

HOUSE BILL NO. 197

INTRODUCED BY C. EDMUNDS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE SCOPE OF THE WORKFORCE DRUG AND
5 ALCOHOL TESTING ACT TO APPLY TO ALL EMPLOYEES RATHER THAN ONLY EMPLOYEES WORKING
6 IN A HAZARDOUS WORK ENVIRONMENT, SECURITY POSITION, OR POSITION AFFECTING PUBLIC
7 SAFETY OR PUBLIC HEALTH; AND AMENDING SECTION 39-2-206, MCA."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 39-2-206, MCA, is amended to read:
12 **"39-2-206. Definitions.** As used in 39-2-205 through 39-2-211, the following definitions apply:
13 (1) "Alcohol" means an intoxicating agent in alcoholic beverages, ethyl alcohol, also called ethanol, or
14 the hydrated oxide of ethyl.
15 (2) "Alcohol concentration" means the alcohol in a volume of breath expressed in terms of grams of
16 alcohol per 210 liters of breath, as indicated by an evidential breath test.
17 (3) "Controlled substance" means a dangerous drug, as defined in 49 CFR, part 40, except a drug used
18 pursuant to a valid prescription or as authorized by law.
19 (4) (a) "Employee" means an individual employed by an employer ~~engaged in the performance,~~
20 ~~supervision, or management of work in a:~~
21 ~~—— (i) hazardous work environment;~~
22 ~~—— (ii) security position; or~~
23 ~~—— (iii) position:~~
24 ~~—— (A) affecting public safety or public health;~~
25 ~~—— (B) in which driving a motor vehicle is necessary for any part of the individual's work duties; or~~
26 ~~—— (C) involving a fiduciary responsibility for an employer.~~
27 (b) The term does not include an independent contractor ~~or an elected official who serves on the~~
28 ~~governing body of a local government.~~
29 (5) (a) "Employer" means a person or entity that has one or more employees and that is located in or
30 doing business in Montana.

1 (b) The term includes the governing body of a local government.

2 (6) "Governing body" means the legislative authority of a local government.

3 ~~(7) "Hazardous work environment" includes but is not limited to positions:~~

4 ~~(a) for which controlled substance and alcohol testing is mandated by federal law, such as aviation,~~
5 ~~commercial motor carrier, railroad, pipeline, and commercial marine employees;~~

6 ~~(b) that involve the operation of or work in proximity to construction equipment, industrial machinery, or~~
7 ~~mining activities; or~~

8 ~~(c) that involve handling or proximity to flammable materials, explosives, toxic chemicals, or similar~~
9 ~~substances.~~

10 ~~(8)(7)~~ (7) "Local government" means a city, town, county, or consolidated city-county.

11 ~~(9)(8)~~ (8) "Medical review officer" means a licensed physician trained in the field of substance abuse.

12 ~~(10)(9)~~ (9) "Prospective employee" means an individual who has made a written or oral application to an
13 employer to become an employee.

14 ~~(11)(10)~~ (10) "Qualified testing program" means a program to test for the presence of controlled substances
15 and alcohol that meets the criteria set forth in 39-2-207 and 39-2-208.

16 ~~(12)(11)~~ (11) "Sample" means a urine specimen, a breath test, or oral fluid obtained in a minimally invasive
17 manner and determined to meet the reliability and accuracy criteria accepted by laboratories for the performance
18 of drug testing that is used to determine the presence of a controlled substance or alcohol."

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