

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1149 Session of 2013

INTRODUCED BY R. MILLER, GINGRICH, STURLA, M. K. KELLER, FLECK, COHEN, KORTZ, ROSS, GRELL, KILLION, CALTAGIRONE AND REED, APRIL 9, 2013

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 11, 2014

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled
2 "An act relating to the manufacture, sale and possession of
3 controlled substances, other drugs, devices and cosmetics;
4 conferring powers on the courts and the secretary and
5 Department of Health, and a newly created Pennsylvania Drug,
6 Device and Cosmetic Board; establishing schedules of
7 controlled substances; providing penalties; requiring
8 registration of persons engaged in the drug trade and for the
9 revocation or suspension of certain licenses and
10 registrations; and repealing an act," providing for DRUG <--
11 OVERDOSE RESPONSE USE immunity from prosecution. <--

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The act of April 14, 1972 (P.L.233, No.64), known
15 as The Controlled Substance, Drug, Device and Cosmetic Act, is
16 amended by adding a section to read:

17 ~~Section 13.6. Immunity from Prosecution. (a) A person <--
18 shall be immune from prosecution for a violation of this act if
19 the person can establish all of the following:
20 (1) The person reasonably believed he or she was witnessing
21 another person experience a drug related overdose.~~

1 ~~(2) The person was the first person to seek medical~~
2 ~~assistance for the person experiencing the overdose.~~

3 ~~(3) The person provided his own name to emergency personnel.~~

4 ~~(4) The person remained with the person needing medical~~
5 ~~assistance until emergency health care providers arrived and the~~
6 ~~need for his presence ended.~~

7 ~~(b) This section shall not apply if any of the following~~
8 ~~occur:~~

9 ~~(1) The person provided the drugs which were taken by the~~
10 ~~individual experiencing the overdose.~~

11 ~~(2) A criminal charge can be filed relating to the~~
12 ~~manufacture of or possession with the intent to manufacture~~
13 ~~controlled substances.~~

14 ~~(3) A criminal charge can be filed relating to delivery or~~
15 ~~possession with intent to deliver a controlled substance.~~

16 SECTION 13.7. DRUG OVERDOSE RESPONSE USE IMMUNITY.--(A) THE <--
17 FOLLOWING EVIDENCE MAY NOT BE ADMITTED AGAINST A DEFENDANT IN A
18 PROBATION OR PAROLE VIOLATION HEARING OR PROSECUTION BASED ON A
19 VIOLATION OF SECTION 13(A) (5), (16), (19), (31), (32), (33) OR
20 (37) ARISING OUT OF THE EVENTS DESCRIBED IN THIS SECTION:

21 (1) A STATEMENT MADE BY THE DEFENDANT REPORTING A DRUG
22 OVERDOSE EVENT TO A LAW ENFORCEMENT OFFICER, THE 911 SYSTEM, A
23 CAMPUS SECURITY OFFICER OR EMERGENCY SERVICES PERSONNEL, BASED
24 ON A REASONABLE BELIEF THAT ANOTHER PERSON WAS IN NEED OF
25 IMMEDIATE MEDICAL ATTENTION TO PREVENT DEATH OR SERIOUS BODILY
26 INJURY DUE TO A DRUG OVERDOSE.

27 (2) EVIDENCE DISCOVERED BY LAW ENFORCEMENT SOLELY FROM THE
28 FACT THAT THE DEFENDANT TRANSPORTED A PERSON EXPERIENCING A DRUG
29 OVERDOSE EVENT TO A LAW ENFORCEMENT AGENCY, A CAMPUS SECURITY
30 OFFICE OR A HEALTH CARE FACILITY.

1 (3) EVIDENCE DERIVED DIRECTLY FROM A STATEMENT DESCRIBED
2 UNDER PARAGRAPH (1) OR AN EVENT DESCRIBED UNDER PARAGRAPH (2).

3 (B) THE LIMIT ON ADMISSIBILITY UNDER SUBSECTION (A) (1) SHALL
4 APPLY ONLY IF:

5 (1) WHEN MAKING THE REPORT, THE DEFENDANT PROVIDED HIS OR
6 HER OWN NAME AND LOCATION AND COOPERATED WITH THE LAW
7 ENFORCEMENT OFFICER, 911 SYSTEM, CAMPUS SECURITY OFFICER OR
8 EMERGENCY SERVICES PERSONNEL; AND

9 (2) THE DEFENDANT REMAINED WITH THE PERSON NEEDING IMMEDIATE
10 MEDICAL ATTENTION UNTIL A LAW ENFORCEMENT OFFICER, A CAMPUS
11 SECURITY OFFICER OR EMERGENCY SERVICES PERSONNEL ARRIVED.

12 (C) A LIMIT ON ADMISSIBILITY OF EVIDENCE DESCRIBED UNDER
13 THIS SECTION SHALL ALSO APPLY TO THE PERSON WHO SUFFERED THE
14 DRUG OVERDOSE EVENT IF ALL OF THE REQUIREMENTS OF SUBSECTION (A)
15 (1) OR (2) ARE SATISFIED.

16 (D) THIS SECTION SHALL NOT PROHIBIT THE ADMISSIBILITY OF
17 EVIDENCE DERIVED INDEPENDENTLY FROM SOURCES OTHER THAN THOSE
18 DESCRIBED UNDER SUBSECTION (A) (1), (2) OR (3).

19 (E) A PATIENT'S CONDITION SHALL BE DEEMED TO BE A DRUG
20 OVERDOSE EVENT IF A PRUDENT LAYPERSON, POSSESSING AN AVERAGE
21 KNOWLEDGE OF MEDICINE AND HEALTH, WOULD REASONABLY BELIEVE THAT
22 THE CONDITION IS IN FACT A DRUG OVERDOSE AND REQUIRES IMMEDIATE
23 MEDICAL ATTENTION.

24 (F) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES
25 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS
26 THE CONTEXT CLEARLY INDICATES OTHERWISE:

27 "911 SYSTEM" MEANS A SYSTEM, INCLUDING ENHANCED 911 SERVICE
28 AND A WIRELESS E-911 SYSTEM, THAT PERMITS A PERSON DIALING 911
29 BY TELEPHONE TO BE CONNECTED TO A PUBLIC SAFETY ANSWERING POINT,
30 VIA NORMAL TELEPHONE FACILITIES, FOR THE REPORTING OF POLICE,

1 FIRE, MEDICAL OR OTHER EMERGENCY SITUATIONS.

2 "CAMPUS SECURITY OFFICER" MEANS AN EMPLOYE OF AN INSTITUTION
3 OF HIGHER EDUCATION CHARGED WITH MAINTAINING THE SAFETY AND
4 SECURITY OF THE PROPERTY OF THE INSTITUTION AND THE PERSONS ON
5 THE PROPERTY.

6 "DRUG OVERDOSE EVENT" MEANS AN ACUTE MEDICAL CONDITION, SUCH
7 AS SEVERE PHYSICAL ILLNESS, COMA, MANIA, HYSTERIA OR DEATH,
8 WHICH IS THE RESULT OF CONSUMPTION OR USE OF A CONTROLLED
9 SUBSTANCE CAUSING AN ADVERSE REACTION.

10 "EMERGENCY SERVICES PERSONNEL" MEANS AN INDIVIDUAL, INCLUDING
11 A TRAINED VOLUNTEER OR A MEMBER OF THE ARMED FORCES OF THE
12 UNITED STATES OR THE NATIONAL GUARD, WHOSE OFFICIAL OR ASSIGNED
13 RESPONSIBILITIES INCLUDE PERFORMING OR DIRECTLY SUPPORTING THE
14 PERFORMANCE OF EMERGENCY MEDICAL AND RESCUE SERVICES OR
15 FIREFIGHTING.

16 "LAW ENFORCEMENT OFFICER" INCLUDES THE FOLLOWING:

17 (1) A PERSON WHO BY VIRTUE OF THE PERSON'S OFFICE OR PUBLIC
18 EMPLOYMENT IS VESTED BY LAW WITH A DUTY TO MAINTAIN PUBLIC ORDER
19 OR TO MAKE ARRESTS FOR OFFENSES, WHETHER THE DUTY EXTENDS TO ALL
20 OFFENSES OR IS LIMITED TO SPECIFIC OFFENSES.

21 (2) A PERSON ON ACTIVE STATE DUTY UNDER 51 PA.C.S. § 508
22 (RELATING TO ACTIVE DUTY FOR EMERGENCY).

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