
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2889 Session of
1986

INTRODUCED BY D. W. SNYDER, DISTLER AND LANGTRY, NOVEMBER 19,
1986

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, NOVEMBER 19, 1986

AN ACT

1 Providing for substance-abuse testing of employees; and
2 providing penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Employee
7 Substance-Abuse Testing Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Clinical laboratory." A place, establishment or institution
13 organized and operated primarily for the performance of
14 bacteriological, biochemical, microscopical, serological or
15 parasitological tests by the practical application of one or
16 more of the fundamental sciences to material originating from
17 the human body, by the use of specialized apparatus, equipment

1 and methods, for the purpose of obtaining scientific data which
2 may be used as an aid to ascertain the state of health.

3 "Department." The Department of Health of the Commonwealth.

4 "Employer." Includes the Commonwealth and political
5 subdivisions.

6 Section 3. Prohibition.

7 (a) General rule.--An employer may not, as a condition of
8 employment or continued employment or advancement, require a
9 prospective or current employee to submit to a substance-abuse
10 test unless the employer complies with section 4.

11 (b) Penalty.--A person who violates subsection (a) commits a
12 misdemeanor of the second degree and shall, upon conviction, be
13 sentenced to pay a fine of \$1,000 or to imprisonment for not
14 more than two years, or both.

15 Section 4. Testing.

16 (a) Clinical laboratories.--If an employer requires a
17 prospective or current employee to submit to a substance-abuse
18 test, the test shall be performed by a clinical laboratory
19 licensed and specifically approved for substance-abuse testing
20 by the department under the act of September 26, 1951 (P.L.1539,
21 No.389), known as The Clinical Laboratory Act.

22 (b) Information.--An employer shall inform prospective and
23 current employees of its substance-abuse testing policy. An
24 employer shall establish a written policy on action taken upon a
25 positive test result or a refusal of an employee to submit to a
26 substance-abuse test.

27 (c) Procedure.--The following procedures shall be followed:

28 (1) The same testing method shall apply to all employees
29 in the same class of employment.

30 (2) A positive screening test sample shall be confirmed

1 by an alternative testing method before the results are
2 released to the employer.

3 (3) Test results are confidential between the employer
4 and the employee. The employer and the employee shall receive
5 copies of the test results. Test results can only be released
6 if a court of competent jurisdiction determines that the
7 information is necessary to protect the health or welfare of
8 the citizens of this Commonwealth.

9 (4) Appropriate measures shall be taken to insure the
10 integrity of the collection and handling of the employee's
11 specimen.

12 (5) Positive samples shall be retained for six months or
13 for the length of time set by regulation of the department.

14 Section 5. Alcohol and drug rehabilitation.

15 (a) General rule.--An employer shall make reasonable efforts
16 to accommodate an employee who voluntarily participates in an
17 alcohol or drug rehabilitation program. An employer shall permit
18 an employee to utilize sick leave to participate in a program.
19 This subsection does not require an employer to provide an
20 employee time off with pay to participate in a program. This
21 subsection does not apply to an employer who employs less than
22 25 employees.

23 (b) Privacy.--The employer shall make reasonable efforts to
24 protect the privacy of an employee who voluntarily participates
25 in an alcohol or drug rehabilitation program.

26 Section 6. Regulations.

27 The department may promulgate regulations to administer this
28 act.

29 Section 7. Effective date.

30 This act shall take effect in 60 days.