351.185 Confidentiality of drug and alcohol test results -- Exceptions -- Use of results in criminal proceeding against applicant prohibited.

(1) Records of drug or alcohol test results, written or otherwise, received by the Office of Mine Safety and Licensing, its contractors, subcontractors, or other employees are confidential communications and exempt from disclosure under the Kentucky Open Records Act, except as follows:

(a) Where release of the information is authorized solely pursuant to a written consent form signed voluntarily by the person tested. The consent form shall contain the following:

1. The name of the person who is authorized to obtain the information;
2. The purpose of the disclosure;
3. The precise information to be disclosed;
4. The duration of the consent; and
5. The signature of the person authorizing the release of the information;

(b) Where release of the information is compelled by a hearing officer or court of competent jurisdiction pursuant to an appeal taken under KRS 351.182, 351.183, 351.184, 351.185, 351.102, 351.103, 351.1041, 351.106, 351.110, 351.120, 351.127, 351.1291, 351.170, 352.010, 352.180, 352.210, and 352.390;

(c) Where release of the information is relevant to a legal claim asserted by the applicant;

(d) Where the information is used by the entity conducting drug or alcohol testing when consulting with legal counsel in connection with matters brought under or related to KRS 351.182, 351.183, 351.184, 351.185, 351.102, 351.103, 351.1041, 351.106, 351.110, 351.120, 351.127, 351.1291, 351.170, 352.010, 352.180, 352.210, and 352.390, or in its defense of civil or administrative actions related to the testing or results; or

(e) Where release of the information is deemed appropriate by the Mine Safety Review Commission or a court of competent jurisdiction in disciplinary proceeding brought under the terms of KRS 351.182, 351.183, 351.184, 351.185, 351.102, 351.103, 351.1041, 351.106, 351.110, 351.120, 351.127, 351.1291, 351.170, 352.180, 352.210, and 352.390.

(2) Information on drug and alcohol test results for tests administered pursuant to KRS 351.182, 351.183, 351.184, 351.185, 351.102, 351.103, 351.1041, 351.106, 351.110, 351.120, 351.127, 351.1291, 351.170, 352.010, 352.180, 352.210, and 352.390 shall not be released or used in any criminal proceeding against the applicant.

Effective: July 12, 2006

History: Created 2006 Ky. Acts ch. 241, sec. 5, effective July 12, 2006.