

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 654 Session of 2017

INTRODUCED BY YAW, MARTIN, ARGALL, EICHELBERGER, SCAVELLO,
McGARRIGLE, LANGERHOLC, GREENLEAF, COSTA, FOLMER AND
RAFFERTY, MAY 2, 2017

REFERRED TO JUDICIARY, MAY 2, 2017

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," further providing for
11 drug overdose response immunity.

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

14 Section 1. Section 13.7 of the act of April 14, 1972
15 (P.L.233, No.64), known as The Controlled Substance, Drug,
16 Device and Cosmetic Act, is amended to read:

17 Section 13.7. Drug Overdose Response Immunity.--(a) A
18 person may not be charged and shall be immune from prosecution
19 for any offense listed in subsection (b) and for a violation of
20 probation or parole if the person can establish the following:

21 (1) law enforcement officers only became aware of the
22 person's commission of an offense listed in subsection (b)

1 because the person transported a person experiencing a drug
2 overdose event to a law enforcement agency, a campus security
3 office or a health care facility; or

4 (2) all of the following apply:

5 (i) the person reported, in good faith, a drug overdose
6 event to a law enforcement officer, the 911 system, a campus
7 security officer or emergency services personnel and the report
8 was made on the reasonable belief that another person was in
9 need of immediate medical attention and was necessary to prevent
10 death or serious bodily injury due to a drug overdose;

11 (ii) the person provided his own name and location and
12 cooperated with the law enforcement officer, 911 system, campus
13 security officer or emergency services personnel; and

14 (iii) the person remained with the person needing immediate
15 medical attention until a law enforcement officer, a campus
16 security officer or emergency services personnel arrived.

17 (b) The prohibition on charging or prosecuting a person as
18 described in subsection (a) bars charging or prosecuting a
19 person for probation and parole violations and for violations of
20 section 13(a)(5), (16), (19), (31), (32), (33) and (37).

21 (c) Persons experiencing drug overdose events may not be
22 charged and shall be immune from prosecution as provided in
23 subsection (b) if:

24 (1) a person who transported or reported and remained with
25 them may not be charged and is entitled to immunity under this
26 section[.]; and

27 (2) within thirty days of experiencing the drug overdose
28 event, the person participates in a drug treatment program
29 ordered by the parole board or the court with jurisdiction over
30 the potential criminal charges.

(d) The prohibition on charging or prosecuting a person as described in this section is limited in the following respects:

(1) This section may not bar charging or prosecuting a person for offenses enumerated in subsection (b) if a law enforcement officer obtains information prior to or independent of the action of seeking or obtaining emergency assistance as described in subsection (a).

(2) This section may not interfere with or prevent the investigation, arrest, charging or prosecution of a person for the delivery or distribution of a controlled substance, drug-induced homicide or any other crime not set forth in subsection (b).

(3) This section may not bar the admissibility of any evidence in connection with the investigation and prosecution for any other prosecution not barred by this section.

(4) This section may not bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the prohibition on charging or prosecuting a person as provided for by this section.

(5) This section may not bar charging or prosecuting a person who experienced a drug overdose event for offenses enumerated in subsection (b) if the person fails to participate in a drug treatment program mandated under subsection (c)(2).

(e) In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer or prosecuting attorney who, acting in good faith, charges a person who is thereafter determined to be entitled to immunity under this section shall not be subject to civil liability for the filing of the charges.

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

"911 system." A system, including enhanced 911 service and a wireless E-911 system, that permits a person dialing 911 by telephone to be connected to a public safety answering point, via normal telephone facilities, for the reporting of police, fire, medical or other emergency situations.

"Campus security officer." An employee of an institution of higher education charged with maintaining the safety and security of the property of the institution and the persons on the property.

"Drug overdose event." An acute medical condition, including, but not limited to, severe physical illness, coma, mania, hysteria or death, which is the result of consumption or use of one or more controlled substances causing an adverse reaction. A patient's condition shall be deemed to be a drug overdose if a prudent layperson, possessing an average knowledge of medicine and health, would reasonably believe that the condition is in fact a drug overdose and requires immediate medical attention.

"Emergency services personnel." Individuals, including a trained volunteer or a member of the armed forces of the United States or the National Guard, whose official or assigned responsibilities include performing or directly supporting the performance of emergency medical and rescue services or firefighting.

"Law enforcement officer." A person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses,

1 whether that duty extends to all offenses or is limited to
2 specific offenses, or a person on active State duty under 51
3 Pa.C.S. § 508 (relating to active duty for emergency).

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