



## Legislation Text

File #: 11-062, Version: 1

### **AN ACT REQUIRING DRUG TESTS FOR CHEROKEE NATION EMPLOYEES TO BE BASED ON WARRANTED AND REASONABLE SUSPICION BE IT ENACTED BY THE CHEROKEE NATION:**

#### **Section 1. Title and Codification**

This Legislative Act shall be titled as the "The Non-Random Employee Drug Testing Act of 2011" and codified under Title \_\_\_\_\_ of the Cherokee Nation Code Annotated ("CNCA").

#### **Section 2. Purpose**

The purpose of this Act is to ensure that the drug testing performed by the Cherokee Nation for employees be conducted only after there exists conditions or reasonable suspicions based on the employees conduct that drug testing is warranted.

#### **Section 3. Legislative History**

#### **Section 4. Definitions**

"Cherokee Nation": means the government of the Cherokee Nation with its complex located in Tahlequah, Oklahoma and all departments and divisions thereof excluding any and all business entities.

"Reasonable Suspicion": means indications based on the conduct of the employee that would lend belief to a reasonable person that the employee may not have a substance abuse problem. Such conduct may include but not be limited to, absenteeism, excessive tardiness, inconsistent performance of duties and inappropriate emotional responses.

#### **Section 5. Substantive Provisions**

A. The Cherokee Nation may perform drug testing on its employees for the following substances:

1. Marijuana (THC Metabolic)
2. Opiates (Heroin, Morphine)
3. Cocaine
4. Phencyclidine
5. PCP
6. Amphetamines

B. Prior to any testing for substances listed in Section A of this Act taking place there must be a finding that a reasonable suspicion exists to warrant such testing, based on the employees actions or deeds.

C. The existence of such reasonable suspicion is to be determined by the employees' supervisor and the group leader of the department in which the employee is employed.

- D. Random drug tests of Cherokee Nation employees ~~not mentioned~~ in ~~Section D~~ are prohibited, unless otherwise provided for in Section E of this Act.
- E. The provisions of this Act shall not apply to employees involved in law enforcement, medical professionals who are directly involved in administering direct patient care or the distribution of pharmaceuticals, those who are responsible for the care or custody of minor children or those who operate heavy machinery.
- F. The Cherokee Nation shall not require testing for prohibited substances on prospective employees as part of an application for employment unless said positions are those listed in Section E of this Act.
- G. The Human Resource group of the Cherokee Nation shall develop policies and procedures to carry out the provisions of this Act.

**Section 6. Provisions as Cumulative**

The provisions of this act shall be cumulative to existing law.

**Section 7. Severability**

The provisions of this act are severable and if any part of provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

**Section 8. Effective Date**

This Act shall become effective sixty (60) days after its passage in accordance with the Cherokee Nation Constitution.