

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM  
2020 REGULAR SESSION  
**Unofficial Document**

Amend printed copy of **SB 173/SCS 1**

On page 1, line 5, after "section" insert "only"; and

On page 1, line 10, after "(2)" insert "*The purpose of this section is to foster economic opportunities for individuals with histories of substance use disorder and to encourage employer participation in substance use disorder treatment programs.*"; and

On page 1, line 10, insert "(3)" before "*The Cabinet for Health and Family Services*"; and

On page 1, line 27, replace "(3)" with "(4)"; and

On page 2, line 18, replace "(4)" with "(5)"; and

On page 2, line 26, replace "(5)" with "(6)"; and

On page 2, line 27, delete "a written drug policy" and insert after "employs" insert "*a written drug policy, procedure, or protocol including, without limit, a test or series of tests to objectively measure substances that can create substance use disorders, that is in compliance with state and federal law*"; and

On page 3, line 17, delete ":" and replace with "⋮"; and

On page 3, beginning on line 18, insert:

**3. Or as ordered by the court.**

On page 3, line 18, replace "(6)" with "(7)"; and

On page 3, line 25, replace "(7)" with "(8)"; and

On page 4, line 1, after "disorder" insert "*unless it can be shown that the employer*

Amendment No. \_\_\_\_\_

Rep. Sen. Matt Castlen

Committee Amendment \_\_\_\_\_

Signed: \_\_\_\_\_

Floor Amendment \_\_\_\_\_

LRC Drafter: \_\_\_\_\_

Adopted: \_\_\_\_\_

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

Rejected: \_\_\_\_\_

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violated subsection (5) of this section, or knew or should have known, that the employee had a recurrence of his or her substance use disorder and was acting under the influence of the substance at the time of the alleged negligent act"

On page 4, delete lines 2 through 4 in their entirety and replace with:

"(b) The employer's participation or nonparticipation in a drug education and substance use disorder treatment program shall not be admissible as evidence in an action against the employer, the employer's agent, or the employer's employee except that it may be admitted as evidence of the participating employer's liability limitation, mitigation of damages, or as evidence of a participating employer's noncompliance with subsection (5) of this section; and"

On page 4, beginning on line 9, insert:

"(9) This section shall not form the basis of any individual private right of action and subsection 8(a) of this section shall operate as an affirmative defense for which an employer bears the burden of proving compliance. However, nothing in this section shall bar a plaintiff from commencing a cause of action for any common law claim for any injury to person or property or for wrongful death in any civil action alleging negligent hiring, negligent retention, or negligent supervision, against an employer."