemployment Insurance Code §1256.4. Law does not mention drug testing procedures.

COLORADO

Legal status for hair drug and alcohol testing

The City of Boulder has a drug testing ordinance (5195) that contains several restrictive elements. Employers in Boulder should consult that city's ordinance. Colorado has a Workers' Compensation Reduction Law that may affect testing. There is a medical marijuana law, but it does not require employers to accommodate workplace use.

THIS STATE DOES NOT HAVE
DRUG TESTING LEGISLATION.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to COLO. REV. STAT. §8-42-112.5. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to COLO. REV. STAT. §8-73-108(5)(e)(VIII) & (IX). Law does not mention drug testing procedures.

COLORADO, BOULDER

Legal status for hair drug and alcohol testing

Boulder has a restrictive drug testing law that only applies to employers with business operations within the city.

BOULDER, COLO., HUMAN RIGHTS CODE
§§12-3-1 TO -6 (1994)

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	No definition of specimen provided in the law.
Hair Alcohol Testing Service	Permitted	No definition of specimen provided in the law.
Collection Procedures	No Requirement	
Chain of Custody Protocol	Required	Including labeling and proper handling.
Split Specimen	Required	
Cutoff Levels	No Requirement	
Confirmation Testing	Required	GC-MS or other of equal sensitivity and accuracy.
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to COLO. REV. STAT. §8-42-112.5. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to COLO. REV. STAT. §8-73-108(5)(e)(VIII) & (IX). Law does not mention drug testing procedures.

CONNECTICUT

Legal status for hair drug and alcohol testing

Connecticut is a drug testing friendly state though its law places restrictions on random testing.

TITLE 31. LABOR, CHAPTER 557,
31-51t to 31-51aa

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	Law only mentions urine, though does not specifically prohibit other forms of testing.
Hair Alcohol Testing Service	Permitted	Law only mentions urine, though does not specifically prohibit other forms of testing.
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	Required	GC-MS required or other reliable method approved by Commissioner of Public Health.
Medical Review Officer	Not Mentioned	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Connecticut Workers' Compensation Act §31-275(c). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	See Comments	Refer to Connecticut Gen. Stat. §31-236.14. Must conduct testing according to state or federal law.

DELAWARE

Legal status for hair drug and alcohol testing

Delaware is a drug testing friendly state with few requirements or restrictions except in certain industries.

THIS STATE DOES NOT HAVE
A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Delaware Code Annotated title 19, § 2353 (1995). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	N/A	There is no Unemployment Denial law in Delaware.

DISTRICT OF COLUMBIA

Legal status for hair drug and alcohol testing

The District of Columbia does not have a drug testing statute.

THIS STATE DOES NOT HAVE
A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to DC Code §32-1503(d). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to DC Code §51-110(b)(2) and 7 DCMR §312.3. Law does not mention drug testing procedures.

FLORIDA

Legal status for hair drug and alcohol testing

Florida has a voluntary drug testing law. For companies that wish to qualify for a 5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply. Certain construction contractors must comply with this law. School bus drivers are required to be drug tested. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

FLORIDA WORKERS' COMPENSATION
CODE SECTION 440.102
FLORIDA ADMIN. CODE 59A-24

Area of focus	Status	Comments
Hair Drug Testing Service	See Comments	"Specimen" means tissue, hair, or a product of the human body capable of revealing the presence of drugs or their metabolites. FL lab regulations only permit urine testing. (See 59A-24.004 Drugs to be Tested/Body Specimens.) Outside voluntary law, no restriction applies.
Hair Alcohol Testing Service	See Comments	"Specimen" means tissue, hair, or a product of the human body capable of revealing the presence of drugs or their metabolites. FL lab regulations only permit urine testing. (See 59A-24.004 Drugs to be Tested/Body Specimens.) Outside voluntary law, no restriction applies.
Collection Procedures	Required	Specific guidelines provided; specific CCF required. Specimens refer to urine testing. Hair testing prohibited.
Chain of Custody Protocol	No Requirement	
Split Specimen	Required	Collectors "shall collect an amount sufficient for two drug tests."
Cutoff Levels	Required	As established by Florida's Agency for Health Care.
Confirmation Testing	Required	GC-MS or an equivalent or more accurate scientifically accepted method approved by Florida or SAMHSA.
Medical Review Officer	Required	Required for positive and negative results.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Florida Statute Annotated § 440.101 and § 440.09.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Florida Statute Annotated § 443.101.

GEORGIA

Legal status for hair drug and alcohol testing

Georgia has a voluntary drug testing law. For companies that wish to qualify for a 7.5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply with this statute. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

GA CODE ANN. 34-9-410 TO -421
(1998 & SUPP. 2003);
GA CODE ANN. 33-9-40.2 (SUPP. 2005)

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	Tissue, blood, breath, urine, or other product of the human body capable of revealing the presence of drugs or their metabolites or of alcohol.
Hair Alcohol Testing Service	Permitted	Tissue, blood, breath, urine, or other product of the human body capable of revealing the presence of drugs or their metabolites or of alcohol.
Collection Procedures	Required	Specific guidelines provided concerning privacy of donor and who may collect specimens.
Chain of Custody Protocol	Required	
Split Specimen	No Requirement	
Cutoff Levels	See Comments	SAMHSA standards implied in statute.
Confirmation Testing	Required	GC-MS or an equivalent or more accurate scientifically accepted method.
Medical Review Officer	See Comments	GA Code - 34-9-419 refers to "medical review officer" but no other mention is made.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Georgia Code 34-9-17. Requires compliance with voluntary law.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Georgia Code 34-8-194. Requires compliance with voluntary law.

HAWAII

Legal status for hair drug and alcohol testing

Hawaii places no restrictions on drug testing circumstances but has very specific requirements on how drug testing is conducted. The law requires that written notice be given prior to the collection of a sample every time a drug test is conducted.

HAW. REV. STAT. §329B-1 -8 (1998)
HAWAII ADMINISTRATIVE RULES TITLE 11
DEPT. OF HEALTH CHAPTER 13

Area of focus	Status	Comments
Hair Drug Testing Service	See Comments	“Specimen” means urine, blood, or any other bodily substance that the Department of Health determines to be appropriate for substance abuse testing. Currently, only regulations for urine and blood laboratory testing exist.
Hair Alcohol Testing Service	See Comments	“Specimen” means urine, blood, or any other bodily substance that the Department of Health determines to be appropriate for substance abuse testing. Currently, only regulations for urine and blood laboratory testing exist.
Collection Procedures	Required	See statute for exact details. Procedures refer to urine testing only, but hair testing permitted otherwise.
Chain of Custody Protocol	Required	See statute for exact details. Procedures refer to urine testing only, but hair testing permitted otherwise.
Split Specimen	No Requirement	
Cutoff Levels	See Comments	SAMHSA levels advised; otherwise only urine and blood cutoff levels are provided.
Confirmation Testing	Required	GC-MS.
Medical Review Officer	Required	Must be licensed as an MRO in Hawaii. May be required to review negative results by “third party.”
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Hawaii Revised Statutes §386-3. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Hawaii Revised Statutes §383-30. Admin. Rules 5-12-51 specifically mention intoxication as misconduct. Law does not mention drug testing procedures.

IDAHO

Legal status for hair drug and alcohol testing

Idaho has a voluntary drug testing law. For companies that wish to qualify for limited legal protections and/or a reduction in workers' compensation premiums they must comply with this law; other companies are not mandated to comply with this law. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

IDAHO CODE 72-1701 to 1716
(1999 & Supp. 2002)

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	Required	Collections must take place under “reasonable” and “sanitary” conditions. See statute for further details.
Chain of Custody Protocol	Required	See statute for further details.
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	Required	All positives must be confirmed with GC-MS or equivalent.
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Idaho Code §72-208. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Idaho Code §72-1366(5), §72-1707, §72-1709, and §72-1701. Included in voluntary law.

ILLINOIS

Legal status for hair drug and alcohol testing

Workers’ compensation denial law requires compliance with DOT drug and alcohol testing regulations. A separate law exists that mandates and regulates drug testing by public works employers.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Prohibited	Refer to 820 ILCS 305/11. Compliance with DOT drug and alcohol testing regulations is required.
Unemployment Denial Law – Hair Testing	Permitted	Refer to 820 ILCS 405/602. Law defines misconduct as including violation of a known rule or policy. IDES Unemployment Insurance Law Handbook states that violation of a drug-free workplace policy constitutes misconduct under UC denial law. Law does not mention drug testing procedures.

ILLINOIS PUBLIC WORKS

Legal status for hair drug and alcohol testing

Public Act 095-063, the “Substance Abuse Prevention on Public Work Projects Act” only applies to an employer that is a “contractor or subcontractor performing a public works project.” It does not apply generally to any other employers.

PUBLIC ACT 095-063
(820 ICS 265)

Area of focus	Status	Comments
Hair Drug Testing Service	Prohibited	Hair testing is not mentioned but urine testing is specifically required.
Hair Alcohol Testing Service	Prohibited	Hair testing is not mentioned but urine testing is required, and if urine testing is not available post-accident, blood testing is allowed.
Collection Procedures	Mentioned	No details provided in statute.
Chain of Custody Protocol	Implied	Mentions guidelines for laboratory testing procedures and chain of custody procedures established by SAMHSA.
Split Specimen	Implied	Mentions guidelines for laboratory testing procedures and chain of custody procedures established by SAMHSA.
Cutoff Levels	Implied	Mentions guidelines for laboratory testing procedures and chain of custody procedures established by SAMHSA.
Confirmation Testing	Implied	Mentions guidelines for laboratory testing procedures and chain of custody procedures established by SAMHSA.
Medical Review Officer	Implied	Mentions guidelines for laboratory testing procedures and chain of custody procedures established by SAMHSA.
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Prohibited	See Illinois.
Unemployment Denial Law – Hair Testing	Prohibited	See Illinois.

INDIANA

Legal status for hair drug and alcohol testing

This state does not have a general drug testing statute; however, drug testing may be required under certain circumstances.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Indiana Code §22-3-2-8. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Indiana Code §22-4-15-1(a) & (d)(6). Law does not mention drug testing procedures.

IOWA

Legal status for hair drug and alcohol testing

Iowa is a drug-testing friendly state though some restrictions apply. Virtually all-testing circumstances are permitted, drug panel is widely defined, and instant testing is permitted. No burdensome restrictions are placed on how drug testing may be conducted.

IOWA CODE §730.5
IOWA ADMINISTRATIVE CODE
RULE 641-12.1-12.21

Area of focus	Status	Comments
Hair Drug Testing Service	Prohibited	Sample is limited to urine, blood, breath and oral fluid.
Hair Alcohol Testing Service	Prohibited	Sample is limited to urine, blood, breath and oral fluid.
Collection Procedures	Required	See statute for details. Procedures refer to urine testing. Hair testing prohibited.
Chain of Custody Protocol	Required	See statute for details. Procedures refer to urine testing. Hair testing prohibited.
Split Specimen	Required	See statute for details. Procedures refer to urine testing. Hair testing prohibited.
Cutoff Levels	Required	Refers to nationally accepted levels as determined by SAMHSA or FDA (if SAMHSA has not established levels for a given substance).
Confirmation Testing	Required	At a certified laboratory; GC-MS or other comparably reliable analytical method.
Medical Review Officer	Required	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Prohibited	Refer to Iowa Code Ann §85.16. Law does not mention drug testing procedures, but drug testing law still applies.
Unemployment Denial Law – Hair Testing	Prohibited	Refer to Iowa Code Ann §96.5. Misconduct mentioned, but not defined. Law does not mention drug testing procedures, but drug testing law still applies.

KANSAS

Legal status for hair drug and alcohol testing

This state has workers' compensation reduction and unemployment denial laws that contain specific drug testing requirements for qualification.

KAN. STAT. ANN. 65-1,107 to -1,108a (2002)
KAN. ADMIN. REGS. 28-33 (1997)

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	Required	Procedures must be approved by laboratory director. Otherwise, no specifics are given.
Chain of Custody Protocol	Required	
Split Specimen	No Requirement	
Cutoff Levels	Required	SAMHSA levels required.
Confirmation Testing	Required	See statute for exceptions when confirmation may not be required.
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Kansas Stat. Ann. §44-501. See Notes. Article 5, Workers' Compensation. Very specific drug testing procedures are required.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Kansas Stat. Ann. §44-706(b)(2) & (t). Very specific drug testing procedures are required.

KENTUCKY

Legal status for hair drug and alcohol testing

This state has a voluntary law that offers a workers' compensation premium discount to qualifying companies (KRS §304.13-167 offers the discount). 803 KAR 25:280 contains the actual drug testing requirements. There is also mandatory mining industry law that is not reflected in this chart.

803 KAR 25:280

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	Programs using specimens other than urine and breath may be approved by the Office of Workers' Claims if specimens tested are as accurate as and equivalent to breath and urine.
Hair Alcohol Testing Service	Permitted	Programs using specimens other than urine and breath may be approved by the Office of Workers' Claims if specimens tested are as accurate as and equivalent to breath and urine.
Collection Procedures	Required	Must follow SAMHSA procedures.
Chain of Custody Protocol	Required	Must follow SAMHSA procedures.
Split Specimen	Required	Must follow SAMHSA procedures.
Cutoff Levels	Required	Must follow SAMHSA procedures.
Confirmation Testing	Required	Must follow SAMHSA procedures.
Medical Review Officer	Required	Must review all test results. If MRO finds no medical explanation for positive result, he or she will refer individual testing positive to EAP. MRO must follow SAMHSA guidelines.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Kentucky Revised Statutes §342.610(3). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Kentucky Revised Statutes §341.370(6). Law does not mention drug testing procedures.

LOUISIANA

Legal status for hair drug and alcohol testing

Employers may qualify for liability protection when in compliance with the state's drug testing law. Exclusion Language exists for the Oil & Gas Industry.

LOUISIANA REV. STAT. ANN. 49 1001-1012
LOUISIANA ACT NO. 901

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	Urine, blood, saliva and hair are included in the definition of a “sample.”
Hair Alcohol Testing Service	Permitted	Urine, blood, saliva and hair are included in the definition of a “sample.”
Collection Procedures	Required	Requires SAMHSA procedures.
Chain of Custody Protocol	Required	Requires SAMHSA procedures.
Split Specimen	Required	As outlined in SAMHSA guidelines.
Cutoff Levels	Required	SAMHSA levels required except initial screen for marijuana, which must be between 50 ng and 100 ng.
Confirmation Testing	Required	Requires SAMHSA procedures.
Medical Review Officer	Required	As outlined in SAMHSA guidelines. Must review at least 5% of negative results reported to MRO staff to ensure staff are properly performing review process.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Louisiana Revised Statutes Annotated § 23:1081. Contains specific drug testing requirements.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Louisiana Revised Statutes Annotated § 23:1601 (10). Contains specific drug testing requirements.

MAINE

Legal status for hair drug and alcohol testing

While drug testing is permitted in Maine, its law places many restrictions on employers. This chart provides only a relatively brief overview. It is strongly recommended that readers review the state's statute before implementing or revising any drug testing practice.

TITLE 26 LABOR AND INDUSTRY
CHAPTER 7 EMPLOYMENT PRACTICES
SUBCHAPTER III-A SUBSTANCE ABUSE TESTING

Area of focus	Status	Comments
Hair Drug Testing Service	See Comments	While regulations allow for hair testing, they require compliance with Federal guidelines for hair testing, which do not exist for hair testing.
Hair Alcohol Testing Service	See Comments	While regulations allow for hair testing, they require compliance with Federal guidelines for hair testing, which do not exist for hair testing.
Collection Procedures	Required	All testing and collection must take place in a laboratory. See statute for more details.
Chain of Custody Protocol	Required	
Split Specimen	See Comments	As requested by employee for retest opportunity.
Cutoff Levels	Required	Specific cutoff levels exist for hair: marijuana (1 pg/mg), cocaine (500 pg/mg), opiates (200 pg/mg), phencyclidine (300 pg/mg), amphetamines (500 pg/mg), MDMA (500 pg/mg). Separate cutoff levels exist for confirmation testing: marijuana (0.05 pg/mg), cocaine (500 pg/mg), cocaine metabolite (50 pg/mg), morphine (200 pg/mg), codeine (200 pg/mg), 6-acetylmorphine (200 pg/mg), phencyclidine (300 pg/mg), amphetamine (300 pg/mg), methamphetamine (300 pg/mg), MDMA (300 pg/mg), MDA (300 pg/mg), MDEA (300 pg/mg).
Confirmation Testing	Required	Employee has 5 days from time of notification of test result; must be conducted at a lab of the employee's choosing and is at employee's expense.
Medical Review Officer	See Comments	Given rest of statute highly advisable.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Maine Revised Statutes Title 39-A, Chapter 5, §202. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Maine Revised Statutes Title 26 §1043(23)(A)(7). Law does not mention drug testing procedures.

MARYLAND

Legal status for hair drug and alcohol testing

Maryland permits all types of employee testing and job applicant testing. On-site testing is permitted for pre-employment testing only. Very specific requirements apply to laboratories performing tests.

HEALTH-GENERAL TITLE 17 LABORATORIES
SUBTITLE 214-217 MARYLAND REGULATIONS
CODE TITLE 10.10.10.01-.09

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	Pre-employment testing only. May not use a specimen longer than 1.5 inches measured from the body. May not use hair specimen for any purposes other than testing.
Hair Alcohol Testing Service	Prohibited	Law permits hair testing only for “controlled dangerous substances.”
Collection Procedures	Required	
Chain of Custody Protocol	Required	Must maintain identity, confidentiality, and physical integrity of specimen, prevent specimen contamination or adulteration. Must document each time a person accesses or transfer the specimen.
Split Specimen	No Requirement	
Cutoff Levels	Required	SAMHSA standards.
Confirmation Testing	Required	For all initial screen positives.
Medical Review Officer	Required	Required for pre-employment testing.
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Maryland Code, Article - Labor and Employment (gle) §9-506 (c). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Maryland Code §8-1002-1003. Drug use is not listed as misconduct/gross misconduct which is required for denial of benefits. Law does not mention drug testing procedures.

MASSACHUSETTS

Legal status for hair drug and alcohol testing

This state does not have a drug testing statute, though there have been landmark legal decisions that have shaped how drug testing can be conducted. The state’s narrow privacy law also impacts workplace drug testing.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	Recommended.
Split Specimen	No Requirement	Recommended.
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	Recommended.
Medical Review Officer	No Requirement	Recommended.
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to General Laws Part 1, Title XXI, Ch. 152, Sec. 27 concerning willful misconduct. Law does not specifically refer to drug or intoxication in connection with misconduct. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to General Laws Part 1, Title XXI, Ch. 151A, Sec. 25. Law does not mention drug testing procedures.

MICHIGAN

Legal status for hair drug and alcohol testing

Michigan does not have a state drug testing law.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to MCL §418.305 concerning willful misconduct. The law does not mention drug testing or intoxication constituting willful misconduct. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Michigan Employment Security Act §421.29.

MINNESOTA

Legal status for hair drug and alcohol testing

Minnesota has a restrictive state drug testing law with many detailed requirements. It is strongly recommended that employers and others refer directly to the state's statutory language to ensure compliance.

MINNESOTA STATUTE ANNOTATED
§§ 181.950 to -.957

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	“Drug and alcohol test” means analysis of a body component sample.
Hair Alcohol Testing Service	Permitted	“Drug and alcohol test” means analysis of a body component sample.
Collection Procedures	No Requirement	
Chain of Custody Protocol	Required	Possession must be traceable from collection to delivery to laboratory. Sample must always in possession, in view, or secured by an authorized individual.
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	Required	
Medical Review Officer	No Requirement	Strongly recommended.
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Minn. Stat. Ann. §176.021(1). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Minn. Stat. Ann. §268.095(6). Law does not mention drug testing procedures.

MISSISSIPPI

Legal status for hair drug and alcohol testing

This state has a voluntary drug testing law that provides limited legal protections to employers that conduct drug and alcohol testing in compliance with the guidelines contained in the statute. A 5% workers' compensation discount program is also available and administered directly by insurers.

TITLE 15 – MISSISSIPPI DEPT. OF HEALTH, PT. III
– OFFICE OF HEALTH PROTECTION, SUBPART 01
– HEALTH FACILITIES LICENSURE & CERTIFICATION, CHAPT. 53
TITLE 71 LABOR AND INDUSTRY CHAP. 7 DRUG & ALCOHOL TESTING

Area of focus	Status	Comments
Hair Drug Testing Service	Prohibited	Urine for drugs; breath or saliva for initial alcohol screen, and blood for alcohol confirmation per Dept. of Health (Title 15). Outside voluntary law, not prohibited.
Hair Alcohol Testing Service	Prohibited	Urine for drugs; breath or saliva for initial alcohol screen, and blood for alcohol confirmation per Dept. of Health (Title 15). Outside voluntary law, not prohibited.
Collection Procedures	Required	Only by MD, RN, LPN, certain lab personnel, and those considered qualified by state board of health. Procedures refer to urine testing. Hair testing prohibited.
Chain of Custody Protocol	Required	Required for drug and alcohol testing. Procedures refer to urine testing. Hair testing prohibited.
Split Specimen	Required	Must collect an amount sufficient for at least 2 tests. The statute does not refer to this explicitly as split-specimen. Procedures refer to urine testing. Hair testing prohibited.
Cutoff Levels	No Requirement	
Confirmation Testing	Required	Required of all initial screen positives (specifically excludes negatives), including alcohol positives.
Medical Review Officer	Required	Required; all results must be reported to an MRO.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Mississippi Code §71-3-7(d). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Mississippi Code §71-7-13(3) & §71-5-513(1)(b). Caution: §71-5-513, which classifies misconduct as means for denial of benefits, has been repealed effective July 1, 2019. As of that date, the statutory language may change. §71-3-13, which classifies discharge for drug/alcohol abuse as misconduct, has not been repealed.

MISSOURI

Legal status for hair drug and alcohol testing

While Missouri does not have a drug testing statute, employers must meet certain drug testing requirements in order to challenge workers' and unemployment comp claims.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Missouri Rev. Stat. §287.120.6. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Missouri Rev. Stat. §288.045, 050(2). Tissue, fluid, or product of the human body capable of revealing the presence of alcohol or drugs or their metabolites.

MONTANA

Legal status for hair drug and alcohol testing

Montana places detailed restrictions regarding the circumstances under which drug testing can be conducted; references to federal drug testing requirements are found throughout the Montana law.

MONT. CODE ANN. §39-2-205-211
(1995 & SUPP. 1998; 2005 amendments)

Area of focus	Status	Comments
Hair Drug Testing Service	Prohibited	“Sample” is defined as a urine specimen, a breath test, or oral fluid.
Hair Alcohol Testing Service	Prohibited	“Sample” is defined as a urine specimen, a breath test, or oral fluid.
Collection Procedures	Required	Requires procedures that are at least as stringent as 49 CFR part 40.
Chain of Custody Protocol	Required	Requires compliance with 49 CFR part 40 or equivalent.
Split Specimen	Required	Requires compliance with 49 CFR part 40.
Cutoff Levels	No Requirement	
Confirmation Testing	Required	Requires compliance with 49 CFR part 40.
Medical Review Officer	Required	Requires compliance with 49 CFR part 40.
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Montana Code Ann. §39-71-407(5–7). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Montana Code Ann. §39-51-2303 concerning “misconduct” and ARM §24.11.461 for “specific acts of misconduct.” Law does not mention drug testing procedures.

NEBRASKA

Legal status for hair drug and alcohol testing

Nebraska has a very open workplace drug testing law. For example, all types of testing are permitted.

NEBRASKA REVISED STATUTES
CHAPTER 48-1901-1910

Area of focus	Status	Comments
Hair Drug Testing Service	See Comments	Statute only refers to drug testing of the “body fluid or breath”; however, it does not appear to prohibit hair testing or other types of testing.
Hair Alcohol Testing Service	See Comments	Statute only refers to drug testing of the “body fluid or breath”; however, it does not appear to prohibit hair testing or other types of testing.
Collection Procedures	No Requirement	
Chain of Custody Protocol	Required	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	Required	GC-MS or equivalent at certified lab (CLIA); for alcohol via GC or breath testing device.
Medical Review Officer	No Requirement	
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Nebraska Revised Statute §§48-102, 48-127. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Nebraska Revised Statutes §48-628(2). Law does not mention drug testing procedures.

NEVADA

Legal status for hair drug and alcohol testing

Nevada does not have a drug testing statute and there are no restrictions on the type of testing an employer can conduct, who can be tested, and under what circumstances a test can be required. The only exception to this is that the state Attorney General has determined that drug tests must take place at a laboratory. As such, on-site (POCT) testing is not permitted in Nevada.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	See Comments	Only certain medical professionals are permitted to conduct collections. See NRS 652.210.
Chain of Custody Protocol	No Requirement	Recommended.
Split Specimen	No Requirement	Recommended.
Cutoff Levels	No Requirement	SAMHSA levels recommended.
Confirmation Testing	No Requirement	Strongly recommended before taking employment action.
Medical Review Officer	No Requirement	Recommended.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Nevada Rev. Stat. §616C.230(1)(c)(d). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Nevada Rev. Stat. §612.385, concerning misconduct. Case law upholds that alcohol or drug use against an employer's drug-free workplace policy constitutes misconduct. Law does not mention drug testing procedures.

NEW HAMPSHIRE

Legal status for hair drug and alcohol testing

New Hampshire does not restrict drug testing.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to New Hampshire Statutes §281-A:14. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to New Hampshire Statutes §282-A:34(l). Law does not mention drug testing procedures.

NEW JERSEY

Legal status for hair drug and alcohol testing

New Jersey’s state constitution contains privacy language that limits drug testing to situations when there is reasonable cause.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	See Comments	Case law underscores importance of collection procedures. See Hennessey v. Coastal Eagle Point Oil.
Chain of Custody Protocol	See Comments	Case law underscores importance of collection procedures. See Hennessey v. Coastal Eagle Point Oil.
Split Specimen	Required	State has a laboratory licensing law that applies to drug testing.
Cutoff Levels	See Comments	SAMHSA levels recommended.
Confirmation Testing	See Comments	Recommended.
Medical Review Officer	See Comments	Recommended.
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to New Jersey Statutes Annotated §34:15-7. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to New Jersey Statutes Annotated §34:21-5. Law does not mention drug testing procedures.

NEW MEXICO

Legal status for hair drug and alcohol testing

New Mexico does not have a drug testing statute; however, in workers' compensation denial cases employers must demonstrate compliance with the DOT drug and alcohol testing regulations.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Prohibited	Refer to New Mexico Stat. Ann. §52-1-11, 12, & 12.1. 10-90 percent reduction depending on how much drug use contributed to incident. Must follow DOT regs. in order to use drug test result as proof of intoxication.
Unemployment Denial Law – Hair Testing	Permitted	Refer to New Mexico Stat. Ann. §51-1-7(2) concerning misconduct as means for disqualification; intoxication is not specified as misconduct in statutory language. Law does not mention drug testing procedures.

NEW YORK

Legal status for hair drug and alcohol testing

New York does not have a drug testing statute. However, Code Rule 60 is a voluntary program that permits employers to put certain safety-related programs in place that qualify them for workers' compensation credits. This chart does not reflect the requirements of Code Rule 60.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	Required	Drug testing results must be reported to an MRO before they can be released to the employer per separate lab licensing law.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to NY Workers Compensation Law §10 and §21. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to NYS Article 18 Title 7 Section 593 concerning “misconduct.” The law does not provide a definition of misconduct. Law does not mention drug testing procedures.

NORTH CAROLINA

Legal status for hair drug and alcohol testing

North Carolina is a drug testing friendly state. Few restrictions apply.

NC GEN. STAT. 95-230 to 95-235 (2003)
NC ADMINISTRATIVE CODE
TITLE 13 r. 20.0100 to 20.0602 (2004)

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	“Sample” means urine, blood, hair, or oral fluid.
Hair Alcohol Testing Service	Permitted	“Sample” means urine, blood, hair, or oral fluid.
Collection Procedures	Required	At the time of provision of a sample the examiner must provide the donor with written notice of his or her rights and responsibilities.
Chain of Custody Protocol	Required	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	Required	GC-MS or equivalent required.
Medical Review Officer	No Requirement	
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to North Carolina Gen. Stat. §97-12.
Unemployment Denial Law – Hair Testing	Permitted	Refer to North Carolina Gen. Stat. §96-14(2). Law does not mention drug testing procedures.

NORTH DAKOTA

Legal status for hair drug and alcohol testing

While North Dakota does not have a drug testing statute, in order to move to deny workers’ compensation benefits an employer must conduct drug/alcohol testing in accordance with certain requirements established by the state, such as, in some circumstances, compliance with some aspects of the U.S. DOT regulations.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to North Dakota Century Code §65-01-02(10)(b)(3). Refusal to submit to a drug test is also grounds for denial of benefits. Refer to N.D. Cent. Code §65-01-11.
Unemployment Denial Law – Hair Testing	Permitted	Refer to North Dakota Century Code §52-06-02(2) concerning “misconduct.” According to the North Dakota Job Services Unemployment Insurance Claim Guide, violation of a posted or known company rule is means for disqualification. Law does not mention drug testing procedures.

OHIO

Legal status for hair drug and alcohol testing

Ohio has a voluntary drug testing law. For companies that wish to qualify for a discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply. Additionally, the state's workers' compensation law contains very specific requirements relative to drug/alcohol testing. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

BUREAU OF WORKERS' COMPENSATION
DRUG-FREE SAFETY PROGRAM

Area of focus	Status	Comments
Hair Drug Testing Service	Prohibited	Urine for drug testing; breath or blood for alcohol testing. Outside voluntary law, no restrictions apply.
Hair Alcohol Testing Service	Prohibited	Urine for drug testing; breath or blood for alcohol testing. Outside voluntary law, no restrictions apply.
Collection Procedures	Required	Follow SAMHSA guidelines; chain of custody protocols. Procedures refer to urine testing. Hair testing prohibited.
Chain of Custody Protocol	Required	Procedures refer to urine testing. Hair testing prohibited.
Split Specimen	Required	Follow SAMHSA guidelines.
Cutoff Levels	See Comments	Follow SAMHSA standards; include in policy.
Confirmation Testing	Required	GC-MS.
Medical Review Officer	Required	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Ohio Admin. Code §4123.54. See statute for exact details; many restrictions apply.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Ohio Admin Code §4141.29(D)(1)(b), concerning “misconduct.” Law does not mention drug testing procedures.

OKLAHOMA

Legal status for hair drug and alcohol testing

This is a drug testing friendly state. Oklahoma's Title 40 was amended by the passage of OK53RHB 2033 (May 9, 2011) as well as OK53HRB 2204 (May 8, 2012). The changes went into effect November 1, 2011 and May 8 2012 respectively and are reflected here. THIS LAW APPLIES TO PUBLIC AND PRIVATE SECTOR EMPLOYERS.

OKLAHOMA STATUTES ANNOTATED TITLE 40. LABOR
CHAPTER 15. STANDARDS FOR WORKPLACE
DRUG AND ALCOHOL TESTING ACT
OKLAHOMA ADMINISTRATIVE CODE 310:638

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	"Sample means tissue, fluid or product of the human body chemically capable of revealing the presence of drugs or alcohol in the human body." Board of Health lists urine, saliva and hair for drug screens and confirmations.
Hair Alcohol Testing Service	Permitted	"Sample means tissue, fluid or product of the human body chemically capable of revealing the presence of drugs or alcohol in the human body." Board of Health lists urine, saliva and hair for drug screens and confirmations.
Collection Procedures	See Comments	Language repealed in 2011, but policy content must include collection procedures.
Chain of Custody Protocol	Required	No specifics are provided; however, the statute requires employers to maintain a "written record of the chain of custody of the sample..."
Split Specimen	Required	
Cutoff Levels	Required	State Board of Health has established specific cutoff levels.
Confirmation Testing	Mentioned	Requirement that positive results be confirmed via GC-MS was repealed in 2011; confirmation testing is still referred to in the statute; State Board of Health regulations include confirmation testing. Confirmation was required for Unemployment Compensation Denial cases, but was repealed in 2012. HB 2204 changed the definition of a confirmation test in two circumstances.
Medical Review Officer	Mentioned	State board of Health has established regulations.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	N/A	Oklahoma Statute Annotated Title 85 § 312(3) was repealed effective February 1, 2014.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Oklahoma Statute Annotated Title 40, §2-406.1. This law was amended in May 2012.

OREGON

Legal status for hair drug and alcohol testing

Oregon has two laws that regulate laboratory-related issues; however, some components of those laws directly impact how drug testing is conducted.

OR. REV. STAT. 438.435 (2005)
OR ADMIN. R. 333-024-0305
to 333-024-0365 (2004)

Area of focus	Status	Comments
Hair Drug Testing Service	Prohibited	“Specimen” means body fluids obtained from a live person.
Hair Alcohol Testing Service	Prohibited	“Specimen” means body fluids obtained from a live person.
Collection Procedures	Required	Specimen container must be clean, tightly sealed, and free of any interfering substance. It must be transported and stored so as to preserve the integrity and security of the specimen. Hair testing prohibited.
Chain of Custody Protocol	Required	Must keep a record of chain of custody information for a minimum of 2 years. Must be labeled with time and date of collection and at least one of the following: name of donor, social security number, employee number, unique identifying number. For positive specimens requiring confirmation, must also include manner by which the specimen was sent to the lab, including name of person delivering sample. Hair testing prohibited.
Split Specimen	Not Mentioned	
Cutoff Levels	Not Mentioned	
Confirmation Testing	Required	Must use lab licensed by the state.
Medical Review Officer	Required	Labs may only tests samples provided by a physician, dentist or other lawfully authorized individual.
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Prohibited	Refer to Oregon Rev. Stat. § 656.005(7)(b)(C). Law does not mention drug testing procedures, but the drug testing law still applies.
Unemployment Denial Law – Hair Testing	Prohibited	Refer to Oregon Rev. Stat. § 657.176; OR Admin. R.471-030-0036, 0-0125, 0126. Drug testing law still applies.

PENNSYLVANIA

Legal status for hair drug and alcohol testing

Pennsylvania is a drug testing-friendly state with no restrictive statute in place.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Pennsylvania Unconsolidated Statutes §77-431. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Unemployment Compensation Law 1936-1 Article IV, Section 402 (e.1). Law does not mention drug testing procedures.

PUERTO RICO

Legal status for hair drug and alcohol testing

Puerto Rico has a relatively restrictive drug and alcohol testing statute. It is recommended that employers consult the statutory language to be sure of compliance. Testing regulations apply to public sector.

LAWS OF PUERTO RICO ANN. §29-8-161 TO 161H
LABOR – LABOR PROVISIONS GENERALLY –
CONTROLLED SUBSTANCES DETECTION
TESTING IN THE PRIVATE WORK SECTOR

Area of focus	Status	Comments
Hair Drug Testing Service	Prohibited	Drug tests shall be made through a urine sample, except for those circumstances in which it is not possible to take a urine sample. In that case, must follow Mandatory Guidelines for Federal Workplace Drug Testing Programs. See Section 161b (d) & (e).
Hair Alcohol Testing Service	No Requirement	
Collection Procedures	Required	Defers to federal requirements.
Chain of Custody Protocol	Required	Defers to federal requirements.
Split Specimen	Required	Defers to federal requirements.
Cutoff Levels	Required	Defers to federal requirements.
Confirmation Testing	Required	Must confirm via GC-MS.
Medical Review Officer	Required	Defers to federal requirements.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Laws of Puerto Rico 11-5. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Laws of Puerto Rico 29-704(b)(3). Law does not mention drug testing procedures.

RHODE ISLAND

Legal status for hair drug and alcohol testing

Rhode Island restricts drug testing of employees to circumstances in which there is suspicion of drug use or impairment. First time positives may not result in termination. Employers are responsible to pay for treatment services for employees. Other restrictions apply.

GEN. LAWS 28-6.5-1 TO 28-6.5-2

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	“Urine, blood or any other bodily fluid or tissue.”
Hair Alcohol Testing Service	Permitted	“Urine, blood or any other bodily fluid or tissue.”
Collection Procedures	Required	Privacy is required. No direct observations.
Chain of Custody Protocol	Not Mentioned	
Split Specimen	Not Mentioned	
Cutoff Levels	Not Mentioned	
Confirmation Testing	Required	All initial screen positives must be confirmed with GC-MS or equivalent technology at certified lab.
Medical Review Officer	Not Mentioned	
Workers’ Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Rhode Island General Laws §28-33-2. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Rhode Island General Laws §28-44-18 concerning “misconduct”; law does not mention drugs, alcohol, intoxication, or drug testing; it does state that violation of a company rule or policy does constitute misconduct.

SOUTH CAROLINA

Legal status for hair drug and alcohol testing

This state has a voluntary drug testing law. For companies that wish to qualify for a 5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply. Employers have wide latitude in the development of their programs. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

SC CODE ANN. 41-1-15
(SUPP 2005) & 38-73-500 (2002)

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	Not Required	
Chain of Custody Protocol	Not Required	
Split Specimen	Not Required	
Cutoff Levels	Not Required	
Confirmation Testing	Not Required	
Medical Review Officer	Not Required	
Workers' Comp Claim Reduction/Denial Law – Hair Testing	Permitted	Refer to South Carolina Code Ann. §42-9-60. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to South Carolina Code Ann. §41-35-120(3) & (4)(iv). In June 2015, oral fluid testing and SAMHSA lab certifications were specifically added by amendment.

SOUTH DAKOTA

Legal status for hair drug and alcohol testing

South Dakota does not restrict how or when drug testing is conducted or whom employers can require to be drug tested.

THIS STATE DOES NOT HAVE
A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to South Dakota Codified Laws Ann. §62-4-37. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to South Dakota Codified Laws Ann. §61-6-14 and -14.1 concerning “misconduct.” Law defines misconduct as breaking a company rule or standard, but does not mention drug testing or intoxication as part of definition.

TENNESSEE

Legal status for hair drug and alcohol testing

Tennessee has a voluntary drug testing law. For companies that wish to qualify for a 5% discount (including self-insured companies) on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

TENN. CODE ANN. 50-9-101 TO -112 (2005);
TENN. COMP. R. & REGS.
CH. 0800-2-12 (1999)

Area of focus	Status	Comments
Hair Drug Testing Service	Prohibited	Although definition of specimen would permit hair, all testing must follow 49 CFR Part 40; thus, hair testing is prohibited. Outside voluntary law, not prohibited.
Hair Alcohol Testing Service	Prohibited	Although definition of specimen would permit hair, all testing must follow 49 CFR Part 40; thus, hair testing is prohibited. Outside voluntary law, not prohibited.
Collection Procedures	Required	Per DOT regulations including chain of custody protocols.
Chain of Custody Protocol	Required	Per DOT regulations required.
Split Specimen	Required	Per DOT regulations required.
Cutoff Levels	Required	Per DOT regulations required.
Confirmation Testing	Required	Per DOT regulations required.
Medical Review Officer	Required	Per DOT regulations required.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Prohibited	Refer to Tenn. Comp. R. & Regs. §0800-2-.12-.01 (1)(a) & (d). Requires compliance with voluntary law.
Unemployment Denial Law – Hair Testing	Prohibited	Refer to T.C.A. §50-7-303(a)(2). Requires compliance with voluntary law.

TEXAS

Legal status for hair drug and alcohol testing

Texas has a drug test cheating law. There is also a law that requires certain employers to report positive drug test results to the state Department of Transportation.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Texas Lab. Code Ann. §406.032 (and §401.013 for definition of “Intoxication”). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Texas Lab. Code Ann. §207.044. SB 21 (2013) added drug testing requirements to UC law. There is significant case law that affects this. See TWC Appeal No. 97-003744-10-040997.

UTAH

Legal status for hair drug and alcohol testing

Utah has a voluntary drug testing law. For companies that wish to qualify for limited legal protection they must comply with this law; other companies are not mandated to comply. Workers' or unemployment compensation appeals involving substance abuse require compliance with the voluntary law. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	"Sample" means urine, blood, breath, saliva, or hair.
Hair Alcohol Testing Service	Permitted	"Sample" means urine, blood, breath, saliva, or hair.
Collection Procedures	Required	Collections must take place under "reasonable" and "sanitary" conditions. Section 34-38-6 of the law refers to "Requirements for collection and testing".
Chain of Custody Protocol	Required	
Split Specimen	Not Mentioned	
Cutoff Levels	Not Mentioned	
Confirmation Testing	Required	All positives must be confirmed with GC-MS or equivalent.
Medical Review Officer	See Comments	Statute refers to "verified" results, but does not specifically discuss MRO process.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Utah Code Ann. §34A-2-302. Employer must comply with the requirements found in Utah Code Ann. 34-38-1 TO 34-38-15 as outlined in this chart in order to qualify to deny benefits.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Utah Rule R994-405-208 (7). Employer must comply with the requirements found in Utah Code Ann. 34-38-1 to 34-38-15 as outlined in this chart in order to qualify to deny benefits.

VERMONT

Legal status for hair drug and alcohol testing

Vermont's drug testing law is one of the most restrictive in the nation. Random testing is prohibited. Some type of EAP or referral service is required in order to conduct drug testing. This law also applies to public sector workplace drug testing.

VT STAT. ANN. TITLE 21, 511-520 (2003)
VT ADC 13140 003 (2003)

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	"Drug test" means the procedure of taking and analyzing body fluids or materials from the body for the purpose of detecting the presence of a regulated drug.
Hair Alcohol Testing Service	Permitted	"Drug test" means the procedure of taking and analyzing body fluids or materials from the body for the purpose of detecting the presence of a regulated drug.
Collection Procedures	Required	A collector must be certified by USHHS, be recertified every 3 years and cannot be an employee for the purposes of probable cause.
Chain of Custody Protocol	Required	
Split Specimen	Not Mentioned	
Cutoff Levels	Required	Therapeutic levels. Commissioner of health has authority to establish what cutoff levels constitute therapeutic.
Confirmation Testing	Required	GC-MS.
Medical Review Officer	Required	For positive and negative results.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Vermont Stat. Ann. §21-649. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Vermont Stat. Ann. §21-17-1344 concerning "gross misconduct" and "intoxication." Law does not mention drug testing procedures.

VIRGINIA

Legal status for hair drug and alcohol testing

A voluntary law exists with a up to 5% workers' compensation premium discount available for companies that comply with criteria established by insurer; companies in the mining industry are required to comply with the provisions of the "voluntary" law. This chart does not reflect the requirements that apply to the mining industry.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	See Comments	Refer to Virginia Code Ann. §65.2-306. Requires drug testing take place in a SAMHSA certified laboratory.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Virginia Code Ann. §60.2-618(2)(b) & (3)(d).

WASHINGTON

Legal status for hair drug and alcohol testing

Washington does not have a drug testing statute; therefore, no statutory restrictions apply.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	N/A	No workers' comp reduction/denial law exists in this state.
Unemployment Denial Law – Hair Testing	Permitted	Refer to R.C.W. §50-20-060 concerning misconduct. Law does not mention drug testing procedures.

WEST VIRGINIA

Legal status for hair drug and alcohol testing

West Virginia does not have a general mandatory drug testing statute; however, important case law limits drug testing situations to safety-sensitive and reasonable suspicion. As well, the state does mandate drug and alcohol testing of certain workers involved in Public Works Improvement projects.

THIS STATE DOES NOT HAVE A
DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to West Virginia Code §23-4-2(a).
Unemployment Denial Law – Hair Testing	Permitted	Refer to West Virginia Code §21A-6-3(2).

WISCONSIN

Legal status for hair drug and alcohol testing

Wisconsin is a drug-testing friendly state with no restrictions on workplace drug testing.

THIS STATE DOES NOT HAVE A DRUG TESTING STATUTE.

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	
Hair Alcohol Testing Service	Permitted	
Collection Procedures	No Requirement	
Chain of Custody Protocol	No Requirement	
Split Specimen	No Requirement	
Cutoff Levels	No Requirement	
Confirmation Testing	No Requirement	
Medical Review Officer	No Requirement	
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Wisconsin Statutes §102.58. 15% discount not exceeding \$15,000. Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Wisconsin Statutes §108.04(5), concerning misconduct.

WYOMING

Legal status for hair drug and alcohol testing

Wyoming has a voluntary drug testing law. For companies that wish to qualify for a 5% discount on their workers' compensation premiums they must comply with this law; other companies are not mandated to comply. THIS CHART REFLECTS THE REQUIREMENTS OF THE VOLUNTARY LAW.

RULES, REGULATIONS AND FEE SCHEDULES
OF THE WYOMING WORKERS' SAFETY AND
COMPENSATION DIVISION
CHAPTER 1, CHAPTER, 2, & CHAPTER 10

Area of focus	Status	Comments
Hair Drug Testing Service	Permitted	Lab-based urine only for employee drug testing; urine, hair or saliva for applicant testing (lab or on-site). Outside voluntary law, no restrictions apply.
Hair Alcohol Testing Service	Permitted	Lab-based urine only for employee drug testing; urine, hair or saliva for applicant testing (lab or on-site). Outside voluntary law, no restrictions apply.
Collection Procedures	Required	Defers to SAMHSA guidelines.
Chain of Custody Protocol	Required	Defers to SAMHSA guidelines.
Split Specimen	Required	Defers to SAMHSA guidelines.
Cutoff Levels	Required	Defers to SAMHSA guidelines.
Confirmation Testing	Required	Requires SAMHSA procedures under the voluntary law.
Medical Review Officer	Required	Requires SAMHSA procedures under the voluntary law.
Workers' Comp Claim Reduction/ Denial Law – Hair Testing	Permitted	Refer to Wyoming Code Ann. §27-14-102 (a)(xi)(B)(I). Law does not mention drug testing procedures.
Unemployment Denial Law – Hair Testing	Permitted	Refer to Wyoming Statutes Ann. §27-3-311 concerning misconduct. Law does not mention drug testing procedures.



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