

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 350 Session of 2017

INTRODUCED BY DeLUCA, BAKER, NEILSON, THOMAS, O'NEILL, MURT, MILLARD, V. BROWN, DUNBAR, HEFFLEY, READSHAW, WARD, McNEILL, DEASY AND D. COSTA, FEBRUARY 3, 2017

REFERRED TO COMMITTEE ON EDUCATION, FEBRUARY 3, 2017

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 and private schools, intermediate  
 16 units and area vocational-technical schools, including  
 17 independent contractors and their employes, except the  
 18 following:

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

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

3 (b) School administrators of public and private schools,  
4 intermediate units and area vocational-technical schools shall  
5 require prospective employes to submit, upon offer of  
6 employment, a report of drug testing or a statement from a  
7 testing laboratory relating to the results of the controlled  
8 substance testing paid for by the applicant. The test and report  
9 shall be conducted and issued subsequent to the offer of  
10 employment and prior to the actual hiring date of the applicant.  
11 School administrators shall maintain a copy of the required  
12 information and shall require each applicant to produce the  
13 original document prior to employment. School administrators  
14 shall require contractors to produce the original document for  
15 each prospective employe of such contractor prior to employment.  
16 The provisions of this subsection expire on March 31, 2019.

17 (c) Beginning April 1, 2019, school administrators shall  
18 require the 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 must 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. When the applicant provides a copy of the controlled  
25 substances testing report, it shall be dated after offer of  
26 employment has been made. School administrators shall maintain a  
27 copy of the required information and shall require each  
28 applicant to produce a controlled substances testing report that  
29 shall be dated after the offer of employment has been made. The  
30 original controlled substances testing report shall be returned

1 to the applicant.

2 (d) The State Board of Education shall, in the manner  
3 provided by law, promulgate the regulations providing for:

4 (1) the information required to be obtained pursuant to a  
5 controlled substance test mandated by this section;

6 (2) the privacy of the information related to controlled  
7 substance testing mandated by this section;

8 (3) the retesting of prospective employes whose initial test  
9 resulted in a false positive and can provide an alternative  
10 medical explanation verified by a licensed physician;

11 (4) the certification of testing laboratories; and

12 (5) any other provision necessary to carry out this section.

13 (e) No person subject to this act shall be employed in a  
14 public or private school, intermediate unit or area vocational-  
15 technical school where the controlled substances testing report  
16 indicates the applicant has used a controlled substance without  
17 a prescription from a physician.

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

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

25 "School administrator." An administrator of a public school,  
26 private school, intermediate unit or area vocational-technical  
27 school.

28 "Testing laboratory." A laboratory that is certified by the  
29 United States Department of Health and Human Services or under  
30 regulations promulgated by the State Board of Education that is

1 capable of performing controlled substances testing.

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