



# HR CORNER

FEES & BURGESS, P. C.



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## To Test or Not to Test

**Fees & Burgess, P.C.,  
Emphasizes:**

Statistics cited by the Alabama Department of Industrial Relations indicate that nearly one in four employed Americans between the ages of 18 and 35 have used illegal drugs in the past year. Many businesses suffer a real impact to their bottom line as a result of the cost of substance abuse. These costs include workers' compensation claims (users file twice as many workers' compensation claims), absenteeism, lost productivity, and high employee turnover.

**General Civil Litigation**

**Commercial Law &  
Litigation**

**Municipal Law &  
Litigation**

**Police Civil Liability  
Defense**

**Employment Law &  
Litigation**

**Construction Litigation**

**Corporate Law &  
Government Contracting**

**Insurance Defense**

**Railroad Law**

Only 5 to 10% of small and medium-sized businesses have implemented drug and alcohol-free workplace programs, but 75% of employed Americans work for these small and medium-sized businesses. The general perception is that implementing such a program may be administratively burdensome and costly to a smaller employer. However, when considering cost versus potential savings, there may be a compelling case to consider such a program.

The Alabama Department of Industrial Relations publishes information regarding the implementation of a Drug-Free Workplace program which includes pre-employment drug testing of employees, as well as drug and alcohol testing of employees who are involved in a workplace accident. Complete information regarding requirements and all the required sample policies and forms can be found at <http://dir.alabama.gov/wc/drugfree.aspx>. Employers who participate in the program are required to provide a couple of hours of training per year, and comply with applicable employee drug and alcohol testing procedures. Compliance with these procedures relating to collection and processing of a urine sample for testing can be as easy as engaging a local physician's office or hospital to provide such a service. The going rate for a test which is sufficiently regimented, controlled, and reviewed to withstand legal scrutiny is approximately \$45 per employee.

In addition to reducing the avoidable costs referenced above, and minimizing other risks associated with having employees in the workplace under the influence of drugs, such as theft, or safety concerns, those employers complying with the Drug-Free Workplace guidelines receive a 5% discount on workers' compensation insurance. Also, employees injured in a workplace accident who refuse to submit to or cooperate with a compliant drug and alcohol testing policy after an accident, forfeit any right to recover workers' compensation payments.

An additional item to consider in deciding whether or not such a program and related policies would be beneficial to your business is the fact that illegal drug users tend to seek out positions with employers who do not test. Implementing such policies could improve the quality of your applicants on that basis alone.

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## E-Verify Update

In 2008, U.S. Citizenship and Immigration Services (USCIS) proposed regulations requiring all government contractors to use E-Verify to verify work authorization for their employees. After challenges by various industry groups in federal court, implementation of these rules has been delayed several times. Most recently, the Department of Justice asked the court to push-back implementation of these rules until September 8, 2009. Contractors should continue to monitor developments with E-Verify as these rules and regulations remain in flux.

In addition to the regulations requiring use of E-Verify, USCIS has proposed additional E-Verify regulations which would change the way the agency monitors employer use of the E-Verify system. The new rule, published on May 22, 2009, would allow USCIS to track employer transactions with E-Verify and to contact employers with problems. Opponents of the rule argue that it may violate individual employee privacy rights and allow greater scrutiny of employment records by the agency. The agency is accepting comments about the proposed rule until June 22, 2009.

The proposed rule is available at <http://edocket.access.gpo.gov/2009/pdf/E9-11966.pdf>.

## Fees & Burgess, P.C.—Calendar of Events

Fees & Burgess, P.C., is proud to present, or participate in the presentation of, the following upcoming seminars:

June 25-27, 2009 -- Sandestin, Florida

[102nd ALVMA Annual Convention](#)

Fees & Burgess, P.C. will be sponsoring an information booth at the 2009 convention of the Alabama Veterinary Medical Association (ALVMA) in Sandestin, Florida, June 25 through June 27. Please stop by to see us in booth 25, in the Exhibit Hall. Information will be available regarding the recent Red Flag rule passed by the Federal Trade Commission effective August 1, 2009.

Take our "True" or "False" test regarding your knowledge of laws applicable to veterinary practice in Alabama. See you there!



## Fees & Burgess, P.C.—Calendar of Events

July 8, 2009 — [Red Flag Update for Veterinary Practices Webinar](#)

The webinar will cover the following topics:

- Covered veterinary practices the “big picture” regarding the legislation and what it is attempting to accomplish
- Explanation and discussion of key definitions, including “covered accounts”
- Definition and identification of “red flags” indicating potential identity theft concerns
- Program implementation, oversight, administration, and training requirements

Real time questions and answers. Veterinarians and staff responsible for legal compliance, practice management and/or client account management and billing should attend.

September 9, 2009 — Birmingham, Alabama

[Wage & Hour Master Class](#), presented for, and sponsored by M. Lee Smith Publishing, Inc. Our clients receive a 20% discount on the class registration fee, contact Sylvia Taylor [staylor@feesburgess.com](mailto:staylor@feesburgess.com) for more information.

September 24-25, 2009 — Chicago, Illinois

[IPC EMS Program Manager Training and Certification II](#)

Presenting Contract Management and Business Arrangements: Risk Allocation in Critical Areas of the Contract, as part of EMS Training II:Part C.

October 21-22, 2009 — Scottsdale, Arizona

[IPC Electronics Industry Executive Summit](#), the presentation will address contracts from and EMS-supplier standpoint. A few key topics included are; contracts with Distribution and with direct purchases including fabricated items (metal, plastics, pcbs), as well as off-shore (Asian) procurement contracts.

For more information on these and other seminars, please go to [www.feesburgess.com](http://www.feesburgess.com)



**SPEAKERS**

Fees & Burgess, P.C., provides speakers, training programs, seminars, and webcasts for various trade associations; business groups; and clients. For information regarding a program, contact Sylvia Taylor at [staylor@feesburgess.com](mailto:staylor@feesburgess.com).

**NEWSLETTERS**

Fees & Burgess, P.C., also publishes *F&B Quarterly Bytes*, focusing on multiple practice areas; and *F&B SCM Memo*, focusing on the supply chain management industry. To receive any of these e-newsletters, please e-mail Sylvia Taylor at [staylor@feesburgess.com](mailto:staylor@feesburgess.com) with your contact information.

To remove your name from our mailing list, please e-mail [staylor@feesburgess.com](mailto:staylor@feesburgess.com).

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“No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers.”