

# House Bill 2306

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that certain public officials submit to drug test two times every calendar year. Specifies consequences of refusing or failing test.

## A BILL FOR AN ACT

1  
2 Relating to drug tests for public officials.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 7 of this 2007 Act, "Schedule I or II controlled**  
5 **substance" means a controlled substance as defined in ORS 475.005 that has been listed as**  
6 **a Schedule I or II controlled substance in the schedules published by the State Board of**  
7 **Pharmacy under ORS 475.055.**

8 **SECTION 2. (1) Twice each calendar year, the following officials shall submit to a drug**  
9 **test designed to detect the presence of Schedule I or II controlled substances:**

10 (a) **The Governor.**

11 (b) **The Secretary of State.**

12 (c) **The Attorney General.**

13 (d) **The State Treasurer.**

14 (e) **The Superintendent of Public Instruction.**

15 (f) **The Commissioner of the Bureau of Labor and Industries.**

16 (g) **The Chief Justice and the judges of the Supreme Court.**

17 (h) **The Chief Judge and the judges of the Court of Appeals.**

18 (i) **The members of the Legislative Assembly.**

19 (2) **The Oregon State Police shall administer the drug test required by this section. The**  
20 **Oregon State Police shall establish the times and places at which the tests are administered.**

21 (3) **Refusal to submit to a drug test as required by this section is an admission that the**  
22 **public official has taken a Schedule I or II controlled substance without legal authorization.**

23 **SECTION 3. (1) If a public official submits to a drug test as required by section 2 of this**  
24 **2007 Act and the test indicates that the public official has taken a Schedule I or II controlled**  
25 **substance, the Oregon State Police shall notify the public official and give the public official**  
26 **an opportunity to be heard under section 6 of this 2007 Act. If the public official does not**  
27 **request a hearing, or if the Oregon State Police determine after a hearing that the public**  
28 **official has taken a Schedule I or II controlled substance without legal authorization, the**  
29 **Oregon State Police shall issue a written warning to the public official. The written warning**  
30 **is confidential and not subject to disclosure under ORS 192.410 to 192.505.**

31 (2) **If a warning is issued to a public official under subsection (1) of this section, the of-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **cial must participate in a drug treatment program identified by the Oregon State Police.**

2 **(3) If the public official refuses to participate in the drug treatment program or fails to**  
 3 **satisfactorily complete the program, the Oregon State Police shall disclose to the public all**  
 4 **information relating to the drug test of the public official.**

5 **SECTION 4. (1) A person serving as a public official listed in section 2 of this 2007 Act**  
 6 **shall be considered to have failed a drug test for a second time if the Oregon State Police**  
 7 **have issued a warning to the person under section 3 of this 2007 Act and:**

8 **(a) The person thereafter refuses to submit to a drug test as required by section 2 of this**  
 9 **2007 Act; or**

10 **(b) The person thereafter submits to a drug test as required by section 2 of this 2007 Act**  
 11 **and the Oregon State Police determine after opportunity for hearing that the person has**  
 12 **taken a Schedule I or II controlled substance without legal authorization.**

13 **(2) The Oregon State Police shall disclose to the public all information relating to a sec-**  
 14 **ond failed drug test under this section.**

15 **SECTION 5. (1) A person serving as a public official listed in section 2 of this 2007 Act**  
 16 **shall be considered to have failed a drug test for a third time if the Oregon State Police have**  
 17 **previously disclosed information to the public relating to a drug test under section 4 of this**  
 18 **2007 Act and:**

19 **(a) The person thereafter refuses to submit to a drug test as required by section 2 of this**  
 20 **2007 Act; or**

21 **(b) The person thereafter submits to a drug test as required by section 2 of this 2007 Act**  
 22 **and the Oregon State Police determine after opportunity for hearing that the person has**  
 23 **taken a Schedule I or II controlled substance without legal authorization.**

24 **(2) If a person serving as the Attorney General, the Superintendent of Public Instruction**  
 25 **or the Commissioner of the Bureau of Labor and Industries fails a drug test for a third time,**  
 26 **the person shall immediately be removed from office.**

27 **(3) If a person is serving as any other public official listed in section 2 of this 2007 Act**  
 28 **and fails a drug test for a third time, the Oregon State Police shall disclose to the public all**  
 29 **information relating to the third failed drug test under this section.**

30 **(4) If a person has failed a drug test for a third time and the person thereafter is a**  
 31 **candidate for a public office listed in section 2 of this 2007 Act, the Secretary of State shall**  
 32 **cause to be inserted in the voters' pamphlet next to the name of the candidate the following**  
 33 **statement: "\_\_\_\_\_ (candidate) has failed a statutorily required drug test for con-**  
 34 **trolled substances three times."**

35 **SECTION 6. The Oregon State Police shall notify a person serving as a public official**  
 36 **listed in section 2 of this 2007 Act if a drug test administered by the Oregon State Police**  
 37 **under sections 1 to 7 of this 2007 Act indicates that the person has taken a Schedule I or II**  
 38 **controlled substance. The notice shall inform the person that the person may request a**  
 39 **hearing within 30 days after the date of the notice. Hearings under this section shall be**  
 40 **conducted as contested case hearings under ORS chapter 183. Hearings under this section**  
 41 **shall not be public and are not subject to ORS 192.610 to 192.690.**

42 **SECTION 7. A person serving as a public official listed in section 2 of this 2007 Act fails**  
 43 **a drug test for the purposes of sections 1 to 7 of this 2007 Act if the test indicates that the**  
 44 **person has used marijuana, without regard to whether the person is authorized to engage in**  
 45 **the medical use of marijuana under ORS 475.300 to 475.346.**

