

Drug testing law

[Health & Medicine](#), [Drugs](#)



Laws for the test of employees or job applicants for drug or alcohol abuse have evoked the consciousness of many since its inception in 1986 when President Ronald Reagan signed an Executive Order 12564, that prohibited all federal employees to refrain themselves from using illegal drugs, as a condition of federal employment. And then two years later, Congress passed the Drug-Free Workplace Act of 1988 which created federal Mandatory Guidelines for Federal Workplace Drug Testing which was applied to executive agencies of the federal government, the uniformed services, and contractors or service providers under contract with the federal government.

Although this Act was only applied to Federal governments yet states and Local Governments followed the suit. There is no doubt of the fact that Drug and Alcohol abuse by employees creates loss of billions of dollars each year and gives a great set back to the economy as a whole yet from the employees point of view it is a sheer violation of their personal rights, and its misuse is a cause of humiliation to several prospective employees. It is moral duty of the employers to check the menace of drug edicts in the work place but this moral policing disrupts Kant's theology of Categorical imperative.

Internationally, the of drug testing in work place is covered in a Universal Declaration of Human Rights, Article 12 whereby it is declared that " No one should be subjected to arbitrary interference with his privacy".

The 1996 ILO Code of Practice on Management of alcohol and drug-related issues declares that the testing should be undertaken in accordance to national laws and practice. The Guiding Principles of this testing, which is mentioned in the Annex V of the Code of Practice, clearly emphasis on workers rights, employers rights, public rights and individual rights.

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In fact even in 2003, the International Labor Organization reported that , “ Drug testing in the workplace is an issue beset with technical, legal and ethical controversies.”(Legal Testing In Work Place, Last Change On Tuesday, 31st October 2006.)

Even the European Convention on Human Rights, adopted in 1950 to guarantees the right to privacy, except “ in the interest of national security, public safety or the economic well-being of the country, for the prevention of disorder and crime, for the protection of health and morals, or for the protection of the rights and freedoms of others” .

In the European Union, In the European Directive 89/391/EEC on the introduction of encouraging in improvements in the safety and health of workers at work, applies according to Article 6 that the employer have a duty ensuring the safety and health of workers in every aspect related to the work, with Art. 6(5) exonerating the workers from liability for financial cost. Even in Article 11 states that " Employers shall consult workers and/or their representatives and allow them to take part in discussions on all questions relating to safety and health at work".

In different countries there are different patterns for drug testing in the work place. Only Finland (2003), Ireland (2005) and Norway (2005) reports clearly and specifically addresses the issue of drug testing in the workplace. Nevertheless, for different countries, there are different patterns/differences are visible.

Kant believes that human beings plays a very important role in creation. Just merely passing the law does not the justify the action. The ordering of the

use of drug in workplace is a system that cannot persuade moral action or regarded as bases for moral judgments, In his 'Groundwork of the Metaphysics of Morals' (1785) Kant gave us three versions of the Categorical Imperatives of all the moral commands are based:

1. 'Act as if the maxim of your action was to become through your will a universal law of nature.'

In Christianity this simply means that 'You treat others if you want others to treat you.' (Matthew 7: 12). But the question arises how it is connected to Compulsory drug testing in work place? The reason is simple, the compulsory drug testing is itself a derogatory and you are treating others in humiliating manner.

"'Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but at the same time as an end.'

In this context it implies that drug testing is unfair, as the innocents who has never touched drugs all through the life have to face the testing which implies the test of urine. Humans are the most important factor in deciding what is moral or ethical and their suffering is never justified as a means to any end.

3. 'So act as if you were through your maxims a law-making member of a kingdom of ends'

Before making or implementing any law, the rights of others should always be kept in mind. No one should involve himself or herself in Prisoner's Dilemma i. e. nobody should just follow the selfish interests and others

should also not become a puppet and gets stuck in the web of incredulous life. The American Civil Liberties Union opposes indiscriminate urine testing (American Civil Liberties Union Briefing Paper Number 5 +-----+ DRU)

The Kant theory says that human nature was fundamentally good and can understand and inherent in their character, the moral choices. It is immoral to take drug in Work places because it can be harmful to the company, but intruding into the privacy of the individual even if he or she is innocent which according to the company is an act of morality but amount to unethical behavior

As the man was born in this world, he is carrying along generation to generation among others the characteristic or trait of what he called as Selfishness or selfish motive. And this trait is explicitly integrated in the theory Psychological egoism, which propounds that every person is in a possession of but one ultimate aim: her own welfare. All the activities that he does indirectly or directly are encircled around his or her own interest. If you are doing something for your own sake that intricately involves your activity is benefiting yours and others and also must have desire to do the thing for your own sake.

Desire is the most prerequisite thing for psychological egoism. If it is a desire to do certain things then the satisfaction of these desires is a part of your welfare. If I am helping others and here also your desire comes and is a part of welfare. In this case of drug testing, here the employers implies the drug testing for the welfare of others but it is his self interest or urge of profitability and maintaining morality in the work place that plays in the mind

of the employers while imposing drug testing on employees. This is a law in itself but became a desire - a desire of employers.

A bigger problem for psychological egoism is that some behavior does not seem to be explained by self-regarding desires. Say a soldier throws himself on a grenade to prevent others from being killed. It does not seem that the soldier is pursuing his perceived self-interest. It is plausible that, if asked, the soldier would have said that he threw himself on the grenade because he wanted to save the lives of others or because it was his duty. While this law is encircled with lot of criticism, the psychological egoist implies that what employer is doing is right.

Though he is pursuing his own self-interest then also it is advocated that what he is doing is good for the Society as a whole. But he might be taking away the right of job to the deserving or qualified candidate, it is also possible that though he must have taken drugs in the past but has recently put an end to it. In this situation, you are depriving his or her fundamental right to live.

This psychological egoist indicates that companies should adopt the method or procedures by propagating the welfare and profit that is attached to this law, and then implemented with the self-interest of the company, explaining all the positive effects to the people.

In-fact, the law states that you don't have to submit to drug testing if you don't want to. That's your right. But, the consequences might be the same if you failed to comply with the drug testing, because then you will be considered guilty until you are proven innocent under the current program. Again, under

municipal or state drug testing laws, an employer might have good cause to fire you, while potential employers might refuse to hire you.

This drug testing may reduce drug-related problems, but it may not reduce the harm that the drugs caused in society. Indeed, this process increases the harm to those not deterred, by causing collateral harmful impacts on family members and others.

Its desired impact on the Society is the decrease in employment opportunities for drug users, additionally it also creates economic problems for drug users and their families, and in turn the trauma that is caused due to unemployment again increases the chances of drug users towards more use of drugs to relieve from trauma and stress. For example, in 1990, 1.1% of employed adults use cocaine, whereas the rate for unemployed adults was 2.7%, National Institute on Drug Abuse, 1991. Thus the removal of drug use from the workplace may not reduce the number of problem users but may actually increase it.

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