

HOUSE BILL No. 1302

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-3-10.

Synopsis: Drug testing for legislators. Requires the legislative council to establish and administer a program to test members of the general assembly for the use of controlled substances.

Effective: July 1, 2014.

VanNatter, Heaton, Ubelhor

January 21, 2014, read first time and referred to Committee on Government and Regulatory Reform.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1302

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 2-3-10 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]:
4 **Chapter 10. Drug Testing for Legislators**
5 **Sec. 1. This chapter applies to a member of the general assembly**
6 **who:**
7 (1) **is serving in the general assembly on June 30, 2014; or**
8 (2) **is elected or appointed to the general assembly after June**
9 **30, 2014.**
10 **Sec. 2. As used in this chapter, "body" refers to either of the**
11 **following:**
12 (1) **The house of representatives.**
13 (2) **The senate.**
14 **Sec. 3. As used in this chapter, "chamber" refers to either of the**
15 **following:**
16 (1) **The floor of the house of representatives.**



- 1 **(2) The floor of the senate.**
- 2 **Sec. 4. As used in this chapter, "controlled substance" has the**
 3 **meaning set forth in IC 35-48-1-9.**
- 4 **Sec. 5. As used in this chapter, "legislative council" refers to the**
 5 **legislative council created under IC 2-5-1.1-1.**
- 6 **Sec. 6. As used in this chapter, "member" refers to either of the**
 7 **following:**
- 8 **(1) A member of the house of representatives.**
- 9 **(2) A member of the senate.**
- 10 **Sec. 7. As used in this chapter, "test negative" means that an**
 11 **individual:**
- 12 **(1) tests negative for the use of a controlled substance in the**
 13 **individual's body; or**
- 14 **(2) tests positive for the use of a controlled substance in the**
 15 **individual's body but has:**
- 16 **(A) a valid prescription; or**
- 17 **(B) an order of a practitioner acting in the course of the**
 18 **practitioner's professional practice;**
- 19 **for the controlled substance.**
- 20 **Sec. 8. As used in this chapter, "test positive" means an**
 21 **individual:**
- 22 **(1) tests positive for the presence of a controlled substance in**
 23 **the individual's body; and**
- 24 **(2) does not possess:**
- 25 **(A) a valid prescription; or**
- 26 **(B) an order of a practitioner acting in the course of the**
 27 **practitioner's professional practice;**
- 28 **for the controlled substance.**
- 29 **Sec. 9. (a) The legislative council shall establish and administer**
 30 **a program under this chapter to test for the use of a controlled**
 31 **substance by a member.**
- 32 **(b) The program established under this section must:**
- 33 **(1) allow for a member to consent to random drug testing**
 34 **described in subdivision (2) by signing a consent form**
 35 **described in subsection (d);**
- 36 **(2) randomly administer a drug test to fifty percent (50%) of**
 37 **the members who consent as described in subdivision (1)**
 38 **during each regular legislative session of the general**
 39 **assembly; and**
- 40 **(3) require drug testing of members who the:**
- 41 **(A) speaker of the house of representatives; or**
- 42 **(B) president pro tempore of the senate;**



- 1 believes, based on reasonable suspicion, are engaged in the
 2 illegal use of a controlled substance.
- 3 (c) If a member refuses to consent to random drug testing
 4 described in subsection (b)(2), the member may not receive any of
 5 the following privileges provided to members:
- 6 (1) Partisan staff.
 - 7 (2) Franked mail.
 - 8 (3) Reserved parking at the statehouse.
 - 9 (4) Office space at the statehouse.
 - 10 (5) Electronic devices.
- 11 (d) The consent form described in subsection (b)(1) must:
- 12 (1) allow for a member to consent to random drug testing as
 13 described in subsection (b)(2); and
 - 14 (2) provide specific, detailed information concerning the
 15 privileges the member will not receive as provided under
 16 subsection (c) if the member does not consent to random drug
 17 testing.
- 18 (e) A drug test administered under subsection (b)(2) or (b)(3)
 19 must be performed by a SAMHSA (as defined in IC 22-10-15-3)
 20 certified laboratory.
- 21 **Sec. 10. (a)** The speaker of the house of representatives or
 22 president pro tempore of the senate is considered to have
 23 reasonable suspicion that a member is engaged in the illegal use of
 24 a controlled substance for purposes of section 9(b)(3) of this
 25 chapter if the member has been:
- 26 (1) convicted of a crime; or
 - 27 (2) charged with an offense under IC 35-48 (controlled
 28 substances).
- 29 (b) The speaker of the house of representatives and president
 30 pro tempore of the senate may determine that reasonable suspicion
 31 exists under section 9(b)(3) of this chapter from factors other than
 32 those listed in subsection (a).
- 33 **Sec. 11.** A member shall submit to a drug test not later than
 34 twelve (12) hours after the member is notified that the member has
 35 been:
- 36 (1) randomly selected for a drug test; or
 - 37 (2) selected for a drug test based on reasonable suspicion.
- 38 **Sec. 12.** Each member of the general assembly shall pay the
 39 costs of a drug test administered under this chapter.
- 40 **Sec. 13. If:**
- 41 (1) a member who consented to random drug testing under
 42 this chapter refuses to take a drug test;



- 1 **(2) a member refuses to take a drug test based on reasonable**
 2 **suspicion as described in section 9(b)(3) of this chapter;**
 3 **(3) a member fails to take a drug test within the time required**
 4 **under section 11 of this chapter;**
 5 **(4) a member refuses to pay for a drug test as required under**
 6 **section 12 of this chapter; or**
 7 **(5) a finding is made by the member's chamber that the**
 8 **member has tested positive on a drug test;**
 9 **the member shall be assessed a penalty by the member's body**
 10 **under the Constitution of the State of Indiana or the rules adopted**
 11 **by the member's chamber, and the member loses all the privileges**
 12 **listed in section 9(c) of this chapter provided to members.**
 13 **Sec. 14. The following lists shall be made available to the public:**
 14 **(1) The names of all the members who consent to random**
 15 **drug testing under this chapter.**
 16 **(2) The names of all the members who refused to consent to**
 17 **random drug testing under this chapter.**
 18 **(3) The names of each member who is tested under this**
 19 **chapter based on reasonable suspicion as described in section**
 20 **9(b)(3) of this chapter.**
 21 **(4) The names of all the members who:**
 22 **(A) test positive on a drug test administered under this**
 23 **chapter; and**
 24 **(B) test negative on a drug test administered under this**
 25 **chapter.**

