

TITLE 177 - NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
CHAPTER 6 - DRUG AND ALCOHOL TESTING IN THE WORKPLACE

INDEX

|   | <u>PAGE</u> |
|---|-------------|
| 001 Preliminary Screening with Breath Testing Devices   | 1           |
| 002 Breath Sample Confirmation Testing of a Positive Finding of Alcohol in a Preliminary Screening Procedure        | 2           |
| 003 Blood Sample Confirmation Testing of Positive Findings of of Alcohol in a Preliminary Screening Procedure       | 2           |
| 004 Drug Testing by Confirmation Testing Following a Positive Finding of Drugs in a Preliminary Screening Procedure | 2           |

TITLE 177 - NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHAPTER 6 - DRUG AND ALCOHOL TESTING IN THE WORKPLACE

001 PRELIMINARY SCREENING WITH BREATH TESTING DEVICES.

001.01 A person is not required to hold a permit to perform preliminary breath tests for alcohol content in the workplace.

002 BREATH SAMPLE CONFIRMATION TESTING OF A POSITIVE FINDING OF ALCOHOL IN A PRELIMINARY SCREENING PROCEDURE.

002.01 All evidentiary breath testing devices that have been evaluated and approved by the National Highway Traffic Safety Administration (NHTSA) and published on the Conforming Products Lists of Evidential Breath Measuring Devices are approved devices in the State of Nebraska for Drug and Alcohol Testing in the Workplace. The instrument is to be calibrated in conformance with the manufacturer's instructions. The operator is to conduct the test in accordance with the instructions provided by the manufacturer for the instrument. Although a checklist is not required, the test record card or tape produced by the instrument must be retained.

002.02 A positive result must be confirmed with a second breath sample or a blood sample. If the second sample is breath, the result must be within 20% of the original sample.

002.02A If the two breath tests do not agree within 20%, a blood test, as set forth in section 003, shall be performed. A blood test may be performed in lieu of the second breath test; if so, it is considered the final result, regardless of whether it agrees with the original breath test.

002.03 Breath sample confirming tests shall be performed by a breath-testing-device operator. Breath Testing Device operators shall obtain a valid Class B permit for testing in the workplace as follows:

002.03A Application for a Class B Permit shall be made on a form prescribed by the Department as shown in Attachment 1, attached and incorporated by reference.

002.03B The Class B permit applicant shall attend a training session consisting of a minimum of six hours of instruction. The course shall include the method and technique of the testing device. It will include the basic operation of the device and its proper use for evidentiary testing. The applicant shall demonstrate the ability to properly operate the appropriate device.

002.03C To obtain a Class B permit, the applicant shall achieve at least 70% on an examination from the Department of Health and Human Services.

003 BLOOD SAMPLE CONFIRMATION TESTING OF POSITIVE FINDINGS OF ALCOHOL IN A PRELIMINARY SCREENING PROCEDURE.

003.01 Confirmatory alcohol testing on blood samples shall be performed in compliance with 177 NAC 1.

004 DRUG TESTING BY CONFIRMATION TESTING FOLLOWING A POSITIVE FINDING OF DRUGS IN A PRELIMINARY SCREENING PROCEDURE.

004.01 Confirmatory drug testing shall be performed in compliance with 177 NAC 7.

Approved by the Attorney General:  
Approved by the Governor:  
Filed with the Secretary of State:

December 3, 2009  
December 18, 2009  
December 18, 2009

**EFFECTIVE DATE:**

**December 23, 2009**

Effective Date  
12/23/2009

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

177 NAC 6



**ATTACHMENT 1**

Division of Public Health (DHHS), Licensure Unit  
P.O. Box 94986, Lincoln, Nebraska 68509-4986  
402-471-2117

### Application for Class B Permit – Workplace Testing

The undersigned applicant hereby makes application for a Class B permit to perform chemical tests to determine body fluid alcohol content as prescribed in 177 NAC 6 of the Nebraska **DHHS** and as set forth below.

1. I have attended a training session consisting of a minimum of six hours of instruction. The course included the method and technique of the testing device, the basic operation of the device and its proper use for evidentiary testing.

Yes  No, if no, please explain: \_\_\_\_\_

2. Identify the device(s) you plan to operate:

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Name and Address of Agency: \_\_\_\_\_

Agency Name: \_\_\_\_\_

Agency Address: PO/Street \_\_\_\_\_

City, State Zip \_\_\_\_\_

Agency Phone #: \_\_\_\_\_

\_\_\_\_\_  
Type/Print Name of Applicant – First/Middle/Last

\_\_\_\_\_  
Signed Name of Applicant

Date: \_\_\_\_\_