

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1164 Session of 2013

INTRODUCED BY PILEGGI, VULAKOVICH, ERICKSON, FARNESE, RAFFERTY, WOZNIAK, ALLOWAY, YAW, BAKER, SOLOBAY, BRUBAKER, HUGHES, WARD AND SCHWANK, NOVEMBER 12, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 24, 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 immunity.

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 SECTIONS 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 from FOR a <--
20 violation of probation or parole if the person can establish the
21 following:

1 (1) law enforcement officers only became aware of the  
2 person's commission of an offense listed in subsection (b)  
3 because the person transported a person experiencing a drug  
4 overdose event to a law enforcement agency, a campus security  
5 office or a health care facility; or

6 (2) all of the following apply:

7 (i) law enforcement officers only became aware of the <--  
8 person's commission of an offense listed in subsection (b)  
9 because the person reported, in good faith, a drug overdose  
10 event to a law enforcement officer, the 911 system, a campus  
11 security officer or emergency services personnel, based on a <--  
12 THE REPORT WAS MADE ON THE reasonable belief that another person  
13 was in need of immediate medical attention AND WAS NECESSARY to <--  
14 prevent death or serious bodily injury due to a drug overdose;

15 (ii) the person reasonably believed he was the first person <--  
16 to contact a law enforcement officer, the 911 system, a campus  
17 security officer or emergency services personnel to report that  
18 the person needed immediate medical attention to prevent death  
19 or serious bodily injury due to a drug overdose;

20 (iii) (II) the person provided his own name and location and <--  
21 cooperated with the law enforcement officer, 911 system, campus  
22 security officer or emergency services personnel; and

23 (iv) (III) the person remained with the person needing <--  
24 immediate medical attention until a law enforcement officer, a  
25 campus security officer or emergency services personnel arrived.

26 (b) The limited immunity PROHIBITION ON CHARGING OR <--  
27 PROSECUTING A PERSON AS described in subsection (a) bars  
28 prosecution CHARGING OR PROSECUTING A PERSON for probation and <--  
29 parole violations and for violations of section 13(a)(5), (16),  
30 (19), (31), (32), (33) and (37).

1 ~~(c) The immunity described in this section also extends to~~ <--  
2 ~~the person who suffered the drug overdose event if all the~~  
3 ~~conditions of subsection (a) (1) or (2) are satisfied.~~

4 (C) PERSONS EXPERIENCING DRUG OVERDOSE EVENTS MAY NOT BE <--  
5 CHARGED AND SHALL BE IMMUNE FROM PROSECUTION AS PROVIDED IN  
6 SUBSECTION (B) IF A PERSON WHO TRANSPORTED OR REPORTED AND  
7 REMAINED WITH THEM MAY NOT BE CHARGED AND IS ENTITLED TO <--  
8 IMMUNITY UNDER THIS SECTION.

9 (d) The immunity PROHIBITION ON CHARGING OR PROSECUTING A <--  
10 PERSON AS described in this section is limited in the following  
11 respects:

12 (1) This section may not bar ~~prosecutions or penalties~~ <--  
13 CHARGING OR PROSECUTING A PERSON for offenses enumerated in <--  
14 subsection (b) if a law enforcement officer obtains information  
15 prior to or independent of the action of seeking or obtaining  
16 emergency assistance as described in subsection (a).

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

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

25 (4) This section may not bar the admissibility of any  
26 evidence in connection with the investigation and prosecution of  
27 a crime with regard to another defendant who does not  
28 independently qualify for the immunity PROHIBITION ON CHARGING <--  
29 OR PROSECUTING A PERSON AS provided for by this section.

30 (E) IN ADDITION TO ANY OTHER APPLICABLE IMMUNITY OR <--

1 LIMITATION ON CIVIL LIABILITY, A LAW ENFORCEMENT OFFICER OR  
2 PROSECUTING ATTORNEY WHO, ACTING IN GOOD FAITH, CHARGES A PERSON  
3 WHO IS THEREAFTER DETERMINED TO BE ENTITLED TO IMMUNITY UNDER  
4 THIS SECTION SHALL BE NOT BE SUBJECT TO CIVIL LIABILITY FOR THE  
5 FILING OF THE CHARGES.

6 ~~(e) Definitions.~~ (F) As used in this section, the <--  
7 following words and phrases shall have the meanings given to  
8 them in this subsection unless the context clearly indicates  
9 otherwise:

10 "911 system." A system, including enhanced 911 service and a  
11 wireless E-911 system, that permits a person dialing 911 by  
12 telephone to be connected to a public safety answering point,  
13 via normal telephone facilities, for the reporting of police,  
14 fire, medical or other emergency situations.

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

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

28 "Emergency services personnel." Individuals, including a  
29 trained volunteer or a member of the armed forces of the United  
30 States or the National Guard, whose official or assigned

1 responsibilities include performing or directly supporting the  
2 performance of emergency medical and rescue services or  
3 firefighting.

4 "Law enforcement officer." A person who by virtue of the  
5 person's office or public employment is vested by law with a  
6 duty to maintain public order or to make arrests for offenses,  
7 whether that duty extends to all offenses or is limited to  
8 specific offenses, or a person on active State duty under 51  
9 Pa.C.S. § 508 (relating to active duty for emergency).

10 SECTION 13.8. DRUG OVERDOSE MEDICATION.--(A) THE <--  
11 DEPARTMENT, IN CARRYING OUT ITS DUTIES UNDER 28 PA. CODE CH.  
12 1023 (RELATING TO PERSONNEL), SHALL HAVE THE FOLLOWING DUTIES:

13 (1) BY DECEMBER 31, 2014, AMEND THE PREHOSPITAL PRACTITIONER  
14 SCOPE OF PRACTICE OF EMERGENCY MEDICAL SERVICES PROVIDERS TO  
15 INCLUDE THE ADMINISTRATION OF NALOXONE.

16 (2) IN CONSULTATION WITH THE PENNSYLVANIA EMERGENCY HEALTH  
17 SERVICES COUNCIL, IMPLEMENT TRAINING, TREATMENT PROTOCOLS,  
18 EQUIPMENT LISTS AND OTHER POLICIES AND PROCEDURES FOR ALL TYPES  
19 OF EMERGENCY MEDICAL SERVICES PROVIDERS.

20 (3) IN CONSULTATION WITH THE DEPARTMENT OF DRUG AND ALCOHOL <--  
21 PROGRAMS, DEVELOP OR APPROVE TRAINING AND INSTRUCTIONAL  
22 MATERIALS ABOUT RECOGNIZING OPIOID-RELATED OVERDOSES,  
23 ADMINISTERING NALOXONE AND PROMPTLY SEEKING MEDICAL ATTENTION.  
24 THE TRAINING AND INSTRUCTION MATERIALS SHALL BE PROVIDED FREE OF  
25 CHARGE ON THE INTERNET.

26 (B) A LAW ENFORCEMENT AGENCY, FIRE DEPARTMENT OR FIRE  
27 COMPANY MAY ENTER INTO WRITTEN AGREEMENTS WITH EMERGENCY MEDICAL  
28 SERVICES AGENCIES, WITH THE CONSENT OF THAT AGENCY'S MEDICAL  
29 DIRECTOR OR A PHYSICIAN, TO DO THE FOLLOWING:

30 (1) OBTAIN A SUPPLY OF NALOXONE.

1 (2) AUTHORIZE A LAW ENFORCEMENT OFFICER OR FIREFIGHTER WHO  
2 HAS COMPLETED TRAINING UNDER SUBSECTION (A) (2), OR WHO HAS <--  
3 RECEIVED THE TRAINING AND INSTRUCTIONAL MATERIALS UNDER  
4 SUBSECTION (A) (3), TO ADMINISTER NALOXONE TO AN INDIVIDUAL  
5 UNDERGOING OR BELIEVED TO BE UNDERGOING AN OPIOID-RELATED DRUG  
6 OVERDOSE.

7 (C) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A HEALTH  
8 CARE PROFESSIONAL OTHERWISE AUTHORIZED TO PRESCRIBE NALOXONE MAY  
9 DISPENSE, PRESCRIBE OR DISTRIBUTE NALOXONE DIRECTLY OR BY A <--  
10 STANDING ORDER TO AN AUTHORIZED LAW ENFORCEMENT OFFICER OR  
11 FIREFIGHTER IN ACCORDANCE WITH AN AGREEMENT UNDER SUBSECTION  
12 (B)- OR TO A PERSON AT RISK OF EXPERIENCING AN OPIOID-RELATED <--  
13 OVERDOSE OR FAMILY MEMBER, FRIEND OR OTHER PERSON IN A POSITION  
14 TO ASSIST A PERSON AT RISK OF EXPERIENCING AN OPIOID-RELATED  
15 OVERDOSE.

16 (D) THE PROVISIONS OF THE ACT OF SEPTEMBER 27, 1961  
17 (P.L.1700, NO.699), KNOWN AS THE "PHARMACY ACT," SHALL NOT APPLY  
18 TO A LAW ENFORCEMENT OFFICER OR FIREFIGHTER WHO STORES NALOXONE  
19 PURSUANT TO AN AGREEMENT UNDER SUBSECTION (B), AND IN ACCORDANCE  
20 WITH DIRECTIONS FROM THE HEALTH CARE PROFESSIONAL THAT  
21 PRESCRIBED, DISPENSED OR DISTRIBUTED THE NALOXONE-, OR TO A <--  
22 PERSON OR ORGANIZATION ACTING AT THE DIRECTION OF A HEALTH CARE  
23 PROFESSIONAL AUTHORIZED TO PRESCRIBE NALOXONE SO LONG AS SUCH  
24 ACTIVITIES ARE UNDERTAKEN WITHOUT CHARGE OR COMPENSATION.

25 (E) (1) A LICENSED HEALTH CARE PROFESSIONAL WHO, ACTING IN  
26 GOOD FAITH, PRESCRIBES OR DISPENSES NALOXONE SHALL NOT BE  
27 SUBJECT TO ANY CRIMINAL OR CIVIL LIABILITY OR ANY PROFESSIONAL  
28 DISCIPLINARY ACTION FOR:

29 (I) SUCH PRESCRIBING OR DISPENSING; OR

30 (II) ANY OUTCOMES RESULTING FROM THE EVENTUAL ADMINISTRATION

1 OF NALOXONE.

2 (2) THE IMMUNITY UNDER PARAGRAPH (1) SHALL NOT APPLY TO A  
3 HEALTH PROFESSIONAL WHO ACTS WITH INTENT TO HARM OR WITH  
4 RECKLESS INDIFFERENCE TO A SUBSTANTIAL RISK OF HARM.

5 (F) (1) A PERSON AUTHORIZED, LAW ENFORCEMENT AGENCY, FIRE <--  
6 DEPARTMENT OR FIRE COMPANY UNDER SUBSECTION (B) (2) OR (C) WHO, <--  
7 ACTING IN GOOD FAITH AND WITH REASONABLE CARE, ADMINISTERS  
8 NALOXONE TO ANOTHER PERSON WHOM THE PERSON BELIEVES TO BE  
9 SUFFERING AN OPIOID-RELATED DRUG OVERDOSE:

10 (I) SHALL BE IMMUNE FROM CRIMINAL PROSECUTION, SANCTION  
11 UNDER ANY PROFESSIONAL LICENSING STATUTE AND CIVIL LIABILITY FOR  
12 SUCH ACT.

13 (II) SHALL NOT BE SUBJECT TO PROFESSIONAL REVIEW FOR SUCH  
14 ACT.

15 (III) SHALL NOT BE LIABLE FOR ANY CIVIL DAMAGES FOR ACTS OR  
16 OMISSIONS RESULTING FROM SUCH ACT.

17 (2) RECEIPT OF TRAINING AND INSTRUCTIONAL MATERIALS THAT  
18 MEET THE CRITERIA OF SUBSECTION (A) AND THE PROMPT SEEKING OF  
19 ADDITIONAL MEDICAL ASSISTANCE SHALL CREATE A REBUTTABLE  
20 PRESUMPTION THAT THE PERSON ACTED WITH REASONABLE CARE IN  
21 ADMINISTERING NALOXONE.

22 (G) NOTHING IN THIS SECTION SHALL BE INTERPRETED TO LIMIT <--  
23 ANY EXISTING IMMUNITIES FOR EMERGENCY RESPONSE PROVIDERS AND  
24 OTHERS PROVIDED FOR UNDER 42 PA.C.S. § 8332 (RELATING TO  
25 EMERGENCY RESPONSE PROVIDER AND BYSTANDER GOOD SAMARITAN CIVIL  
26 IMMUNITY).

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