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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 636 Session of  
2019

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INTRODUCED BY DeLUCA, HILL-EVANS, ULLMAN, MILLARD, KORTZ, MURT,  
YOUNGBLOOD, READSHAW, LAWRENCE AND DAVIDSON, MARCH 1, 2019

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REFERRED TO COMMITTEE ON EDUCATION, MARCH 1, 2019

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AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," in preliminary provisions, providing  
6 for testing for controlled substances for prospective  
7 employees.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. The act of March 10, 1949 (P.L.30, No.14), known  
11 as the Public School Code of 1949, is amended by adding a  
12 section to read:

13 Section 111.3. Testing for Controlled Substances for  
14 Prospective Employes.--(a) This section shall apply to all  
15 prospective employes of public and private schools, intermediate  
16 units and area vocational-technical schools, including  
17 independent contractors and their employes, except the  
18 following:

19 (1) Employes and independent contractors and their employes  
20 who have no direct contact with children.

1 (2) School bus drivers and bus drivers who are subject to  
2 testing under Federal motor carrier safety regulations.

3 (b) School administrators of public and private schools,  
4 intermediate units and area vocational-technical schools shall  
5 require prospective employes to submit, upon offer of  
6 employment, a report of drug testing or a statement from a  
7 testing laboratory relating to the results of the controlled  
8 substance testing paid for by the applicant. The test and report  
9 shall be conducted and issued subsequent to the offer of  
10 employment and prior to the actual hiring date of the applicant.  
11 School administrators shall maintain a copy of the required  
12 information and shall require each applicant to produce the  
13 original document prior to employment. School administrators  
14 shall require contractors to produce the original document for  
15 each prospective employe of the contractor prior to employment.  
16 The provisions of this subsection expire on March 31, 2020.

17 (c) Beginning April 1, 2020, school administrators shall  
18 require an applicant to submit upon offer of employment a copy  
19 of the controlled substances testing report in a manner  
20 prescribed by the Department of Education. A controlled  
21 substances testing report submitted by the applicant shall be  
22 paid for by the applicant and be the result of a controlled  
23 substances test conducted after the date of the offer of  
24 employment. School administrators shall maintain a copy of the  
25 required information and shall require each applicant to produce  
26 a controlled substances testing report that shall be dated after  
27 the offer of employment has been made. The original controlled  
28 substances testing report shall be returned to the applicant.

29 (d) The State Board of Education shall promulgate the  
30 regulations providing for:

1     (1) The information required to be obtained pursuant to a  
2 controlled substance test mandated by this section.

3     (2) The privacy of the information related to controlled  
4 substance testing mandated by this section.

5     (3) The retesting of prospective employes whose initial test  
6 resulted in a false positive and can provide an alternative  
7 medical explanation verified by a licensed physician.

8     (4) The certification of testing laboratories.

9     (5) Any other provision necessary to carry out this section.

10    (e) No person subject to this act shall be employed in a  
11 public or private school, intermediate unit or area vocational-  
12 technical school where the controlled substances testing report  
13 indicates the applicant has used a controlled substance without  
14 a prescription from a physician.

15    (f) Definitions.--As used in this section, the following  
16 words and phrases shall have the meanings given to them in this  
17 subsection unless the context clearly indicates otherwise:

18    "Controlled substances." Drugs, substances or immediate  
19 precursors included in Schedules I through V of section 4 of the  
20 act of April 14, 1972 (P.L.233, No.64), known as "The Controlled  
21 Substance, Drug, Device and Cosmetic Act."

22    "School administrator." An administrator of a public school,  
23 private school, intermediate unit or area vocational-technical  
24 school.

25    "Testing laboratory." A laboratory that is certified by the  
26 United States Department of Health and Human Services or under  
27 regulations promulgated by the State Board of Education that is  
28 capable of performing controlled substances testing.

29    Section 2. This act shall take effect in 60 days.