

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 311 Session of 2021

INTRODUCED BY DeLUCA, KINSEY, ROZZI AND PISCIOTTANO,
JANUARY 28, 2021

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JANUARY 28, 2021

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," in preliminary provisions, providing
6 for testing for controlled substances for prospective
7 employees.

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

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

13 Section 111.3. Testing for Controlled Substances for
14 Prospective Employes.--(a) This section shall apply to all
15 prospective employes of public schools, private schools,
16 intermediate units and area career and technical schools,
17 including independent contractors and their employes, except the
18 following:

19 (1) Employes and independent contractors and their employes
20 who have no direct contact with children.

1 (2) School bus drivers and bus drivers who are subject to
2 testing under Federal motor carrier safety regulations.

3 (b) School administrators shall require prospective employes
4 to submit, upon offer of employment, a report of controlled
5 substances testing or a statement from a testing laboratory
6 relating to the results of the controlled substances testing
7 paid for by the applicant. The testing and report shall be
8 conducted and issued subsequent to the offer of employment and
9 prior to the actual hiring date of the applicant. School
10 administrators shall maintain a copy of the required information
11 and shall require each applicant to produce the original
12 document prior to employment. School administrators shall
13 require independent contractors to produce the original document
14 for each prospective employe of the independent contractor prior
15 to employment. The provisions of this subsection expire on March
16 31, 2022.

17 (c) Beginning April 1, 2022, school administrators shall
18 require an 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 shall 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. School administrators shall maintain a copy of the
25 required information and shall require each applicant to produce
26 a controlled substances testing report that shall be dated after
27 the offer of employment has been made. The original controlled
28 substances testing report shall be returned to the applicant.

29 (d) The State Board of Education shall promulgate the
30 regulations providing for:

1 (1) The information required to be obtained pursuant to
2 controlled substances testing mandated by this section.

3 (2) The privacy of the information related to controlled
4 substances testing mandated by this section.

5 (3) The retesting of prospective employes whose initial test
6 resulted in a false positive and can provide an alternative
7 medical explanation verified by a licensed physician.

8 (4) The certification of testing laboratories.

9 (5) Any other provision necessary to carry out this section.

10 (e) No person subject to this act shall be employed in a
11 public school, private school, intermediate unit or area career
12 and technical school where the controlled substances testing
13 report indicates the applicant has used controlled substances
14 without a prescription from a physician.

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

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

22 "School administrator." An administrator of a public school,
23 private school, intermediate unit or area career and technical
24 school.

25 "Testing laboratory." A laboratory that is certified by the
26 United States Department of Health and Human Services or under
27 regulations promulgated by the State Board of Education that is
28 capable of performing controlled substances testing.

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