

SENATE BILL 5227

State of Washington

52nd Legislature

1991 Regular Session

By Senators Thorsness, Anderson, Oke, Owen, Amondson, Metcalf, Saling, McCaslin, Craswell, Hayner, Stratton, Johnson and Conner.

Read first time January 24, 1991. Referred to Committee on Governmental Operations.

1 AN ACT Relating to drug testing for state elected officials,
2 candidates for elective office, and state employees; adding a new
3 chapter to Title 43 RCW; prescribing penalties; and providing an
4 effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature recognizes that state
7 elected officials and state employees occupy positions of trust with
8 the citizens of this state. Because state elected officials and state
9 employees occupy sensitive positions involving protection of the public
10 health, safety, and general welfare, the public is entitled to have
11 confidence that state elected officials and state employees are
12 exercising sound judgment at all times. The legislature is also aware
13 of the extensive use of illegal drugs in contemporary culture, and the
14 devastating effects that result at every level of society. Given the
15 pervasiveness of the drug problem which impairs decision making and

1 sound judgment, and the need for positive role models, our state
2 elected officials and state employees must hold themselves to the
3 highest possible standards with respect to the drug issue. The
4 legislature finds that drug use by state employees is contributing to
5 the escalating costs of health care and liability insurance and that a
6 program of screening job applicants before hire will reduce insurance
7 costs.

8 Therefore, it is imperative that all state elected officials,
9 candidates for state elected office, and state employees maintain the
10 utmost confidence of the citizenry by complying with a drug-testing
11 program.

12 NEW SECTION. **Sec. 2.** Unless the context clearly requires
13 otherwise, the definitions in this section apply throughout this
14 chapter.

15 (1) "Final drug test results" means either the results of: (a) The
16 initial drug test if no additional test is taken; or (b) a second or
17 subsequent drug test taken to eliminate any false positive results.

18 (2) "Illegal drugs" means controlled substances referenced under
19 chapter 69.50 RCW and legend drugs referenced under chapter 69.41 RCW,
20 unless such substance or drug is used pursuant to a valid prescription
21 or when used as otherwise authorized by state or federal law.

22 (3) "State elected office" means the offices of governor,
23 lieutenant governor, secretary of state, state treasurer, state
24 auditor, attorney general, superintendent of public instruction,
25 commissioner of public lands, insurance commissioner, justice of the
26 state supreme court, state senator, and state representative.

27 (4) "State elected official" means the person succeeding,
28 appointed, or elected to a state elected office.

1 (5) "State employee" means a member of the civil service or an
2 exempt person under chapter 41.06 RCW, or higher education personnel
3 under chapter 28B.16 RCW.

4 NEW SECTION. **Sec. 3.** (1) Within twenty days after a person files
5 a declaration of candidacy for any state elected office, the person
6 shall submit to a drug test designed to identify the presence of
7 illegal drugs in the person's body. The drug test shall be conducted
8 pursuant to rules developed by the public disclosure commission, in
9 consultation with the department of health, the department of social
10 and health services, and the secretary of state. Rules developed by
11 the public disclosure commission shall insure that samples are taken
12 and testing is conducted under circumstances that maintain the
13 integrity of the sample without unnecessarily interfering with the
14 individual rights of the person being tested, including the right to be
15 free from unnecessary embarrassment. The rules shall also allow a
16 person who receives a positive test result indicating the presence of
17 illegal drugs to take an additional drug test designed to eliminate
18 false positive test results.

19 (2) The costs for the drug test shall be paid by the person being
20 tested.

21 (3) The results of any drug test performed under this chapter shall
22 be given to the person as soon as available. Final drug test results
23 shall be made available to the public by the public disclosure
24 commission as soon as the period for retesting is completed.

25 (4) False positive test results and any results revealing a medical
26 problem or disease shall be considered confidential and may not be
27 released to the public.

28 (5) The public disclosure commission, in consultation with the
29 secretary of state, shall adopt rules specifying special procedures for

1 complying with the testing requirements of this section for candidates
2 who file for state elected office during special and emergency filing
3 periods.

4 NEW SECTION. **Sec. 4.** Every state elected official who has
5 submitted to a drug test under this chapter as a candidate shall
6 thereafter submit to a drug test using the procedures specified in this
7 chapter once every calendar year during his or her term of office as
8 provided by rules adopted by the public disclosure commission.

9 NEW SECTION. **Sec. 5.** All persons newly employed as a full-time
10 state employee on or after the effective date of this act are employed
11 conditioned on successfully passing a drug test designed to identify
12 the presence of illegal drugs in the person's body. The drug test
13 shall be conducted pursuant to rules developed by the department of
14 personnel. The department of personnel may use the rules developed by
15 the public disclosure commission under section 3 of this act. Rules
16 developed by the department of personnel shall insure that samples are
17 taken and testing is conducted under circumstances that maintain the
18 integrity of the sample without unnecessarily interfering with the
19 individual rights of the person being tested, including the right to be
20 free from unnecessary embarrassment. The rules shall also allow a
21 person who receives a positive test result indicating the presence of
22 illegal drugs to take an additional drug test designed to eliminate
23 false positive test results. The costs for the drug test shall be paid
24 by the person being tested. If the drug test indicates the consumption
25 of illegal drugs, the person must be suspended or terminated and may
26 not be reinstated or rehired until the person has successfully
27 completed a drug rehabilitation program approved by the department of
28 social and health services.

1 This section does not apply to: State employees who are
2 transferring between state agencies; employees of local governments;
3 persons employed by the state under a personal services contract with
4 a duration of less than one year; and judges.

5 NEW SECTION. **Sec. 6.** The director of any state agency may
6 require any state employee under his or her direction, as a condition
7 of continued employment, to submit to a drug test if the director of
8 the agency has probable cause to believe that the state employee is
9 using illegal drugs and that such use is adversely affecting the state
10 employee's job performance. If the drug test indicates the consumption
11 of illegal drugs, the person must be suspended or terminated and may
12 not be reinstated or rehired until the person has successfully
13 completed a drug rehabilitation program approved by the department of
14 social and health services.

15 The department of personnel shall develop rules to provide
16 procedures to assist agencies in the determination that probable cause
17 exists and to insure that drug testing is conducted under procedures
18 developed under section 5 of this act.

19 NEW SECTION. **Sec. 7.** (1) A person who intentionally contaminates
20 a drug test sample in a manner that is likely to prevent appropriate
21 analysis of the sample is guilty of a misdemeanor.

22 (2) A person, other than the person who took the test, who
23 knowingly releases confidential test results is guilty of a
24 misdemeanor.

25 (3) The name of any person who refuses to submit to the testing
26 required by this section shall be stricken from the ballot.

27 (4) No penalty, civil or criminal, shall be assigned to the person
28 based on a positive drug test under this chapter.

1 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act shall
2 constitute a new chapter in Title 43 RCW.

3 NEW SECTION. **Sec. 9.** This act shall take effect January 1, 1992.