

 S.L.C.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To recognize hair as an alternative specimen for preemployment and random controlled substances testing of commercial motor vehicle drivers.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 1732

To authorize elements of the Department of Transportation, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MANCHIN

Viz:

1 On page 202, between lines 14 and 15, insert the fol-
2 lowing:

3 **SECTION 2608. USE OF HAIR TESTING FOR PREEMPLOY-**
4 **MENT AND RANDOM CONTROLLED SUB-**
5 **STANCES TESTS.**

6 (a) **SHORT TITLE.**—This section may be cited as the
7 “Drug Free Commercial Driver Act of 2015”.

8 (b) **AUTHORIZATION OF HAIR TESTING AS AN AC-**
9 **CEPTABLE PROCEDURE FOR PREEMPLOYMENT AND RAN-**
10 **DOM CONTROLLED SUBSTANCE TESTS.**—Section 31306 is
11 amended—

1 (1) in subsection (b)(1)—

2 (A) by redesignating subparagraph (B) as
3 subparagraph (C); and

4 (B) in subparagraph (A), by striking “The
5 regulations shall permit such motor carriers to
6 conduct preemployment testing of such employ-
7 ees for the use of alcohol.” and inserting the
8 following:

9 “(B) The regulations prescribed under subparagraph
10 (A) shall permit motor carriers—

11 “(i) to conduct preemployment testing of com-
12 mercial motor vehicle operators for the use of alco-
13 hol; and

14 “(ii) to use hair testing as an acceptable alter-
15 native to urinalysis—

16 “(I) in conducting preemployment screen-
17 ing for the use of a controlled substance; and

18 “(II) in conducting random screening for
19 the use of a controlled substance by individuals
20 who were subject to preemployment screening.”;

21 and

22 (2) in subsection (c)(2)—

23 (A) in subparagraph (B), by striking
24 “and” at the end;

1 (B) in subparagraph (C), by inserting
2 “and” after the semicolon; and

3 (C) by adding at the end the following:

4 “(D) laboratory protocols and cut-off levels
5 for hair testing to detect the use of a controlled
6 substance;”.

7 (c) EXEMPTION FROM MANDATORY URINALYSIS.—

8 (1) IN GENERAL.—Any motor carrier that dem-
9 onstrates, to the satisfaction of the Administrator of
10 the Federal Motor Carrier Safety Administration,
11 that it can carry out an applicable hair testing pro-
12 gram, consistent with generally accepted industry
13 standards, to detect the use of a controlled sub-
14 stance by commercial motor vehicle operators, may
15 apply to the Administrator for an exemption from
16 the mandatory urinalysis testing requirements set
17 forth in subpart C of part 382 of title 49, Code of
18 Federal Regulations until a final rule is issued im-
19 plementing the amendments made by subsection (b).

20 (2) EVALUATION OF APPLICATIONS.—

21 (A) IN GENERAL.—In evaluating applica-
22 tions for an exemption under paragraph (1),
23 the Administrator shall determine if the appli-
24 cant’s testing program employs procedures and

1 protections similar to fleets that have carried
2 out hair testing programs for at least 1 year.

3 (B) REQUIREMENTS.—A testing program
4 may not receive an exemption under paragraph
5 (1) unless the applicable testing laboratories—

6 (i) have obtained laboratory accredita-
7 tion specific to hair testing from an accred-
8 iting body, compliant with international or
9 other Federal standards, as appropriate,
10 such as the College of American Patholo-
11 gists; and

12 (ii) utilize hair testing assays that
13 have been cleared by the Food and Drug
14 Administration under section 510(k) of the
15 Federal Food, Drug and Cosmetic Act (21
16 U.S.C. 360(k)).

17 (3) REPORTING REQUIREMENT.—Any motor
18 carrier that is granted an exemption under para-
19 graph (1) shall submit records to the national clear-
20 inghouse established under section 31306a of title
21 49, United States Code, relating to all positive test
22 results and test refusals from the hair testing pro-
23 gram described in that paragraph.

24 (d) GUIDELINES FOR HAIR TESTING.—Not later
25 than 1 year after the date of the enactment of this Act,

1 the Secretary of Health and Human Services shall issue
2 scientific and technical guidelines for hair testing as a
3 method of detecting the use of a controlled substance for
4 purposes of section 31306 of title 49, United States Code,
5 as amended by subsection (b). When issuing the scientific
6 and technical guidelines, the Secretary of Health and
7 Human Services may consider differentiating between ex-
8 posure to, and usage of, various controlled substances.

9 (e) ANNUAL REPORT TO CONGRESS.—The Secretary
10 shall submit an annual report to Congress that—

11 (1) summarizes the results of preemployment
12 and random drug testing using both hair testing and
13 urinalysis;

14 (2) evaluates the efficacy of each method; and

15 (3) determines which method provides the most
16 accurate means of detecting the use of controlled
17 substances over time.