

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda--underwritten by global corporations--includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board
--in recent past or present

- AT&T Services, Inc.
 - centerpoint360
 - UPS
 - Bayer Corporation
 - GlaxoSmithKline
 - Energy Future Holdings
 - Johnson & Johnson
 - Coca-Cola Company
 - PhRMA
 - Kraft Foods, Inc.
 - Coca-Cola Co.
 - Pfizer Inc.
 - Reed Elsevier, Inc.
 - DIAGEO
 - Peabody Energy
 - Intuit, Inc.
 - Koch Industries, Inc.
 - ExxonMobil
 - Verizon
 - Reynolds American Inc.
 - Wal-Mart Stores, Inc.
 - Salt River Project
 - Altria Client Services, Inc.
 - American Bail Coalition
 - State Farm Insurance
- For more on these corporations, search at www.SourceWatch.org.

& MEETINGS

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

Home → Model Legislation → Public Safety and Elections

State Employee Drug-Free Workplace Act

Did you know the NRA--the National Rifle Association--was the corporate co-chair in 2011?

Summary

This Act would require each state agency to implement a drug-free workplace program. The Act would require each appropriate agency to drug test employees in safety-related jobs, and would allow testing of all applicants, employees for whom reasonable suspicion of drug use exists, employees who have passed through a drug treatment program, and as part of a routine employee physical examination.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Title.} This Act shall be known as and may be cited as the State Employee Drug-Free Workplace Act.

Section 2. {Definitions.} As used in this Act:

- (A) "Employee" means the employee of the state of *[insert state]*, including any political subdivisions thereof.
- (B) "Employee in a sensitive position" refers to:
 - (1) appointees serving at the pleasure of the governor or whose appointment required confirmation by the state legislature;
 - (2) all elected officials;
 - (3) law enforcement officers as they are defined in *[cite state law]*;
 - (4) other positions that the governor or agency head determines involve law enforcement, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.
- (C) "Controlled substance" means *[cite state controlled substances act]*.
- (D) "State" refers to the State of *[insert state]*, or any political subdivision thereof.
- (E) "Employee assistance program" means agency-based counseling programs that offer assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems that affect employee job performance. Employee assistance programs are responsible for referring drug-using employees for rehabilitation and for monitoring employees' progress while in treatment.

Section 3. {Drug-free workplace.} The Governor (and other appropriate state executives) shall implement a program establishing a drug-free workplace for all state employees. Such a program shall have as its core policy the following:

- (A) State employees are required to refrain from the use of illegal drugs.
- (B) The use of illegal drugs by state employees, whether on duty or off duty, is contrary to the efficiency of the service.
- (C) Persons who use illegal drugs are not suitable for state employment.

Section 4. The governor (and other appropriate state executives) and the appropriate executive of each political subdivision shall develop a plan for achieving the objective of a drug-free workplace with due consideration of the rights of the government and the general public. The plan shall include:

- (A) A statement of policy setting forth the state's (or other political subdivision's) expectations regarding drug use and the action to be anticipated in response to identified drug use;
- (B) Employee assistance programs emphasizing high-level direction, education, counseling, referral to rehabilitation, and coordination with available community resources;
- (C) Supervisory training to assist in identifying and addressing illegal drug use by state employees;
- (D) Provision for self-referrals as well as supervisory referrals to treatment with maximum

respect for individual confidentiality consistent with safety and security issues; and

(E) Provision for identifying illegal drug uses, including testing on a controlled and carefully monitored basis in accordance with this statute.

Section 5. {Drug testing programs.}

(A) The governor (and other appropriate state executives) and the appropriate executive of each political subdivision shall establish a program to test for the use of illegal drugs by employees in sensitive positions. The extent to which such employees are tested and the criteria for such testing shall be determined by the respective heads of each executive branch agency, based upon the nature of the agency's mission and its employees' duties, the efficient use of agency resources, and the danger to the public health and safety that could result from the failure of an employee adequately to discharge his or her position.

(B) The governor (and other appropriate State executives) and the appropriate executive of each political subdivision shall establish a program for voluntary employee drug testing.

(C) In addition to the testing authorized in Subsections (A) and (B) of this section, the head of each executive branch agency is authorized to test an employee for illegal drug use under the following circumstances:

- (1) when there is reasonable suspicion that any employee uses illegal drugs;
 - (2) in an examination authorized by the agency regarding an accident or unsafe practice; or
 - (3) as part of or as a follow-up to counseling or rehabilitation for illegal drug use through an employee Assistance program.
- (D) The head of each executive branch agency is authorized to test any applicant for illegal drug use.

Section 6. {Drug testing procedures}

(A) Sixty days prior to the implementation of a drug testing program pursuant to this statute, agencies shall notify employees that testing for use of illegal drugs is to be conducted and that they may seek counseling and rehabilitation, and shall inform them of the procedures for obtaining such assistance through the agency's (or the state's) employee assistance program. Agency drug testing programs already ongoing are exempted from the 60-day notice requirement. Agencies may take action under Section 5(C) of this statute without reference to the 60-day notice period.

(B) Before conducting a drug test, the agency shall inform the employee to be tested of the opportunity to submit medical documentation that may support a legitimate use for a specific drug.

(C) Drug testing programs shall contain procedures for timely submission of requests for retention of records and specimens; procedures for re-testing; and procedures, consistent with applicable law, to protect the confidentiality of test results and related medical and rehabilitation records. Procedures for providing urine specimens must allow individual privacy, unless the agency has reason to believe that a particular individual may alter or substitute the specimen to be provided.

(D) The state department of health is authorized to promulgate scientific and technical guidelines for drug testing programs, and agencies shall conduct their drug testing programs in accordance with these guidelines once promulgated.

Section 7. {Personnel actions.}

(A) Agencies shall, in addition to any appropriate personnel actions, refer any employee who is found to use illegal drugs to an employee assistance program for assessment, counseling, and referral for treatment or rehabilitation as appropriate.

(B) Agencies shall initiate action to discipline any employee who is found to use illegal drugs, provided that such action is not required for an employee who:

- (1) voluntarily identifies himself as a user of illegal drugs or who volunteers for drug testing pursuant to Section 5(B) of this statute, prior to being identified through other means;
- (2) obtains counseling or rehabilitation through an employee assistance program; and
- (3) thereafter refrains from using illegal drugs, prior to successful completion of rehabilitation through an employee assistance program. However, as part of a rehabilitation or counseling program, the head of an executive branch agency may, at his or her discretion, allow an employee to return to duty in a sensitive position if it is determined that this action would not pose a danger to public health or safety.

(C) Agencies shall initiate action to remove from the service any employee who is found to use illegal drugs and:

- (1) refuses to obtain counseling or rehabilitation through an employee assistance program; or
- (2) does not thereafter refrain from using illegal drugs.

(D) The results of a drug test and information developed by the agency in the course of the drug testing of the employee may be considered in processing any adverse action against the employee or for other administrative purposes. Preliminary test results may not be used in an administrative proceeding unless they are confirmed by a second

analysis of the same sample or unless the employee confirms the accuracy of the initial test by admitting the use of illegal drugs.

(E) The determination of an agency that an employee uses illegal drugs can be made on the basis of any appropriate evidence, including direct observation, a criminal conviction, administrative inquiry, or the results of an authorized testing program. Positive drug test results may be rebutted by other evidence that an employee has not used illegal drugs

(F) Any action to discipline an employee who is using illegal drugs (including removal from the service, if appropriate) shall be taken in compliance with *[insert state employee personnel statute]*.

(G) Drug testing shall not be conducted pursuant to this statute for the purpose of gathering evidence for use in criminal proceedings. Agencies are not required to report to *[insert state law enforcement agency]* for investigation or prosecution in any information, allegation, or evidence in relation to violations of Title 21 of the United States Code *[or appropriate sections of state controlled substances act]* received as a result of the operation of drug testing programs established pursuant to this statute.

Section 8. {Coordination of agency programs.}

(A) The governor (or such appropriate official as he designates) shall:

(1) issue government-wide guidance to agencies and political subdivisions of the state on the implementation of the terms of this statute;

(2) ensure that appropriate coverage for drug abuse is maintained for state employees and their families under the *[insert any appropriate state employees health benefits program]*;

(3) develop a model employee assistance program for state agencies and assist the agencies in putting programs in place;

Section 9. {Severability clause.}

Section 10. {Repealer clause.}

Section 11. {Effective date.}

ALEC's Sourcebook of American State Legislation 1995

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