



CurrentOn
STATE DRUG TESTING LAWS



25th
Year

ANNIVERSARY

25 Years of Being Current

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ORAL FLUID TESTING AND A NEW DIRECTION FOR DRUG TESTING POLICIES

By Yvette Farnsworth Baker, Esq., Senior Legal Consultant and Jessica Polk, Senior Director of Marketing Services of Current Consulting Group, LLC

The Department of Transportation (DOT) recently announced its guidelines for oral fluid drug testing and has set the workplace drug testing industry in a new direction. While these changes will primarily impact drug testing guidelines for DOT-mandated professions involving trucks, planes, and trains, etc., many state lawmakers, who look to the DOT guidelines for a road map, will be influenced by this decision over the coming years. Though oral fluid drug testing is legal in all but a few states, having the stamp of approval from the DOT will greatly impact employers' drug testing policy decisions in the coming months and years.

For many companies the guidelines that would allow for oral fluid drug testing are currently determined by their state's drug testing laws. This means that if your company is not mandated by DOT regulations or you hire non-DOT employees, you would most likely be able to use oral fluid drug testing as a viable option for your employees, if you choose to do so. No matter what, implementing drug testing in your workplace should always take into consideration what state laws say.

"No matter what, implementing drug testing in your workplace should always take into consideration what state laws say. "

Restrictions on lab-based oral fluid testing:

There are very few state law restrictions on lab-based oral fluid testing, especially now that the federal guidelines include oral fluid. One state with some restrictions on oral fluid testing is Vermont. Vermont's mandatory drug testing law refers to workplace drug testing as "urinalysis procedure," and frequently mentions "urine samples" without mentioning any other sample types. While it does not explicitly prohibit other sample types, it may be problematic to read other sample types into the law with that language. Additionally, Vermont requires that a non-employee be the one to conduct sample collections from employees, though an employee is permitted to conduct collections of applicants. This does not prohibit oral fluid collections but would require employers to take the additional step of hiring outside collectors.

Hawaii is another state with an unclear state law regarding oral fluid testing. Hawaii's mandatory drug testing law defines "specimen" as urine, blood, "or any other bodily substance that the department [of health] determines to be appropriate for substance abuse testing."

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CURRENT CONSULTING GROUP

EST. IN 1998

CELEBRATES 25 YEARS OF BEING CURRENT



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TOP NEWS

- President Bill Clinton becomes 2nd U.S. president to be impeached
- Google is founded in Menlo Park, CA
- Hugo Chavez is elected president of Venezuela
- North Korea adopts military dictatorship as form of govt
- Lunar Prospector spacecraft is launched into orbit around the Moon
- St. Louis Cardinal Mark McGwire breaks home run record held by Roger Maris

CATCHPHRASE

"Is that your final answer?"
Who Wants to be a Millionaire

ENTERTAINMENT

France beats Brazil 3-0 in FIFA World Cup

Winter Olympics held in Nagano, Japan

Yankees win World Series
Broncos win Super Bowl

Best Song: Iris by Goo Goo Dolls

Harry Potter released

Top Movie: Titanic

Top Shows: ER, Friends, Frasier

COST OF LIVING

Milk: \$2.70

Gas: \$1.06

Median Income: \$38K

New Home: \$152K

DRUG TESTING NEWS

1998

The impact of drug abuse continues to affect the workplace

- Medical marijuana is legal in AK, OR, and WA following CA in 1996
- Federal Drug-Free Workplace Act requiring Federal agency contractors and grantees to certify that they will provide a drug-free workplace as a pre-condition of receiving a contract or grant from a Federal agency celebrates its 10th anniversary

SEPT 1998



- Bill Current establishes Current Consulting Group in Coral Springs, FL
- Creates a database of state drug testing laws
- Writes the book In Favor of a Drug Free Workplace: Why Drug Testing?

www.currentconsultinggroup.com



SHOULD YOU CONDUCT PRE-EMPLOYMENT TESTING FOR MARIJUANA?

By Current Consulting Group Staff

The legalization of marijuana has spooked many employers into giving up on testing for cannabis. They either erroneously think it's not legal to test for marijuana in their state or that it's not worth the trouble. Besides, too many employers are having trouble finding people to hire and pre-employment testing for marijuana just makes it that much harder, right? The inevitable result of this course of thinking is that companies are hiring a lot more drug users and the consequences can be tragic.

The National Transportation Safety Board (NTSB) recently issued a report of its findings regarding a hot air balloon crash that occurred in June of 2021, in Albuquerque, New Mexico. The balloon crashed into a power line, causing the basket to detach from the envelope and plummet to the ground. Five people, including the pilot, were killed.



“Yet, all the training in the world can’t mitigate the risks of workers being high on marijuana while on the job.”

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The mayor of Albuquerque said the following at the time: “If you have ballooned, there are always things that can happen, whether it's winds, whether it's equipment. It's something that our pilots always train for, but it's always something that can inherently sometimes occur.”ⁱ

Yet, all the training in the world can't mitigate the risks of workers being high on marijuana while on the job. Two years after the accident, NTSB said that the deadly hot-air balloon crash was, in part, caused by the pilot's use of cocaine and cannabis.ⁱⁱ The official report stated: “Contributing to the accident was the pilot's use of impairing, illicit drugs” ... “Some impairing effects of THC would likely have been present, that would have affected the pilot's ability to successfully operate the balloon.”

ⁱ <https://www.foxnews.com/us/hot-air-balloon-crash-fatalities>

ⁱⁱ <https://www.foxnews.com/us/pilots-drug-use-contributed-to-deadly-new-mexico-hot-air-balloon-crash-ntsb>

UPCOMING EVENTS WITH CCG

Calling all Employers. Let your voice be heard!

Participate in the **2023 Annual Employer Drug Testing Survey** before **September 30th**.

All participants will be eligible to receive 25% off Current Compliance: State Drug Testing Law Database subscription for both new and renewing subscribers.
Offer expires when the survey closes.



PARTICIPATE

REGISTER TO ATTEND A WEBINAR

5 THINGS EVERY EMPLOYER SHOULD KNOW ABOUT IMPAIRMENT AND HOW TO DEAL WITH IT

THURSDAY
September 21, 2023

1 P.M. EDT

YOUR SPEAKERS

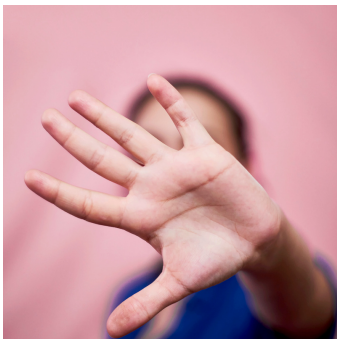


Bill Current
President of the Current Consulting Group



Dr. Suhash Harwani
Director of Science, Quest Diagnostics Employer Solutions

REGISTER



Webinar:

SAPAA Hosts: Why You Shouldn't Wait for DOT Oral Fluid Before Utilizing Oral Fluid for Non-DOT Testing

Wednesday, September 20th
2:00 P.M. EDT

Featuring: Bill Current and Brian Feeley



Webinar:

OraSure Hosts: Marijuana Today: What you need to know

Tuesday, September 26th
2:00 P.M. EDT

Featuring: Amy Wimer and Bill Current



Webinar:

Gaize Hosts: Enhancing Workplace Safety: Innovative Approaches to Identifying and Addressing Impairment

Wednesday, September 27th
3:00 P.M. EDT

Featuring: Bill Current and an expert panel including Ken Fichtler, Linda Honey and Tae Phillips



Webinar:

eMed Hosts: Oral Fluids and the Future of Drug Testing

Thursday, September 28th
2:00 P.M. EDT

Featuring: Dr. Oren Mechanic and Brian Feeley

REGISTER FOR THESE EVENTS HERE

ORAL FLUID TESTING: THE ULTIMATE EMERGING TECHNOLOGY

By Bill Current, President and Founder of Current Consulting Group, LLC

The Grateful Dead, in the song “Truckin’,” sang: “Lately it occurs to me what a long, strange trip it’s been.” I guess that stanza could be used to describe the journey oral fluid drug testing has traversed over the past 25 years. Or as Crosby, Stills, Nash and Young sang: “It’s been a long time comin’” for the drug testing industry’s ultimate emerging technology.

In 1999, Current Consulting Group (CCG) conducted the first drug testing industry survey, which included just four questions: In the future, who will buy drug testing and how will they buy it? And who will sell drug testing and how will they sell it? I repeated that line of questioning for about 10 years with predictable results—mostly lab-based urine testing collected at offsite occupational health centers. But over time, some brave souls began predicting the emergence of new technologies such as rapid-result urine devices, lab-based and rapid-result oral fluid tests, and even some far-out stuff like finger scans, pupillary exams, and other non-bodily fluid fitness-for-duty testing systems.

These responses led to several years of oral fluid testing-related questions in our survey as the federal government’s Drug Testing Advisory Board (DTAB) began signaling an openness toward oral fluid. In anticipation of a day when the Department of Transportation (DOT) would allow oral fluid testing, we started asking survey participants to predict what percentage of the drug testing market would transition to oral fluid testing. Most people predicted 10% or 15%. A few daring souls predicted as much as 25% of the



drug testing market would someday be oral fluid tests, which was met with a great deal of skepticism from audiences of drug testing providers when they heard those survey results.

And then there was this one person who offered a very detailed and reasoned explanation for his prediction. It included how employers would someday require faster drug test results from a sample collection that could be performed onsite without the expense of professional collectors. He predicted employers, in response to cultural trends, financial constraints and tight labor markets, would demand a different way to conduct drug testing. He then predicted that 80% of the drug testing market would someday be rapid-result oral fluid tests, that oral fluid testing would become the norm, and that few employers would continue to test using urine and offsite collection facilities.

[CONTINUE READING >](#)

LISTEN TO A PODCAST

WITH BILL CURRENT



**Exploring Oral Fluid Drug Testing
in the Workplace**



[LISTEN NOW](#)

YOUR SPEAKER

**BILL CURRENT
PRESIDENT OF
THE CURRENT
CONSULTING GROUP**

BEING CURRENT: 25 YEARS IN THE MAKING—LESSONS LEARNED ABOUT WHY DRUG TESTING IS SO VALUABLE

By Bill Current, President and Founder of Current Consulting Group, LLC

Lesson #11: Thank You Donna Smith

To my surprise, I recently learned that I had been nominated for the NDASA Hall of Fame. NDASA stands for National Drug and Alcohol Screening Association and its membership consists of companies that provide drug testing services and employers who rely on drug testing. My nomination was a humbling experience because, among other reasons, I was nominated along with some outstanding people whom I have admired throughout my career (see the box).

The 2023 NDASA Hall of Fame inductee was Dr. Donna Smith, which was announced during a special Hall of Fame Induction ceremony at NDASA's annual conference in Bellevue, Washington. While my career to date spans 34 years, Donna has been at it for more than 45 years. She started out by helping the Dept. of Army start its drug testing program in the late 1970s and '80s, then the Dept. of Defense, and ultimately the Dept. of Transportation (DOT), which many people in the world of drug testing consider to be her true claim to fame.

Donna was one of the chief architects of the DOT drug and alcohol testing regulations that for 35-plus years have helped to keep the transportation industry largely drug-free and the traveling public safe on the ground, in the air, and on the water. That's quite a legacy. Today, employers covered by the DOT regulations conduct more than 6 million drug tests a year.

But for me and many, many others, Donna Smith's greatest contribution to the drug testing industry has been her endless generosity of time and expertise answering countless questions no matter how complicated or simple. And that's where my path originally crossed with Donna's. In 1989, I started a job at the U.S. Chamber of Commerce as the staff director of a newly established coalition called the Institute for a Drug-Free Workplace. I knew nothing about drug testing, but within a short period, I was on the road making presentations and writing articles about what employers could do to establish a drug-free workplace program.

2023 CONFERENCE / MAY 23-25 / BELLEVUE, WA

REACHING
NEW
HEIGHTS

NDASA
NATIONAL DRUG & ALCOHOL
SCREENING ASSOCIATION

2023 ANNUAL CONFERENCE & TRADE SHOW

2023 HALL OF FAME
AWARD RECIPIENT

 DR. DONNA SMITH

NOMINEES

Betye Bailey	Dr. David Kuntz	David Siegel	Helen White
Bill Current	Tom Pool	Elaine Taule	Colleen Wienhoff

[CONTINUE READING >](#)

Over 96,700 drug overdose deaths happened in the last year.

Are you ready to talk about drug testing?



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<https://www.webmd.com/mental-health/addiction/news/20211014/cdc-reports-record-high-12-month-drug-overdose-death-toll>



WE HAVE THE CONTENT!

- Drug Screening news to keep you updated.
- Trends in Drug Screening
- The Drug Screening Challenge
(test your knowledge of legal drug screening practices)

The Background Buzz: the e-magazine that has the content you need.



SIGN-UP FOR A FREE SUBSCRIPTION!



TOP 5 THINGS TO KNOW ABOUT DRUG TESTING IN UTAH

By Amanda Jones, Staff Writer & Editor for Current Consulting Group, LLC

What do the Sundance Film Festival, Zion National Park and Park City all have in common? Aside from being some of the most famous sources of income in the country, they all call Utah home. With a thriving population that is ever-growing and a job market that has to keep up with that demand, drug testing is more important than ever in a state like Utah.

Following are five things you need to know about what Utah is doing in drug testing to keep their citizens safe.

1. Drug Testing Law Type: Utah is a voluntary drug testing state and does not require most companies or industries to comply with the law. Companies that wish to qualify for limited legal protection, however, must comply with the law; other companies are not mandated to comply. Requirements are also different for nuclear waste organizations.¹

2. Random Testing: If an employer wishes to require random testing of their employees, the employer themselves must also submit to random testing. Additionally, testing is mandatory for organizations that operate storage or transfer facilities for nuclear waste.²

3. Workers'/Unemployment Compensation Denial: A drug or alcohol testing policy must be communicated to all employees, including a statement that a violation of the policy may result in discharge. In order to deny unemployment, all steps of the drug or alcohol testing process must be thoroughly documented.³



In order to deny workers' compensation claims, it must be reasonable to presume that the major contributing cause of the employee's injury was intoxication. This can only be a reasonable conclusion if, at the time of the injury, the employee had a blood or breath alcohol concentration of 0.08 grams or greater (prior to May 23, 2020). As of May 23, 2020, the cut-off level was adjusted to 0.05 grams or greater. Amended via HB 11.4

[CONTINUE READING >](#)

¹ https://le.utah.gov/xcode/Title34/Chapter38/34-38.html?v=C34-38_1800010118000101

² Utah Code Ann. 34-38-1; 34-38-3

³ <https://adminrules.utah.gov/public/rule/R994-405/Current%20Rules?>

⁴ https://le.utah.gov/xcode/Title34A/Chapter2/34A-2-S302.html?v=C34A-2-S302_2014040320140513

The Current Consulting Group provides extensive information about state drug testing laws that affect workplace drug and alcohol testing at CurrentCompliance.org.

Learn how to subscribe [here](#).

25TH ANNIVERSARY
PROMOTIONS CODE:

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25th
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