



SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

ORDINANCE NO. 06-071

RELATING TO EMPLOYEE DRUG AND ALCOHOL TESTING;
AMENDING CHAPTER 3.58 SCC

BE IT ORDAINED:

Section 1. Snohomish County Code Section 3.58.030, adopted by Ordinance No. 89-136 on November 22, 1989, is amended to read:

3.58.030 Workers under the influence - Prohibited in the workplace - Exceptions.

Workers under the influence of alcohol, intoxicants or controlled substances, are prohibited in the workplace. This rule does not apply to persons taking prescription drugs and narcotics as directed by a physician or dentist provided such use shall not endanger the worker or others. It is the employee's responsibility to check with his/her physician, dentist, or pharmacist as to whether or not a prescription or over-the-counter drug will impair performance and to notify his/her supervisor of the impairment and the period of time the medication will be used. If an employee's supervisor reasonably believes the employee's performance is impaired or poses a safety risk as a result of the employee's medication, the supervisor may send the employee home on sick leave until the employee provides the County a return-to-work authorization from the employee's health care provider.

Section 2. Snohomish County Code Section 3.58.040, adopted by Ordinance No. 89-136 on November 22, 1989, is amended to read:

3.58.040 Condition of employment.

It shall be a condition of employment that each county employee will:

- (1) Abide by the terms of this chapter, and
- (2) ~~((Will notify))~~ Notify the director of ~~((personnel))~~ human resources of any criminal drug statute conviction against him/her for a violation occurring in the workplace, no later than five days after the date of such conviction.

Section 3. A new section 3.58.045 is added to Chapter 3.58 of the Snohomish County Code to read:

3.58.045 Reasonable suspicion testing

An employee is required to submit to an alcohol and/or drug test when a trained supervisor has reasonable suspicion to believe that the employee is under the influence of alcohol or drugs. The determination that reasonable suspicion exists to require an employee to undergo testing must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. For drug testing, the observations may include indications of the effects of chronic use or withdrawal from use of drugs. The supervisor shall document his or her observations.

(1) Any trained supervisor or manager who, as a result of the application of this policy, believes that an employee may be under the influence of a drug or alcohol, shall order the employee to take an alcohol and/or drug screen test. Any interview of the employee under these circumstances will be done in private to avoid potential embarrassment. Supervisors or managers whose duties include ordering "reasonable suspicion" drug tests shall receive at least one hour of training on the effects of alcohol abuse and one hour of training on the effects of drug misuse. If a supervisor or manager believes that an employee may be under the influence of a drug or alcohol but the supervisor or manager has not previously received the necessary training, then that supervisor or manager shall seek the concurrence of a trained supervisor or manager prior to ordering the testing of an employee.

Under no circumstances may any supervisor, manager, or employee attempt to restrain, either through physical force or verbal order, an employee who chooses to leave the workplace rather than comply with an order to take a drug or alcohol test.

(2) An employee is prohibited from refusing to submit to drug or alcohol testing when so ordered by a supervisor or manager. An employee who refuses to take an alcohol or drug test will be considered to have received a positive test. An employee is prohibited from contaminating, tampering with or altering in any way a drug or alcohol test specimen.

(3) A supervisor or manager who orders a drug and/or alcohol test shall arrange for transportation and accompany the involved employee to the authorized testing site.

(4) The supervisor or manager of an employee ordered to submit to a drug or alcohol test shall, following administration of the test, transport the employee to his/her home, or arrange transportation, pending results of a drug test or when an alcohol test is positive. The supervisor or manager shall place the employee on administrative leave pending the results of the drug test. The supervisor or manager shall place an employee who tests positive in an alcohol or drug test on sick leave (or vacation or leave without pay, if the employee has no sick leave accrued) until the employee is able to return to work pursuant to SCC 3.58.055 or subsection (5) of this section.

(5) An employee who is tested and whose breath-alcohol concentration (BAC) is greater than .02 but less than .04 may not return to work following the test. After 24 hours have elapsed, he/she may return to work without further testing.

(6) Results of all drug and alcohol tests shall be handled in a confidential manner with results being reported only to the employee, the appropriate manager and supervisor, and the human resources director or his/her designee.

(7) All positive drug tests shall be reviewed by a physician who is qualified to act as a medical review officer (MRO) under 49 C.F.R. § 40.121 (as amended Aug. 9, 2001).

Section 4. Snohomish County Code Section 3.58.050, adopted by Ordinance No. 89-136 on November 22, 1989, is amended to read:

3.58.050 Discipline.

Employees may be disciplined, up to and including termination, for violation of any of the prohibitions listed ~~((above))~~ in this chapter. Additionally, ~~((Any of))~~ the following actions may be taken separately or in combination for violation of any prohibition listed in this ~~((document.))~~ chapter:

~~(1) ((Suspension without pay.~~

~~(2))~~ Confiscation of any suspected substance, device, paraphernalia, container or other items found in the workplace that are considered a part of the violation ~~((of prohibitions)).~~

~~(3) Termination from all county employment, or~~

~~(4))~~ (2) ((Require)) The employee may be required to ((successful)) successfully ((completion)) complete ((of)) a county-approved substance

abuse rehabilitation program prior to his or her return to work or as a condition of continued employment.

~~((5) — Other forms of discipline may be used.))~~

Section 5. A new Section 3.58.055 is added to Chapter 3.58 of the Snohomish County Code to read:

3.58.055 Return to work.

An employee who takes a test required by SCC 3.58.040 who receives a positive drug test result or receives an alcohol test result with a BAC of 0.04 or higher, shall be required to obtain a return-to-duty test (either alcohol, drug, or both) with a negative result in the case of a drug test or, in the case of an alcohol test, with a result of a BAC level of less than 0.02, prior to returning to work. This test shall be obtained at the employee's expense.

Prior to obtaining a return-to-duty test, an employee must meet with a substance abuse professional and agree to terms of a Reinstatement/Return-to-Work Agreement provided by the County. The agreement will set out the conditions for the employee's return to work in accordance with the substance abuse professional's recommendation regarding treatment and follow-up and the County's requirements regarding future conduct and drug and or alcohol testing, as appropriate.

Section 6. Snohomish County Code, Section 3.58.060, adopted by Ordinance No. 89-136 on November 22, 1989, is amended to read:

3.58. 060 Assistance for ~~((drug))~~ substance abuse problems.

(1) Employees with substance abuse problems are encouraged to seek assistance from their supervisor, department head, or the director of ~~((personnel))~~ human resources.

As part of its commitment to all employees in maintaining a safe and productive drug-free workplace, the county provides the services of an employee assistance program (EAP). This program is available to assist employees with substance-abuse or related problems.

Supervisors and managers are encouraged to obtain advice from an EAP service provider when dealing with an employee whose work performance behaviors indicate substance abuse. Supervisors and managers shall refer

employees to the EAP as necessary. However, if an employee has a positive alcohol or drug test, his or her supervisor shall refer the employee to the EAP. An alcohol test result showing a BAC of .04 or greater is considered a positive test.

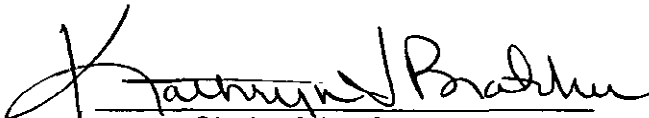
(2) If an employee for any reason terminates a substance abuse rehabilitation program recommended and approved by the EAP service provider, without approval of a substance-abuse professional, the employee shall not be allowed to return to work until such time as he/she is actively participating in an approved program and has been cleared to return to work by a substance-abuse professional. The employee is also required to sign a "Reinstatement/Return to Work" agreement.

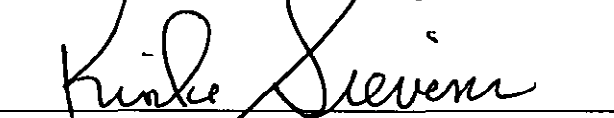
Section 7. Snohomish County Code Section 3.58.070, adopted by Ordinance No. 89-136 on November 22, 1989, is repealed.

PASSED this 25th day of October, 2006

ATTEST:

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Clerk of the Council

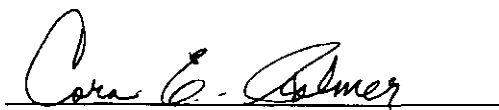

Chairperson

D-26

APPROVED
 EMERGENCY
 VETOED

DATE: 10/30/06

ATTEST:





County Executive
MARK SOINE
Deputy Executive

Approved as to form only:

Ordinance 06-
RELATING TO DRUG AND ALCOHOL TESTING;
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Deputy Prosecuting Attorney

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