
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 308 Session of
2019

INTRODUCED BY GAINNEY, KINSEY, READSHAW, DUNBAR, NEILSON,
YOUNGBLOOD, DEASY AND KORTZ, FEBRUARY 1, 2019

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 1, 2019

AN ACT

1 Amending Title 65 (Public Officers) of the Pennsylvania
2 Consolidated Statutes, providing for ethics standards and
3 controlled substance testing.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 65 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 15

9 ETHICS STANDARDS AND CONTROLLED SUBSTANCE TESTING

10 Sec.

11 1501. Scope of chapter.

12 1502. Purpose.

13 1503. Definitions.

14 1504. Submission to controlled substance testing.

15 1505. Results of controlled substance testing.

16 1506. Ethics investigation.

17 1507. Challenge to results of controlled substance testing.

18 1508. Referral for services.

1 1509. Costs.

2 1510. Maintenance of records.

3 1511. Confidentiality.

4 § 1501. Scope of chapter.

5 This chapter relates to General Assembly drug testing and
6 accountability.

7 § 1502. Purpose.

8 (a) Declarations.--The General Assembly hereby declares the
9 following:

10 (1) Public office, including service as a member of the
11 General Assembly, is a public trust.

12 (2) A member of the General Assembly should be held
13 accountable to the public if the member is using or has used
14 an illegal controlled substance or a lawful controlled
15 substance in a manner inconsistent with the normal use of
16 that controlled substance.

17 (3) A member of the General Assembly cannot effectively
18 or appropriately fulfill the public duties of office if the
19 member is using or has used an illegal controlled substance
20 or a lawful controlled substance in a manner inconsistent
21 with the normal use of that controlled substance.

22 (4) Public confidence in a member of the General
23 Assembly, and the General Assembly as a whole, can only be
24 maintained when the member or members adhere to the laws of
25 this Commonwealth.

26 (5) If a member of the General Assembly is using or has
27 used an illegal controlled substance or a lawful controlled
28 substance in a manner inconsistent with the normal use of
29 that controlled substance, the member is best served by
30 recognizing the controlled substance abuse problem, seeking

1 help and completing rehabilitation treatment services.

2 (b) Intent.--It is the intent of the General Assembly that
3 this chapter promote the following public policy purposes and
4 objectives:

5 (1) Promoting openness and transparency regarding the
6 actions of members of the General Assembly.

7 (2) Maintaining public confidence in members of the
8 General Assembly and knowledge that members of the General
9 Assembly are following the laws of this Commonwealth.

10 (3) Encouraging members of the General Assembly to be
11 held accountable for their actions and seek medical and other
12 professional treatment for controlled substance abuse
13 problems that impact on their official duties and the public
14 trust.

15 § 1503. Definitions.

16 The following words and phrases when used in this chapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Controlled substance." A drug, substance or immediate
20 precursor included in Schedules I through V of section 4 of the
21 act of April 14, 1972 (P.L.233, No.64), known as The Controlled
22 Substance, Drug, Device and Cosmetic Act, except that marijuana
23 shall not be deemed a controlled substance for purposes of this
24 chapter.

25 "Controlled substance testing." A urinalysis, blood test or
26 other scientific study of an individual's body that has been
27 conclusively found to detect the presence or prior use of an
28 illegal drug or substance and for which the accuracy has been
29 accepted in the scientific community.

30 "Ethics committee." Either of the following:

1 (1) The Committee on Ethics and Official Conduct of the
2 Senate, in the case of a member elected to the Senate.

3 (2) The Committee on Ethics of the House of
4 Representatives, in the case of a member elected to the House
5 of Representatives.

6 "Industrial hemp." The plant of the genus cannabis and any
7 part of such plant, whether growing or not, with a delta-9
8 tetrahydrocannabinol concentration (THC) that does not exceed
9 0.03% on a dry weight basis.

10 "Marijuana." The parts of the plant of the genus cannabis,
11 whether growing or not, the seeds thereof, the resin extracted
12 from any part of the plant and every compound, manufacture,
13 salt, derivative, mixture or preparation of the plant, its seeds
14 or resin, including marijuana concentrate. The term does not
15 include industrial hemp or fiber produced from the stalks, oil
16 or cake made from the seeds of the plant, sterilized seed of the
17 plant that is incapable of germination or the weight of another
18 ingredient combined with marijuana to prepare topical or oral
19 administrations, food, drink or other product.

20 § 1504. Submission to controlled substance testing.

21 (a) Time period.--Each member of the General Assembly shall
22 submit to controlled substance testing by a drug testing
23 corporation or company under subsection (b):

24 (1) Within 60 days following election or reelection to
25 the General Assembly.

26 (2) On a random basis at least once during the calendar
27 year, regardless of whether a reasonable likelihood exists
28 that the member is using or has used an illegal controlled
29 substance or a lawful controlled substance in a manner
30 inconsistent with the normal use of that controlled

1 substance, but the controlled substance testing for the
2 member shall not occur more frequently than once every three
3 months.

4 (b) Administration of testing.--The Office of the Chief
5 Clerk of the Senate and the Office of the Chief Clerk of the
6 House of Representatives shall use a competitive bid process to
7 contract with a drug testing corporation or company to
8 administer the provisions of this chapter. The drug testing
9 policy adopted shall be consistent with acceptable Federal and
10 State drug testing standards.

11 (c) Failure or refusal.--If a member of the General Assembly
12 refuses or fails to submit to controlled substance testing, the
13 member may not take the oath of office, enter or continue duties
14 as a member of the General Assembly or receive compensation as a
15 member until the member submits to controlled substance testing
16 as required by this chapter.

17 § 1505. Results of controlled substance testing.

18 The drug testing corporation or company that performed the
19 controlled substance testing under this chapter shall:

20 (1) Determine whether a member has tested positive for
21 the presence of a controlled substance in the member's
22 system.

23 (2) Forward the results to the member and to the ethics
24 committee.

25 § 1506. Ethics investigation.

26 A member shall be subject to an investigation by the ethics
27 committee if:

28 (1) The drug test comes back positive for the use of an
29 illegal controlled substance or the use of a lawful
30 controlled substance in a manner inconsistent with the normal

1 use of that controlled substance.

2 (2) There is any indication that the member tampered
3 with any aspect of the controlled substance testing.

4 (3) The member refused to take a drug test.

5 § 1507. Challenge to results of controlled substance testing.

6 Within five business days after receiving notice of failing
7 the controlled substance testing, a member of the General
8 Assembly may submit information to the ethics committee,
9 explaining or challenging the results. If the member's
10 explanation or challenge of the results is deemed satisfactory
11 to the ethics committee, the ethics committee shall record that
12 the member passed the controlled substance testing.

13 § 1508. Referral for services.

14 If a member of the General Assembly fails the substance abuse
15 testing and has not satisfactorily explained or challenged the
16 failed testing results, the ethics committee shall assist in
17 referring the member to the State Employee Assistance Program,
18 or its successor, to determine whether the member should be
19 evaluated for treatment options and could benefit from
20 counseling, outpatient treatment or other substance abuse
21 rehabilitation services. Unless otherwise covered by the
22 member's health insurance plan, the member shall bear any
23 expenses related to referral or treatment services.

24 § 1509. Costs.

25 (a) When member passes testing.--If a member of the General
26 Assembly passes the controlled substance testing and has tested
27 negative for the presence of a controlled substance in the
28 member's system, the member shall not be financially responsible
29 for the costs related to the testing. If any costs are incurred
30 and paid by the member, the member shall be reimbursed for those

1 costs.

2 (b) When member fails testing.--

3 (1) Subject to paragraph (2), if a member of the General
4 Assembly fails the controlled substance testing and has
5 tested positive for the presence of a controlled substance in
6 the member's system, the member shall bear the costs related
7 to the testing. Campaign funds shall not be used for the
8 payment of the testing.

9 (2) If a member of the General Assembly has
10 satisfactorily explained or challenged the failed testing
11 results, paragraph (1) shall not apply and subsection (a)
12 shall govern as though the member initially passed the
13 controlled substance testing.

14 § 1510. Maintenance of records.

15 The ethics committee shall maintain controlled substance
16 testing results and all information regarding explanations and
17 challenges of failed testing results for at least two years.

18 § 1511. Confidentiality.

19 (a) General rule.--Except as otherwise provided in this
20 section, all information regarding controlled substance testing,
21 controlled substance testing results, reports, explanations,
22 challenges, referrals and treatment services shall remain
23 confidential and shall not be subject to public inspection.

24 (b) Release of information by member.--A member of the
25 General Assembly may release to the public any information under
26 subsection (a) regarding the member.

27 (c) Specific circumstances.--The following shall apply:

28 (1) The first refusal or failure to submit to controlled
29 substance testing by a member of the General Assembly may not
30 be disclosed and shall remain confidential.

1 (2) The second and each subsequent refusal or failure to
2 submit to controlled substance testing by a member of the
3 General Assembly shall not be considered confidential
4 information.

5 (3) The first failed controlled substance testing by a
6 member of the General Assembly may not be disclosed and shall
7 remain confidential.

8 (4) The second and each subsequent failed controlled
9 substance testing by a member of the General Assembly shall
10 not be considered confidential information.

11 (d) Penalties.--A person violating the confidentiality
12 provisions of this section commits a misdemeanor and shall, upon
13 conviction, be sentenced to pay a fine of not more than \$1,000
14 or to imprisonment for not more than one year, or both.

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