

# WorkSafe *ink*

The official newsletter of WorkSafe, Inc. Providing workplace drug and alcohol testing. JUNE/JULY 2005

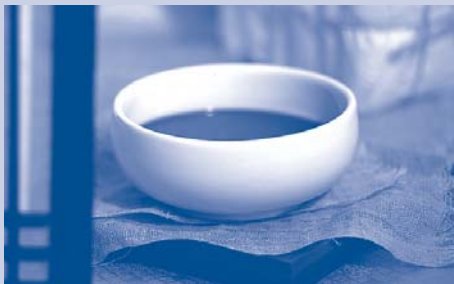


## Cracking down on industry cheaters

Matthew T. Fagnani, C-SAPA, C-SI, President

They come with exaggerated claims. "200% double your money-back guarantee!" "Pass any drug test or hair follicle test GUARANTEED." "We are positive you will test negative!!"

Most sell diuretics with names like Eliminator Carbo Shake, Naturally Clean Herbal Tea and Randomizer.



Some sell external devices like the \$49.95 Whizzinator, "designed to be comfortably worn as an undergarment for extended periods of time." That's the device that grabbed national attention recently when an NFL player was detained at an airport after authorities found the prosthetic in his luggage, along with a packet of dehydrated urine.

All try to convince folks that their product will allow a drug user to pass a drug test and at least one sells its products through retail outlets in Soldotna and Wasilla.

Now they face a skeptical Congress. The House Subcommittee on Oversight and Investigations subpoenaed the records of the nation's five largest anti-drug testing companies, requiring them to turn over

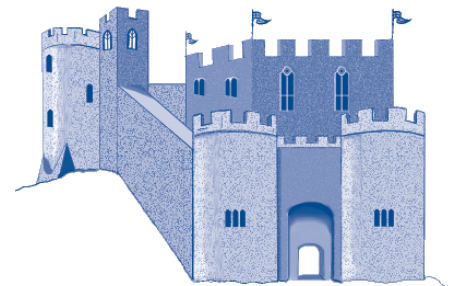
any medical proof of the effectiveness of the products they sell and any complaints or lawsuits associated with their products.

As Kenneth Edgell, the former director of the Office of Drug and Alcohol Policy and Compliance, noted: "tampering with drug tests is a bad thing and a serious safety concern. When people do so, it is probably because they want to continue using drugs while also continuing to perform safety-sensitive duties. Continuing to do both these things is precisely what the DOT drug-testing program, in the interest of safety, is designed to prevent."

Third-party administrators like WorkSafe carefully train their staff to deter specimen tampering through rigidly controlled collection protocols. Our laboratory uses sophisticated countermeasures to detect specimen tampering and often uncovers community-wide patterns. But we, like our counterparts around the country, are concerned by the lengths some drug users go to try to beat a drug test. They are resourceful, creative and have little fear that their misconduct will truly have a consequence.

The Chair of the House Subcommittee on Oversight and Investigations plans to propose federal regulation by year's end. WorkSafe and our trade organization, the Substance Abuse Program Administrators Association, will closely monitor the situation because it's in everyone's best interest to beat the drug testing cheats.

## Your business and home are your castles. Are they protecting you like one?



By: Shad Engkilterra, Health and Safety Manager of the American Red Cross of Alaska

Castles in the middle ages were built to provide the best protection from attack. Your modern-day castle can provide the same protection.

Create a 30- to 100-foot safety zone by clearing the flammable vegetation from around your castle. In older times, this clearing ensured that attacking armies could not smoke the castle inhabitants out unless they brought in their own sources of flammable material. Today's safety zone makes it difficult for fire to get to your home or business. Move all flammable objects away from your castle, including snow machines, lawn mowers, boats and blue tarps.

Keep the roof and gutters clean. Enemies would catapult burning payloads over the castle walls in hopes of setting something on fire. A fire will send burning embers

Continues page 2





# Drug testing 101

Steve Mihalik, C-SAPA, C-SI, General Manager

Drug testing is a four-step process: collection, screening, confirmation and review. When called to administer a drug test, a trained "collector" gives instructions and receives the specimen. It is the collector's job to complete the chain-of-custody form, which ensures the integrity of the specimen being collected. This is critical because it ensures that the specimen was handled properly and in such a way that does not call its source or the test result into question.

If the drug test requires a urine sample, a temperature strip placed on the collection container guards against a substituted sample. A tamper-proof tape is put over the container, and the person being tested is asked to initial it and verify the chain-of-custody form.

The next step is to screen for drugs and drug metabolites. If the screening result is positive, the test will be confirmed by a second, more exacting test. Some specimens are screened at the collection

site and the initial results are known within minutes. Others are screened at the laboratory. All negative results - those showing no drugs or drug metabolites - are eliminated from further consideration.

Specimens that test positive for drugs and alcohol are examined further in the laboratory through a second technique called Gas Chromatography/Mass Spectrometry (GC/MS). GC/MS definitively identifies any drug or metabolite. GC/MS is a state-of-the-art testing methodology and is the only standard for confirming positive samples. A positive test does not automatically mean the person uses illegal drugs. In fact, other legal substances often trigger positive results. Some prescription medications, for example, can cause a positive reading for amphetamines or opiates. So when a test comes back positive, it is critical for a Medical Review Officer (MRO) to review the results and determine if illicit drugs are indeed the cause.

Your business and home are your castles...  
Continues from page 1

into the air where they can land on a roof or in a gutter and ignite anything flammable.

Wall up any unintended openings. While castle walls are thick and tall, you need only to use a fire retardant mesh screen to wall in the spaces beneath porches, decks, floor areas and the castle itself. Be sure to cover openings to the floors, roof and attic.

Have warning systems. The bells would ring and the portcullises would come crashing down as the drawbridge was raised, ensuring the safety of the castle occupants. Your warning system should include a smoke detector on each floor and outside the bedroom areas. When they go off, don't lock yourself in your castle - get out!

Your castle will never be impregnable, but with a little work and some good advice, you can make it less vulnerable to wildfire. For more fire safety tips, visit our web site - [www.alaska.redcross.org](http://www.alaska.redcross.org)

## LEGAL CORNER: Real cases from the workplace

### Employer loses suit for failing to keep drug-testing results confidential

**Ruling:** A New York District Court upheld a boilermaker's Americans with Disability Act (ADA) claim against the City of New York for failing to keep his drug test results confidential. The court denied the city's motion to dismiss the boilermaker's ADA and state law claims. The court did dismiss the employee's claim that his due process and equal protection rights were violated.

**Summary:** As a condition of his employment, a boilermaker for the New York City Department of Transportation was subject to random drug testing. After a

deadly crash, the results of the employee's drug test were disseminated to the media.

The media reported that the employee had twice tested positive for marijuana. The employee sued the city, alleging it violated the ADA, which requires that information obtained about an employee's medical condition be treated as a confidential record. The city argued random drug and alcohol tests do not qualify as medical examinations or inquiries under the ADA and, therefore, the results are not subject to the confidentiality requirements.

The court sided with the employee. While it acknowledged the ADA specifically excluded drug testing from its definition of "medical examination," the court found

that random drug and alcohol testing could be considered an inquiry into the worker's ability to perform his job duties, and as such, may be subject to confidentiality requirements under the ADA. However, the court dismissed the employee's claim that his due process and equal protection rights were violated. The court said that allegations of a single incident did not demonstrate a custom or policy as must be proved to win a claim against a municipality.

**Bottom Line:** Random drug and alcohol testing conducted pursuant to federal safety regulations may constitute inquiries into an employee's ability to perform his job duties, and may be subject to the confidentiality requirements of the ADA.

## Construction, mining, wholesale and retail top list of industries with problem drinkers in the workforce



The construction and mining fields have the highest percentage of problem drinkers, with nearly one in seven workers having a serious alcohol problem, according to a new study by the George Washington University. The study which ranked several industry-based problem drinking patterns was released 3/16/05 by Ensuring Solutions to Alcohol Problems at The George Washington University Medical Center. For the complete press release go to [www.worksafeinc.com](http://www.worksafeinc.com)

### Likely Number of Problem Drinkers by Industry (per 1,000 Employees)

Construction and Mining	135
Wholesale	115
Retail	114
Leisure and Hospitality	109
Business and Repair Services	106
Agriculture	106
Transportation and Utilities	96
Finance and Real Estate	92
Manufacturing	90
Government	69
Professional	54
U.S. Average	91

# Put your drug testing program to the test.



How does your provider stack up? Before you risk your employee's safety or the future of your company, take the following test.

- Is your drug-testing program staffed 24/7 to offer fast and reliable drug and alcohol testing?
- Does your service provider have the experience of performing more than 500,000 tests?
- Has your program generated 25,000 positive test results that were not contested by legal action?

If you answer no to one or more of these questions, it's time to call WorkSafe.



**WORKSAFE**  
OCCUPATIONAL HEALTH & SAFETY

Where workplace safety starts

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## Supreme Court decision on medical marijuana, Ashcroft v. Raich.

On Monday June 6, 2005 the Supreme Court ruled that the federal government can ban possession of medical marijuana in states that have eliminated sanctions for its use in treating symptoms of illness.

John Walters, Director of the National Drug Control Policy (ONDCP) for official press release go to [www.worksafeinc.com](http://www.worksafeinc.com)



# WorkSafe: Your industry expert

WorkSafe, Inc. offers a full spectrum of workplace drug and alcohol program services at its office on 36th and C Street in Anchorage and instant-results testing for your worksite. WorkSafe provides corporate training, drug and alcohol testing consultation services, pre-employment drug and alcohol screening, return-to-duty services and follow-up testing. It also has on-call personnel 24 hours a day if an employer's work shifts require testing availability around the clock. For more information regarding a drug-free workplace, contact WorkSafe at 907-563-8378.

## WorkSafe Products & Services

Drug & alcohol awareness training

Collector's desk reference guide®

Training videos

Program manager's reference guide®

Breath alcohol technician  
(BAT) training

Collection personnel training course®

Compliance toolbox CD

## WorkSafe Contacts

To contact WorkSafe during regular office hours, call 563-8378(EST).

To request an after hours drug or alcohol test, call 888-227-8642.

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Visit our newly redesigned WorkSafe website at [www.worksafeinc.com](http://www.worksafeinc.com)

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