

Attachment “A”

State	Defined	Summary	State
Alabama (v) ²⁵	X	<p>Drug-Free Workplace Program (Ala. Code §25-5-330 <i>et seq.</i>) The statute and regulations differ. <i>Read carefully;</i></p> <p>Statute: §25-5-331(14) SPECIMEN. Tissue, blood, breath, urine, or other product of the human body capable of revealing the presence of drugs or their metabolites or of alcohol.</p> <p>Regulations: 480-5-6-.03 Substance Abuse Testing. (1) The specimen collected for substance abuse testing may be tissue, blood, urine, breath, or other product of the human body that is capable of revealing the presence of drugs or their metabolites or of alcohol. However, the collection of any specimen constitutes a search under the Fourth Amendment because it implicates significant privacy concerns. Therefore, to balance the degrees of intrusion on the individual’s privacy interest against the promotion of the employer’s legitimate interests, the preferred specimen is: (a) Urine for drug testing, and (b) Breath for alcohol testing.</p>	AL
Alaska (v)	X	Article 8 (“Immunity” statute), AS 23.10.600(9) “Sample” means urine or breath from the person being tested.”	AK
Arizona (v) Note: There is no scientifically accepted test method that can determine when/if someone is “ <i>under the influence</i> ” of THC. But, unlike urine testing, oral fluid testing can identify the presence of delta-9 THC, the <i>psychoactive</i> cannabis metabolite. At this time, there are no known cases on this issue.	X	<p>Arizona Drug-Free Workplace Act (“Immunity” statute), A.R.S. §23-493(10) “Sample” means urine, blood, breath, saliva, hair, or other substances from the person being tested.</p> <p>Marijuana: 36-2814. Acts not required; acts not prohibited (caution: 1998 Prop. 105 applies) Nothing in this chapter requires: * * * 3. An employer to allow the ingestion of marijuana in any workplace or any employee to work while under the influence of marijuana, except that a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment. [emphasis added]</p> <p>Nothing in this chapter prohibits an employer from disciplining an employee for ingesting marijuana in the workplace or working while under the influence of marijuana.</p>	AZ

²⁵ The symbol “(v)” indicates the law is voluntary, meaning it applies only if the employer chooses to seek some benefit/incentive such as workers comp discount. For example, Idaho’s law states: “This act establishes voluntary drug and alcohol testing guidelines for private employers that, when complied with, will find an employee who tests positive for drugs or alcohol at fault, and will constitute misconduct under the employment security law as provided in section 72-1366, Idaho Code, thus resulting in the denial of unemployment benefits.”

Arkansas (v)	X	<i>Drug-Free Workplace Program</i> (A.C.A. §11-14-101 et seq.) Sec. 11-14-102(17) “Specimen” means tissue, fluid, or a product of the human body capable of revealing the presence of alcohol or drugs or their metabolites.	AR
California (m) Note: As of February 2025, only oral fluid and possibly breath testing can reveal psychoactive metabolites of cannabis. (delta-9 THC or hydroxy-THC.) Note: “THC” is short for tetrahydrocannabinol, the principal psychoactive metabolite of cannabis.		While the statute and regulations do not define the word “specimen,” the following must be considered: Gov. Code §12954. (a) It is unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalizing a person if the discrimination is based upon any of the following: (1) The person’s use of cannabis off the job and away from the workplace. This paragraph does not prohibit an employer from discriminating in hiring, or any term or condition of employment, or otherwise penalizing [sic] a person based on scientifically valid pre-employment drug screening conducted through methods that do not screen for nonpsychoactive cannabis metabolites . (2) An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids . (b) Nothing in this section permits an employee to possess, to be impaired by, or to use cannabis on the job or affects the rights or obligations of an employer to maintain a drug- and alcohol-free workplace, as specified in Section 11362.45 of the Health and Safety Code, or any other rights or obligations of an employer specified by federal law or regulation. (c) This section does not apply to an employee in the building and construction trades. [emphasis added]	CA
Colorado (v)	²⁶	There are no state rules, but Boulder City Ordinance Ch. 12-3 limits employer testing of “any urine, blood, or other bodily fluid or tissue ” to reasonable suspicion to believe the employee was under the influence, and all the Ordinance rules are met. (See Boulder City Ordinance 12-3-2).	CO
Connecticut (m) ²⁷ Note: As of February 2025, only oral fluid and possibly breath testing can reveal psychoactive metabolites of cannabis. (delta-9 THC or hydroxy-THC.)	²⁸	§31-51t <i>et seq</i> only addresses urinalysis . Also, Note when testing cannabis: Section 21a-422r - Employer subject to civil action for violation of section 98 or 99 * * * (b) Nothing in this section shall be construed to create or imply a cause of action for any person against an employer: * * * (5) for subjecting a prospective employee to drug testing or taking adverse action against a prospective employee, including, but not limited to, rescission of a conditional job offer, based on the results of a drug test, so	CT

²⁶ Boulder City Ordinance Ch. 12-3 does not specifically define specimen/sample but does refer to “any **urine, blood, or other bodily fluid or tissue**.”

²⁷ The symbol “(m)” indicates the law is mandatory, meaning any employer who tests must follow these rules.

²⁸ Sec. 31-51t Drug Testing Definitions and law in its entirety only refers to “**urinalysis**” and drug testing. However, Connecticut Courts have determined that §31-51t et seq, only applies to urinalysis (See *Schofield v. Loureiro Engineering Associates, Inc.* (hair test) and *Atlantic Pipe Corp. v. Laborers International Union of North America*, Superior Court, judicial district of New Britain, Docket No. CV-07-4015994-S (April 11, 2008, Trombley, J.) (45 Conn. L.Rptr. 375,) (saliva or hair test).

Note: “THC” is short for tetrahydrocannabinol, the principal psychoactive metabolite of cannabis.		long as no employer takes adverse action against a prospective employee in regard to a drug test that is solely positive for 11-nor-9-carboxy-delta-9-tetrahydrocannabinol unless such employer is an exempted employer, such prospective employee is applying for an exempted position, or the employer has established in an employment policy pursuant to subdivision (1) of subsection (b) of section 98 of this act that a positive drug test for 11-nor-9-carboxy-delta-9-tetrahydrocannabinol may result in adverse employment action; or (6) if such employer is an exempted employer or the claims are regarding an exempted position. [emphasis added]	
Delaware			DE
Florida (v)	X	Drug-Free Workplace Program (Fla. Stat. §440.101, 102(q)) “Specimen means tissue, hair, or a product of the human body . . .” Regulations (59A-24.004(2)(a) and (b): urine may be used for drug tests; blood for all alcohol tests.	FL
Georgia (v)	X	Drug-Free Workplace Program (Workers’ Compensation, O.C.G.A. §34-9-411(14)) “Specimen means tissue, blood, breath, urine, or other product of the human body . . .”	GA
Hawaii (m)	X	HRS §329B-2 “Substance abuse test” means any testing procedure designed to take and analyze body fluids or materials from the body for the purpose of measuring the amount of drugs, alcohol, or the metabolites of drugs in the sample tested.” Regulations (HAR Title 19, §11-113-2 “Specimen” means urine, blood, or any other bodily substance that the department determines to be appropriate for substance abuse testing. The regulations provide details for only urine collection and testing (§11-113-6) or blood draw and testing. (§11-113-7).	HI
Idaho (v)	29		ID
Illinois (m)	30		IL
Indiana (v)			IN
Iowa (m)	X	<i>Iowa Code §730.5(1)(k)</i> “Sample” means such sample from the human body capable of revealing the presence of alcohol or other drugs, or their metabolites, which shall include only hair, urine, saliva, breath, and blood . However, “sample” does not mean blood except as authorized [for certain post-accident tests.].	IA
Kansas(v)	X	Workers’ compensation (K.S.A. 44-501): “. . . <i>human blood, human urine, human saliva, and human gastric contents</i> . Unemployment (K.S.A. 44-706(b)(2)) refers to a “chemical test of urine, blood or saliva ”	KS
Kentucky(v)	X	Kentucky Drug-Free Workplace Program (803 KAR 25:280, Sec. 3(b)(3): * * * (3) The program shall include breath alcohol and urine drug testing to which job applicants or employees shall be required to submit at the following times: (a) For urine drug testing: 1. After conditional offer of employment;	KY

²⁹ Voluntary *Drug-Free Workplace Act (Immunity)* refers to “sample” but never defines it other than to say it must “conform to scientifically accepted analytical methods and procedures.”. See sec. 72-1704.

³⁰ State rebuttable presumption of intoxication for work comp, a voluntary law, requires testing per DOT. Therefore specimen would be defined per DOT.

		<p>2. After being selected using a statistically valid, unannounced random method;</p> <p>3. Upon reasonable suspicion of prohibited drug use;</p> <p>4. At follow-up testing at least once per quarter for one (1) year after the employee's successful completion of an employee assistance program for drug-related problems, or a drug rehabilitation program, or as recommended by the person administering the drug rehabilitation program; and</p> <p>5. Following an accident on the premises of the employer or in the course of employment for the employer which requires off-site medical attention be given to a person.</p> <p>(b) For breath alcohol testing:</p> <p>1. After conditional offer of employment;</p> <p>2. Upon reasonable suspicion of prohibited alcohol use;</p> <p>3. Following an accident on the premises of the employer or in the course of employment for the employer which requires off-site medical attention be given to a person; and</p> <p>4. Follow-up testing at least once per quarter for one (1) year after the employee's successful completion of an employee assistance program for alcohol-related problems, or an alcohol rehabilitation program, or as recommended by the person administering the alcohol rehabilitation program;</p>	
Louisiana (m)	X	RS 49:1001, §1001(11) "Sample" means urine, blood, saliva, or hair."	LA
Maine (m)	X	<p>M.R.S.A. §682 Employment Practices</p> <p>* * *</p> <p>7. Substance use test. "Substance use test" means any test procedure designed to take and analyze body fluids or materials from the body for the purpose of detecting the presence of substances. "Substance use test" does not include tests designed to determine blood-alcohol concentration levels from a sample of an individual's breath.</p> <p>A. "Screening test" means an initial substance use test performed through the use of immunoassay technology or a federally recognized substance use test, or a test technology of similar or greater accuracy and reliability approved by the Department of Health and Human Services under rules adopted under section 687, and that is used as a preliminary step in detecting the presence of substances.</p> <p>(1) A screening test of an applicant's urine or saliva may be performed at the point of collection through the use of a noninstrumented point of collection test device approved by the federal Food and Drug Administration. Section 683, subsection 5-A governs the use of such tests. [PL 2017, c. 407, Pt. A, §106 (AMD).]</p> <p>B. "Confirmation test" means a 2nd substance use test that is used to verify the presence of a substance indicated by an initial positive screening test result and is a federally recognized substance use test or is performed through the use of liquid or gas chromatography-mass spectrometry.</p> <p>Regulations: 10-144 C.M.R. ch. 265 (A)</p> <p>* * *</p> <p>7. Substance use test means any test procedure designed to take and analyze body fluids or materials from the body for the purpose of detecting the</p>	ME

		<p>presence of substances of use. The term does not include tests designed to determine blood alcohol concentration levels from a sample of an individual's breath.</p> <p>Note: The regulations are incredibly detailed and should be read carefully.</p>	
Maryland (v)	X	Md. Health Gen. §17-214(a)(11) Specimen means blood, urine, hair, and saliva. Note: No breath.	MD
Massachusetts (m)			MA
Michigan (v)			MI
Minnesota (m)	X	<p><i>Drug and Alcohol Testing in the Workplace Act</i> (Minn. Stat. §§181.950 – 957). §181.950 * * *</p> <p>Subd. 5. Drug and alcohol testing. "Drug and alcohol testing," "drug or alcohol testing," and "drug or alcohol test" mean analysis of a body component sample according to the standards established under one of the programs listed in section 181.953, subdivision 1, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested. "Drug and alcohol testing," "drug or alcohol testing," and "drug or alcohol test" do not include cannabis or cannabis testing, unless stated otherwise.</p> <p>Subd. 5a. Cannabis testing. "Cannabis testing" means the analysis of a body component sample according to the standards established under one of the programs listed in section 181.953, subdivision 1, for the purpose of measuring the presence or absence of cannabis flower, as defined in section 342.01, subdivision 16, cannabis products, as defined in section 342.01, subdivision 20, lower-potency hemp edibles as defined in section 342.01, subdivision 50, hemp-derived consumer products as defined in section 342.01, subdivision 37, or cannabis metabolites in the sample tested. The definitions in this section apply to cannabis testing unless stated otherwise. * * *</p> <p>Subd. 9a. Oral fluid test. "Oral fluid test" means analysis of a saliva sample for the purpose of measuring the presence of the same substances as drug and alcohol testing and cannabis testing that:</p> <p>(1) can detect drugs, alcohol, cannabis, or their metabolites in levels at or above the threshold detection levels contained in the standards of one of the programs listed in section 181.953, subdivision 1; and</p> <p>(2) does not require the services of a testing laboratory under section 181.953, subdivision 1.</p>	MN
Mississippi (v)	X	<i>"Drug-Free Workplace Workers' Compensation Premium Reduction Act."</i> (Miss. Code § 71-7-1 <i>et seq</i>) "(n) "Specimen" means a tissue or product of the human body chemically capable of revealing the presence of drugs in the human body."	MS
Missouri (m)			MO
Montana (m)	X	<p>39-2-206 MCA, Definitions * * *</p> <p>(12) "Sample" means a urine specimen to determine the presence of a controlled substance or a breath alcohol test to determine the presence of alcohol. Note: Testing must be conducted per DOT rules.</p>	MT

Nebraska (m)	31	<p>(NRS 48-1901 et seq) 48-1903: Test results; use; requirements. Any results of any test performed on the body fluid or breath specimen of an employee, as directed by the employer, to determine the presence of drugs or alcohol shall not be used to deny any continued employment or in any disciplinary or administrative action unless the following requirements are met:</p> <p>(1) A positive finding of drugs by preliminary screening procedures has been subsequently confirmed by gas chromatography-mass spectrometry or other scientific testing technique which has been or may be approved by the department; and</p> <p>(2) A positive finding of alcohol by preliminary screening procedures is subsequently confirmed by either:</p> <p>(a) Gas chromatography with a flame ionization detector or other scientific testing technique which has been or may be approved by the department; or</p> <p>(b) A breath-testing device operated by a breath-testing-device operator. Nothing in this subdivision shall be construed to preclude an employee from immediately requesting further confirmation of any breath-testing results by a blood sample if the employee voluntarily submits to give a blood sample taken by qualified medical personnel in accordance with the rules and regulations adopted and promulgated by the department. If the confirmatory blood test results do not confirm a violation of the employer's work rules, any disciplinary or administrative action shall be rescinded.</p> <p>Except for a confirmatory breath test as provided in subdivision (2)(b) of this section, all confirmatory tests shall be performed by a clinic, hospital, or laboratory which is certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, 42 U.S.C. 263a.</p>	NE
Nevada (m)			NV
New Hampshire (v)			NH
New Jersey (m)			NJ
New Mexico (m)	X	<p>While the statute and regulations do not define the word “specimen” the following must be considered:</p> <p>N.M. Stat. Ann. §26-2C-34</p> <p>Section 26-2C-34 - Employer protections; exemptions</p> <p>A. Unless there is an agreement between the employer and employee, nothing in the Cannabis Regulation Act shall:</p> <p>* * *</p> <p>(3) prevent or infringe upon the rights of an employer to adopt and implement a written zero-tolerance policy regarding the use of cannabis products. A zero-tolerance policy may permit the discipline or termination of an employee on the basis of a positive drug test that indicates <u>any amount</u> of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite. [emphasis added]</p>	NM
New York (m)			NY
North Carolina (m)	X	The mandatory state statute does not define “sample” but the Regulations do as follows:	NC

³¹ Law doesn’t provide specific definition but refers to testing “body fluid or breath specimen

		<p>13 NCAC 20.0101(4) states:</p> <p>""Sample" means the examinee's urine, blood, hair or oral fluids obtained in a minimally invasive manner and determined to meet the reliability and accuracy criteria accepted by laboratories for the performance of drug testing." [emphasis added]</p>	
North Dakota (v)			ND
Ohio (v) ³²	33		OH
<p>Oklahoma (m)</p> <p>Note the difference between the statute and the regulations.</p>	X	<p>Okla. Stat. tit. 40 § 552 Definitions <i>Standards for Workplace Drug and Alcohol Testing Act</i> * * *</p> <p>12. "Sample" means tissue, fluid or product of the human body chemically capable of revealing the presence of drugs or alcohol in the human body</p> <p>Note that the Regulations provide:</p> <p>310: 638-1-2 * * *</p> <p>"Saliva" means mucosal transudate or a combination of oral fluids consisting of a mixture of gingival crevicular fluid and common saliva.</p> <p>And</p> <p>310: 638-1-4 Body specimens appropriate for testing (a) Drugs. (1) Initial tests. Urine, saliva or hair shall be used for the initial test for all drugs. (2) Confirmation tests. Urine, saliva or hair shall be used for the confirmation test for all drugs. (b) Alcohol. (1) Initial tests. Breath or saliva shall be used for the initial test for alcohol. Blood may be used for initial testing as described in OAC 310:638-7-4(b)(4). (2) Confirmation tests. Breath or blood shall be used for the confirmation test for alcohol. (3) Rehabilitation/post-rehabilitation tests. For alcohol testing which meets the criteria at 310:638-7-8(a), urine may be used as the specimen for initial and/or confirmation testing.</p>	OK
Oregon (m)	X	ORS 438.010 (19) "Specimen means materials derived from a human being or body"	OR
Pennsylvania (m)			PA
Rhode Island (m)	X	<p>Rhode Island mandatory drug testing statute, R.I. Gen. Laws Section 28-6.5-1(4), provides as follows:</p> <p>"Section 28-6.5-1 - Testing permitted only in accordance with this section</p>	RH

³² The Ohio rules indicate that an employer must follow the HHS guidelines, "as adopted by" DOT.

³³ While not defined in the regulations the BWC program manual requires testing per federal DOT rules; therefore urine for drug and saliva/breath for alcohol.

		<p>***</p> <p>(4) Positive tests of urine, blood or any other bodily fluid or tissue are confirmed by a federally certified laboratory by means of gas chromatography/mass spectrometry or technology recognized as being at least as scientifically accurate. [emphasis added]</p>	
South Carolina (v)			SC
South Dakota (m)			SD
Tennessee (v)	X	<p>Tennessee Drug-Free Workplace Program (Tenn. Code Ann. §50-9-101 <i>et seq.</i>) provides as follows:</p> <p>§50-9-103 (17) "Specimen" means tissue, fluid or a product of the human body capable of revealing the presence of alcohol or drugs or their metabolites.</p>	TN
Texas(v)	X	For the <i>voluntary</i> affirmative defense to a workers' compensation claim of rebuttable presumption of intoxication – only blood or urine allowed. Sec. 401.013(c).	TX
Utah (m)	X	<p>Utah Code Ann. §34-38-2(9) (Immunity statute) provides as follows:</p> <p>***</p> <p>(9) "Sample" means urine, blood, breath, saliva, or hair</p>	UT
Vermont (m)	X	<p>Vermont's mandatory drug testing law provides as follows:</p> <p>Vt. Stat. tit. 21 § 511</p> <p>***</p> <p>(4) "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 as defined in 18 V.S.A. chapter 84 or a drug as defined in subdivision (3) of this section. [emphasis added]</p>	VT
Virginia (v)		<p>Va. Code §60.2-618 Unemployment states . . .</p> <p>***</p> <p>b. For the purpose of this subdivision, "misconduct" includes, but shall not be limited to:</p> <p>(1) An employee's confirmed positive test for a nonprescribed controlled substance, identified as such in Chapter 34 (§ 54.1-3400 <i>et seq.</i>) of Title 54.1, where such test was conducted at the direction of his employer in conjunction with the employer's administration and enforcement of a known workplace drug policy. Such test shall have been performed, and a sample collected, in accordance with scientifically recognized standards by a laboratory accredited by the United States Department of Health and Human Services, or the College of American Pathology, or the American Association for Clinical Chemistry, or the equivalent, or shall have been a United States Department of Transportation-qualified drug screen conducted in accordance with the employer's bona fide drug policy. The Commission may consider evidence of mitigating circumstances in determining whether misconduct occurred.</p>	VA
Washington (m)		<p>RCW 49.44.240</p> <p>Discrimination based upon cannabis use—Exceptions.</p> <p>(1) It is unlawful for an employer to discriminate against a person in the initial hiring for employment if the discrimination is based upon:</p> <p>***</p>	WA
<p>Note: As of February 2025, only oral fluid</p>			

<p>and possibly breath testing can reveal psychoactive metabolites of cannabis. (delta-9 THC or hydroxy-THC.)</p> <p>Note: “THC” is short for tetrahydrocannabinol</p>		<p>(b) An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.</p> <p>(2) Nothing in this section:</p> <p>(a) Prohibits an employer from basing initial hiring decisions on scientifically valid drug screening conducted through methods that do not screen for nonpsychoactive cannabis metabolites;</p> <p>***</p> <p>(3) This section does not apply to an applicant seeking:</p> <p>(a) A position requiring a federal government background investigation or security clearance;</p> <p>(b) A position with a general authority Washington law enforcement agency as defined in RCW 10.93.020;</p> <p>(c) A position with a fire department, fire protection district, or regional fire protection service authority;</p> <p>(d) A position as a first responder not included under (b) or (c) of this subsection, including a dispatcher position with a public or private 911 emergency communications system or a position responsible for the provision of emergency medical services;</p> <p>(e) A position as a corrections officer with a jail, detention facility, or the department of corrections, including any position directly responsible for the custody, safety, and security of persons confined in those facilities;</p> <p>(f) A position in the airline or aerospace industries; or</p> <p>(g) A safety sensitive position for which impairment while working presents a substantial risk of death. Such safety sensitive positions must be identified by the employer prior to the applicant's application for employment.</p>	
Wash. DC (m)			WDC
West Virginia (v)	X	<p>ARTICLE 3E. THE WEST VIRGINIA SAFER WORKPLACE ACT.</p> <p>§21-3E-2. Definitions.</p> <p>***</p> <p>“Sample” means such sample of the human body capable of revealing the presence of alcohol or other drugs or other metabolites.</p>	WV
Wisconsin (v)			WI
Wyoming (v)	34		WY

³⁴ While not specifically defined the “voluntary” DFWA requires following federal DOT (49 CFR part 40).