

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:35 A.M. on March 11, 2005 in Room 123-S of the Capitol.

All members were present except:

Jean Shodorf- excused

Susan Wagle- excused

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department

Helen Pedigo, Revisor of Statutes

Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Representative Bob Bethell

Terri Roberts, Kansas Coalition for Workplace Safety

Mark Desitti, Kansas National Education Association

Others attending:

See attached list.

Chairperson Brownlee opened the meeting by having Kathie Sparks, Legislative Research, to explain **HB 2157**. Ms. Sparks stated **HB 2157** would amend the Employment Security Law to disqualify from benefits an individual who, initially hired by an adult care home or a home health agency, and then was subsequently convicted of a disqualifying felony and discharged under the statutes of either the adult care home or the home health agency.

Chairperson Brownlee opened the hearing on **HB 2157** by introducing Representative Bob Bethell to give his testimony. Representative Bethell stated that **HB 2157** is to correct an inequity in the current law which requires nursing facilities and home health care services to do a background check on new hires. If a background check provides information of a conviction for certain person felonies that person cannot be hired. The problem with current law is, if a person has been charged but not convicted of a person felony it will not show up on the background check. If after employment that person is convicted of a person felony, they must be terminated according to law. The facility then becomes liable for unemployment payments to the person terminated. This bill would change this and not make the employer liable. Representative Bethell presented written testimony. (Attachment 1)

Upon completion of Representative Bethell's testimony there was discussion with the Committee. The discussion was regarding whether the crime had to be committed before employment or after. Representative Bethell explained it would apply if the employee committed the crime before or after he was employed. He stated that in most cases, if a person is charged, it may take some time to go to trial. There is a period after the crime and before the trial that it would not show up on a background check. Therefore, if the person is found guilty after a trial the employer would be required by state law to terminate that person's employment. The discussion continued on whether this law covered several occupations or was it just health care. Representative Bethell stated it was just healthcare employees.

Chairperson Brownlee announced to the Committee there was written testimony from Debra Zehr, Executive Vice President of the Kansas Association of Homes and Services for the Aging, a proponent of **HB 2157**. (Attachment 2)

With no further questions, Chairperson Brownlee closed the hearing on **HB 2157**.

A motion was made by Senator Kelly to move the bill out favorably. Senator Jordan seconded. Motion carried.

Chairperson Brownlee opened the continued hearing on **HB 2141** by introducing Terri Roberts, Kansas Coalition for Workplace Safety to give her testimony. Ms. Roberts stated the Coalition for Workplace Safety opposes many of the changes in **HB 2141**. She stated what is proposed goes to far with the "conclusive" language that makes all test results, even false positives, "no rebuttal". The Kansas Coalition for Workplace

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:35 A.M. on March 11, 2005 in Room 123-S of the Capitol.

Safety feels the Jack Amendment will attempt to balance all factors regarding testing. If the Jack Amendment is added to the bill they could support it. Ms. Roberts presented written testimony. (Attachment 3)

Chairperson Brownlee introduced Mark Desetti, Kansas National Education Association, to give his testimony. Mr. Desetti stated the Kansas National Education Association feels the Jack Amendment would fix this bill. He presented written testimony. (Attachment 4)

Chairperson Brownlee announced to the Committee there was written testimony from Ernest Kutzket, Advocacy Director for AARP of Kansas, an opponent of HB 2141. (Attachment 5)

Chairperson Brownlee called on Duane Simpson stating she understood he had additional information. Mr. Simpson passed out information from the Department of Transportation, the Federal Register: November 25, 1998, Amendments to Opiate Threshold Levels. Mr. Simpson stated the information listed might help the Committee with questions and concerns they might have concerning the Opiate threshold levels regarding ut poppy seed cake causing false positives. (Attachment 6)

The Committee had discussion regarding false positives and if the Federal level designed their policy to take care of false positives by setting levels. Mr. Simpson stated the Federal policy was designed to prevent false positives. The discussion continued with Mr. Desetti joining in regarding what test were done and what information was available to the employer on results of the blood test. Tom Whitaker, Motor Carriers Association joined the discussion and stated under the DOT testing the only information available to the employer is "positive" or "not positive". The Committee also had discussion with Teri Roberts regarding her testimony on the alcohol levels. More discussion ensued on subject of a false positive. There seemed to be concern regarding possible mistakes during the testing causing false positives. Chairperson Brownlee stated "We cannot have a system so frail and weak it doesn't allow for evidence to be handled properly" Chairperson Brownlee feels the guidelines for testing were written very carefully to ensure fewer false positives due to mistakes during the testing process. Senator Reitz entered the discussion giving his input as a doctor regarding the testing. Senator Reitz stated sometimes mistakes can be made in the testing process. Tom Whitaker entered the discussion and stated under the DOT they are required to do split samples and the test is required to be reviewed by a medical officer. If that medical officer has questions with the test results, he/she is required to contact the driver and visit about any medications being taken or why there is a abnormality with the test. Then the medical officer decides whether it is a positive test or a negative test. The discussion continues with Senator Kelly joining. She referred to Senator Reitz's statement from yesterday that he likes a bill that is "fair and enforceable". She also feels that same way. She doesn't see a problem with the Jack Amendment. She stated it was distressing to her to take away the "little guy's" right to go to court. She also mentioned Pat Shelley's testimony in which he stated his work comp premiums go up while a case is pending and this is also a concern to her. Chairperson Brownlee called on Marlee Carpenter to address Senator Kelly's concern regarding the work comp insurance premiums. Ms. Carpenter explain that as long as the case was pending the insurance company could assume the claim would have to be paid, therefore, the premium goes up.

Chairperson Brownlee called on A.J. Kotich, General Council for the Department of Labor to give his view of HB 2141. He stated he had a concern with the language "conclusive". He also stated there are good points and there are bad points in HB 2141.

Chairperson Brownlee announced the Committee would not be working HB 2141 today and also would not get to SB 260. She stated that they would finish HB 2141 during the week next week and would meet on Monday at 9:00 a.m. to take action on SB 260.

Chairperson Brownlee continued the discussion on drug testing referring to the testimony of Mark Desetti, KNEA, stating she had concerns regarding Mr. Desetti's statement in reference to the "Right to Privacy" and the text following on the use of drugs and alcohol on the job. Mark Desetti asked to be recognized and entered into the discussion regarding his testimony. Mr. Desetti takes issue with the way the bill is written and stated with the Jack Amendment KNEA would not have a problem support HB 2141.

Chairperson Brownlee closed the hearing on HB 2141 and stated again the bill would be worked one day next

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week. The meeting was adjourned at 9:30 a.m. with the next scheduled meeting for Monday, March 14, 2005 at 9:00 a.m. in room 123S.

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STATE OF KANSAS



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MEMBER: APPROPRIATIONS
HEALTH & HUMAN SERVICES
SOCIAL SERVICES BUDGET
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TOPEKA

Testimony on HB 2157

Good morning Chairmen Brownlee and Jordan and members of the Senate Commerce Committee. I am Bob Bethell and I am here today to support the passage of HB 2157.

This bill is introduced to correct an issue that is caused by the requirement that a person with a person felony not be employed by a health care facility. Current Kansas law states that the administrator of a nursing facility cannot knowingly employ a person who has been convicted of a person felony.

The problem that arises is not often incurred but when it is creates a situation that causes the cost of caring for the disabled and aged to raise. If I may here is the scenario: a person presents at the facility to be hired and a criminal background check is conducted and shows nothing. The person is then or at a later date convicted of a person felony and their employment is terminated. The facility then becomes liable for the unemployment payments due to no fault of its own. The facility would continue to employ the person if the law permitted.

I encourage you to support HB 2157 and pass it out of committee favorably.

I will stand for questions.

Senate Commerce Committee

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Attachment 1-1



**To: Senator Karin Brownlee and Senator Nick Jordan, Co-Chairs, and Members
Senate Commerce Committee**
From: Debra Zehr, Executive Vice President
Date: March 11, 2005

Testimony in Support of House Bill 2157

The Kansas Association of Homes and Services for the Aging (KAHSA) represents 160 not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living facilities, senior housing and community service providers serving nearly 20,000 older Kansans every day.

We support House Bill 2157 because it corrects a glaring misalignment between Kansas unemployment and adult care home laws.

Under current unemployment law:

- A home health aide is arrested, and later convicted of, assault and battery. The employer terminates the individual based on conviction, but has to pay unemployment because the conviction does not constitute misconduct for the purposes of disqualification for unemployment.
- A nurse aide is terminated for substantiated abuse. This does not constitute misconduct for the purposes of disqualification for unemployment.
- An assisted living employee is terminated when their KDHE criminal record check comes back with confirmation of a crime prohibited under adult care home statute. This does not constitute misconduct for the purposes of disqualification for unemployment.

We do not believe that Medicare, Medicaid or persons paying for their own care out of pocket should have to shoulder the cost of unemployment benefits for persons who go on unemployment because they are dismissed based on a conviction that is prohibited in adult care homes or home health agencies.

Thank you for your help in correcting this problem.

Please contact me, John Peterson or Bill Brady if you have questions about our position on House Bill 2157, or would like information on other aging issues.

Kansas Coalition for Workplace Safety

Promoting Economic Security Through Workplace Safety for Kansas Workers and their Families.

Coalition Members:

- AARP Kansas
- Construction and General Laborers Local 1290 & 142
- Greater KC Building and Construction Trades Council
- Int Assoc of Fire Fighters, Local 64 and Local 83
- International Association of Machinist and Aerospace Workers, Dist. Lodge No. 70
- Kansas AFL-CIO
- Kansas Fire Service Alliance -- KS State Fire Fighters Assoc, KS State Fire Chiefs Assoc, KS State Prof Fire Chiefs Assoc
- Kansas Association of Public Employees
- Kansas National Education Association
- Kansas Staff Organization
- Kansas State Building and Construction Trades Council
- Kansas State Council of Fire Fighters
- KS State Nurses Assoc
- KS Trial Lawyers Assoc
- Roofers Local #20
- Southeast Building and Construction Trades Council
- Teamsters Local No. 696, Local No. 795 & Joint Council 56 KS, MO & NE
- Topeka - Lawrence Building and Construction Trades Council
- Tri-County Labor Council
- United Auto Workers Local No. 31
- United Steelworkers of America, District 11
- United Steelworkers Local 307
- Wichita Building and Construction Trades Council
- Wichita-Hutchinson Labor Federation of Central Kansas
- Thomas Outdoor Advertising, INC

Coalition Members:

- AARP Kansas

H.B. 2141 Probable Cause – Workers Compensation

March 11, 2005

Good Morning, my name is Terri Roberts R.N., J.D., and I am the Executive Director of the KANSAS STATE NURSES ASSOCIATION and Chairperson of the KANSAS COALITION FOR WORKPLACE SAFETY. The KANSAS COALITION FOR WORKPLACE SAFETY opposes many of the changes proposed to House Bill 2141.

The bill as written:

Adds “conclusive” language regarding tests admitted,

Amends the drug/alcohol defense in K.S.A. 44-501(d) by removing the requirement that an employer have probable cause to believe an injured worker is under the influence of alcohol or drugs before it can demand that the injured worker submit to a drug or alcohol test, and

Adds a new subsection (d)(3) that provides the employer “shall be deemed to meet their burden of proof” to demonstrate probable cause if ANY of the following are proven:

The employer has a written policy requiring employees to submit to testing for drugs or alcohol “if they are involved in an accident which requires medical attention.”

The testing was done in the normal course of medical treatment. Testing must not be “at the direction of the employer” but may be “at the employer’s request.”

The employee gave written consent, prior to the accident, to submit to testing for drugs or alcohol following any accident requiring the worker to obtain medical treatment. Refusal to submit to testing is evidence the employee was impaired.

The testing was mandated by federal or state law.

First, let me say that the members of the Coalition are in agreement that performing work related duties impaired because of the influence of alcohol and/or drugs is not acceptable behavior

We cannot support the proposed language in H.B. 2141 that is aimed at eroding workers’ “right to privacy” with unsubstantiated escapades that include access to unrelated medical records and physical exams, and required submission to invasive procedures without “probable cause”. The government is not even allowed to force criminal suspects to submit to drug or alcohol tests without probable cause.

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Attachment

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- Const and General Laborers Local 1290 & 142
- Greater KC Building and Construction Trades Council
- Int Assoc of Fire Fighters, Local 64 and Local 83
- International Association of Machinist and Aerospace Workers, Dist. Lodge No. 70
- Kansas AFL-CIO

- Kansas Fire Service Alliance -- KS State Fire Fighters Assoc, KS State Fire Chiefs Assoc, KS State Prof Fire Chiefs Assoc
- Kansas Association of Public Employees
- Kansas National Education Association
- Kansas Staff Organization
- Kansas State Building and Construction Trades Council
- Kansas State Council of Fire Fighters
- KS State Nurses Assoc
- KS Trial Lawyers Assoc
- Roofers Local #20
- Southeast Building and Construction Trades Council
- Teamsters Local No. 696, Local No. 795 & Joint Council 56 KS, MO & NE
- Topeka - Lawrence Building and Construction Trades Council
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Terri Roberts J.D., R.N.

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In those cases where federal law requires post accident drug testing as one mechanism to insure the public's welfare (truck drivers, pilots, etc) we understand the frustration that exists regarding not being able to admit that evidence, however, the probable cause standard is part of a delicate balancing act aimed at limiting the intrusive nature of medical tests that will disqualify employees from the only remedy available to them in the no-fault workers compensation system.

If the delicate balance of the probable cause language in the statute is to be altered, what is proposed goes to far with the "conclusive" language that makes all test results, even false positives "not rebuttable". Workers compensation is a complex area of the law, with many factors that have to be considered when working either side of a claim. Representative Jack presented an amendment, that will, if this committee believes a change is warranted, attempt to "balance" all factors regarding testing. His amendment eliminates the four criteria for admitting the evidence under probable cause, removes the "conclusive" language and permits claimants to defend themselves against tests that are in error. Adding the "rebuttable presumption" language here is very important to maintaining a sense of fairness.

HB 2141 is dangerous for workers in Kansas if it passes without significant changes. We heartily urge the Committee to consider amendments that would correct the problems of HB 2141. If HB 2141 advances, we respectfully request that it include amendments that make the presumption of impairment rebuttable so that an injured worker has the opportunity to show that he was not impaired at the time of the injury or that the injury was not the result of impairment. We believe this is a fair amendment because it will assist employers in enforcing a drug-free workplace, while at the same time protecting workers' rights to compensation for on-the-job injuries.

We respectfully request that the committee oppose H.B. 2141 if it is not amended.

Terri Roberts J.D., R.N.
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 Kansas Coalition for Workplace Safety
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Attachment 3-2



Mark Desetti, testimony
Senate Commerce Committee
March 9, 2005
House Bill 2141

House Bill 2141 is a frightening proposition. At its core is the whittling away of fundamental civil rights we hold dear in the United States.

Probable cause has long been the standard for investigations in this country. **House Bill 2141** removes the probable cause standard from employers. It allows employers to assume the worst about their employees and demand drug tests even where there is no reason to suspect that drugs were involved in the injury suffered by the employee.

Rights protected by the probable cause standard have been deemed so important a civil liberty that we grant that right to persons incarcerated in our prisons. Why would we even consider stripping it from working Kansans?

The erosion of our civil liberties that **HB 2141** represents is a dangerous path. Once on it, where do we stop? When we grant employers the right to demand blood tests allegedly for finding evidence of illegal drug use, we open the door to granting employers access to all sorts of information long held in the confidential relationship between patient and doctor, and protected under the constitutional interpretations of "Right to Privacy" afforded all citizens. When the drug test shows no evidence of illegal drugs but does show high cholesterol or unusual blood sugar levels, it is a short step to using that information to guide future employment decisions. What would it take for an employer to find a way to "downsize" this employee? Right there is the possibility of keeping health benefit costs low.

Finally, **HB 2141**, in establishing drug test results as proof positive, creates unintended consequences – imagine the consequences in everything from enjoying poppy seed cake for breakfast to, as one legislator put it in the House, sitting through a Rolling Stones concert.

House Bill 2141 is an attack on civil liberties, it is an attack on the fundamental constitutionally-protected "right to privacy," and it is an attack on the working Kansans who keep our economy going and provide for their families.

We urge this committee to reject **HB 2141**.

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Attachment 4-1



March 9, 2005
Senator Brownlee, Chair
Senate Committee
HB 2141

Good morning Chairman Brownlee and Members of the Senate Commerce Committee. My name is Ernest Kutzley and I am the Advocacy Director for AARP Kansas. AARP Kansas represents the views of our more than 350,000 members in the state of Kansas. Thank you for this opportunity to express our comments and opposition to HB 2141 relating to burden of proof and admissibility of drug tests in workers compensation.

More than 80 percent of AARP's youngest members (ages 50 to 54) are employed and 44 percent of all AARP members work full or part time.

As part of our national employment policy, AARP supports laws that protect older workers from all forms of employment discrimination and is committed to expanding employment opportunities and promoting job and benefit security for workers of all ages.

AARP believes in maintaining a safe work environment and that employers may apply drug and alcohol testing to all employees as a condition of employment; however, the purpose of removing the requirement that an employer have probable cause to believe that an injured worker is under the influence of drugs and alcohol appears only another way to reduce employer expenses.

AARP also believes that an injured worker should not be required to submit to drug and alcohol testing when there is no reason to suspect that the workers' performance was impaired by drugs and alcohol or that they played a part in a workplace accident.

Therefore, AARP opposes changes to remove the requirement that employers have probable cause in order to require an injured worker to submit to drug and alcohol testing. These changes could have a seriously harmful impact on workers of any age by denying worker compensation benefits to the injured worker when his/her injury was not caused by their impairment.

If the intent of this committee is to pass HB 2141, we respectfully request that this bill be amended to at least allow the injured worker the opportunity to provide evidence to prove their injury was not the result of alcohol or drug impairment.

AARP Kansas respectfully requests that you oppose HB 2141.

Thank you for your consideration of this request.

555 S. Kansas Avenue, Suite 201 | Topeka, KS 66603 | 785-232-4070 | 785-232-2250 fax
Jim Parkel, President | William D. Novelli, Executive Director and CEO | www.aarp.org

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Attachment 5-1

[Federal Register: November 25, 1998 (Volume 63, Number 227)]
[Rules and Regulations]
[Page 65128-65129]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr25no98-19]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket No. OST-98-4777]
RIN 2105-AC74

Amendments to Opiate Threshold Levels

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This final rule makes conforming changes to the Department's drug testing procedures to incorporate changes made by the Department of Health and Human Services (DHHS) in the threshold levels of opiates. It is essential for the Department's drug testing procedures to remain consistent with the DHHS Guidelines, as Congress provided in the Omnibus Transportation Employee Testing Act of 1991.

EFFECTIVE DATE: The final rule takes effect on December 1, 1998.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Room 10424, (202-366-9306); 400 7th Street, SW., Washington, DC 20590 or Mary Bernstein, Director, Office of Drug and Alcohol Policy and Compliance, Room 5405, (202-366-3784); 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On September 30, 1997, the Department of Health and Human Services (DHHS) published the final amendments to its Mandatory Guidelines for Federal Workplace Testing Programs (DHHS Guidelines) and indicated that May 1, 1998 would be the effective date for implementing these amendments. The amendments raised the initial and confirmatory test opiate thresholds from 300 nanograms per milliliter (ng/ml) to 2000 ng/ml. The DHHS amendments also established a new requirement to test for 6-acetylmorphine (6-AM), a metabolite that comes only from heroin, using a 10 ng/ml confirmatory level, for specimens that have tested positive for morphine on the confirmatory test at the 2000 ng/ml level.

DHHS made changes to the testing cutoff levels for opiates following a notice and opportunity for comment. DHHS received 22 comments, of which a majority favored their proposal. Under the previous standards, 87 percent of laboratory positive opiate specimens were verified as negative by medical review officers (MROs). DHHS anticipates that these amendments will eliminate the identification of most individuals legitimately taking prescriptions including morphine

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or codeine or who have ingested poppy seeds.

Subsequent to the publication of the final amendments, it became clear that manufacturers would not be able to provide a sufficient supply of the modified opiate test kits by the May 1, 1998 effective date. On February 4, 1998, DHHS sent a letter to all Federal agencies, HHS certified and applicant drug testing laboratories, and immunoassay kit manufacturers informing them that the effective date would be delayed 4 to 6 months beyond the May 1, 1998 effective date.

DHHS chose December 1, 1998 as the new effective date for implementing the new opiate testing cutoff levels. DHHS was satisfied that manufacturers of test kits can provide an adequate supply of the modified opiate test kits to the laboratories by the December 1, 1998 effective date and that the laboratories would be able to use these opiate test kits to conduct the initial and confirmatory tests at the revised testing levels for opiates.

It is essential for the Department's drug testing procedures to remain consistent with the DHHS Guidelines, as Congress provided in the Omnibus Transportation Employee Testing Act of 1991. Consistency is also necessary to avoid confusion in the testing process. For these reasons, the Department is making conforming changes to its drug testing procedures in 49 CFR Part 40.

Regulatory Process Matters

The final rule is considered to be a nonsignificant rulemaking under the DOT Regulatory Policies and Procedures. It is also a nonsignificant rule for purposes of Executive Order 12886. The Department certifies, under the Regulatory Flexibility Act, that the final rule does not have a significant economic effect on a substantial number of small entities. The rule does not impose any costs or burdens on regulated entities, since it will result in

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fewer opiate positives having to be reviewed by medical review officers. The rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Issuance of Final Rule Without Opportunity for Notice and Comment

With respect to the amendments to 49 CFR Part 40 concerning opiate testing levels, the Department has determined that it would be impracticable, unnecessary, or contrary to the public interest to provide an opportunity for notice and comment under 5 U.S.C. 553(b). These amendments are conforming amendments making the Department's drug testing procedures consistent with those of DHHS, as is required under the Omnibus Transportation Employee Testing Act of 1991. Before publishing its amendments to the DHHS Guidelines, DHHS solicited, received, and responded to public comment on the identical provisions. Since there has already been an opportunity for public comment on the substance of the changes and consistency is necessary to avoid confusion in the testing process, the Secretary finds good cause under 5 U.S.C. 553(d)(3) for the final rule to be effective less than 30 days from the date of publication in the Federal Register.

Paperwork Reduction Act

This rule contains no new information collection requirements under

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the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq).

Unfunded Mandates Reform Act of 1995

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

Office of the Secretary of Transportation

List of Subjects in 49 CFR Part 40

Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons set forth in the preamble, the Office of the Secretary amends 49 CFR Part 40 as follows:

PART 40--PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

1. The authority citation for Part 40 continues to read as follows:

Authority: 49 U.S.C. 102, 301, 322; 49 U.S.C. App. 1301 nt., app. 1434 nt., app. 2717., app. 1618a.

Sec. 40.29 [Amended]

2. In section 40.29(e)(1), the initial test level for opiates appearing in the table is amended by revising the value ``300'' to ``2000'' and deleting the footnote ``*' that had specified a 25 ng/ml testing level if the immunoassay test was specific for free morphine.

3. In section 40.29(f)(1), the confirmatory test level for morphine appearing in the table is amended by revising the value from ``300'' to ``2000''.

4. In section 40.29(f)(1), the confirmatory test level for codeine appearing in the table is amended by revising the value from ``300'' to ``2000''.

5. In section 40.29(f)(1), the table is amended by adding a new line under opiates to read as follows:

Sec. 40.29 Laboratory analysis procedures.

	Confirmatory test cutoff levels (ng/ml)
6-Acetylmorphine \4\.....	10 ng/ml.

\4\ Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.

Issued this 17th day of November, 1998, at Washington, D.C.
Rodney E. Slater,
Secretary.

[FR Doc. 98-31495 Filed 11-24-98; 8:45 am]

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Attachment 6-3

BILLING CODE 4910-62-P

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Attachment 6-4