

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 408 Session of 2019

INTRODUCED BY K. WARD, YAW, SCARNATI, MARTIN, REGAN, BROWNE,  
KILLION, J. WARD AND STEFANO, MARCH 11, 2019

REFERRED TO JUDICIARY, MARCH 11, 2019

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

18 Section 13.7. Drug Overdose Response Immunity.--\* \* \*

19 (c) [Persons experiencing drug overdose events may not be  
20 charged and shall be immune from prosecution as provided in  
21 subsection (b) if a person who transported or reported and  
22 remained with them may not be charged and is entitled to

1 immunity under this section.] A person who has sought medical  
2 assistance for a drug overdose or for whom medical assistance  
3 for an overdose has been obtained may not be charged for any  
4 offense listed in subsection (b) and shall be immune from  
5 prosecution as provided in subsection (b) if:

6 (1) The evidence for the offense was obtained as a result of  
7 the person seeking medical assistance for the drug overdose or  
8 medical assistance was sought on the person's behalf for the  
9 drug overdose.

10 (2) Within thirty days after seeking or obtaining medical  
11 assistance for the drug overdose, the person seeks and obtains a  
12 screening and receives a referral for treatment from a certified  
13 alcohol and drug counselor or certified advanced alcohol and  
14 drug counselor.

15 (3) The person provides, upon the request of any prosecuting  
16 attorney, documentation providing verification by a certified  
17 alcohol and drug counselor or certified advanced alcohol and  
18 drug counselor that the person submitted to a screening and  
19 received a referral for treatment.

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

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

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

1 (b) .

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

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

10 (5) No person shall be granted immunity under subsection (c)  
11 more than twice.

12 \* \* \*

13 (e.1) This section shall not apply to a person who twice  
14 previously has been granted immunity under subsection (c).

15 \* \* \*

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