

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 810 Session of 2013

INTRODUCED BY DeLUCA, HARHAI, DUNBAR, SWANGER, V. BROWN, STEPHENS, D. COSTA, DAVIDSON, P. DALEY, FLECK, KORTZ, KULA, HESS, MURT AND DEASY, MARCH 21, 2013

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 22, 2013

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," providing for testing for controlled
6 substances for prospective employees.

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

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

12 Section 111.1. Testing for Controlled Substances for
13 Prospective Employes.--(a) This section shall apply to all
14 prospective employes of public and private schools, intermediate
15 units and area vocational-technical schools, including
16 independent contractors and their employes, except those THE <--
17 FOLLOWING:

18 (1) THOSE employes and independent contractors and their
19 employes who have no direct contact with children-; AND <--

1 (2) SCHOOL BUS DRIVERS AND BUS DRIVERS WHO ARE SUBJECT TO
2 TESTING PURSUANT TO 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 such contractor prior to employment.
16 The provisions of this subsection expire on March 31, 2015.

17 (c) Beginning April 1, 2015, school administrators shall
18 require the 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 must 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. When the applicant provides a copy of the controlled
25 substances testing report, it shall be dated after offer of
26 employment has been made. School administrators shall maintain a
27 copy of the required information and shall require each
28 applicant to produce a controlled substances testing report that
29 shall be dated after the offer of employment has been made. The
30 original controlled substances testing report shall be returned

1 to the applicant.

2 (d) The State Board of Education shall, in the manner
3 provided by law, promulgate the regulations necessary to carry <--
4 out this section. The regulations shall provide for the
5 information obtained pursuant to the drug testing mandated by
6 this act. PROVIDING FOR: <--

7 (1) THE INFORMATION REQUIRED TO BE OBTAINED PURSUANT TO
8 A CONTROLLED SUBSTANCE TEST MANDATED BY THIS SECTION;

9 (2) THE PRIVACY OF THE INFORMATION RELATED TO CONTROLLED
10 SUBSTANCE TESTING MANDATED BY THIS SECTION;

11 (3) THE RETESTING OF PROSPECTIVE EMPLOYEES WHOSE INITIAL
12 TEST RESULTED IN A FALSE POSITIVE AND CAN PROVIDE AN
13 ALTERNATIVE MEDICAL EXPLANATION VERIFIED BY A LICENSED
14 PHYSICIAN;

15 (4) THE CERTIFICATION OF TESTING LABORATORIES; AND

16 (5) ANY OTHER PROVISION NECESSARY TO CARRY OUT THIS
17 SECTION.

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

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

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

30 "School administrator." An administrator of a public school,

1 private school, intermediate unit or area vocational-technical
2 school.

3 "TESTING LABORATORY." A LABORATORY THAT IS CERTIFIED BY THE <--
4 DEPARTMENT OF HEALTH AND HUMAN SERVICES OR UNDER REGULATIONS
5 PROMULGATED BY THE STATE BOARD OF EDUCATION THAT IS CAPABLE OF
6 PERFORMING CONTROLLED SUBSTANCES TESTING.

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