

House Bill 2635

Sponsored by Representatives KRIEGER, OLSON; Representatives BERGER, CAMERON, ESQUIVEL, FREEMAN, GARRARD, GILMAN, HANNA, HUFFMAN, JENSON, SPRENGER, THATCHER, WEIDNER, WHISNANT

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 2009 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 **2009 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 2009 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 **official 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 2009 Act**
 6 **is considered to have failed a drug test for a second time if the Oregon State Police have**
 7 **issued a warning to the person under section 3 of this 2009 Act and:**

8 **(a) The person thereafter refuses to submit to a drug test as required by section 2 of this**
 9 **2009 Act; or**

10 **(b) The person thereafter submits to a drug test as required by section 2 of this 2009 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 2009 Act**
 16 **is 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 **2009 Act and:**

19 **(a) The person thereafter refuses to submit to a drug test as required by section 2 of this**
 20 **2009 Act; or**

21 **(b) The person thereafter submits to a drug test as required by section 2 of this 2009 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 public official listed in section 2 of this 2009 Act, other**
 28 **than the Attorney General, the Superintendent of Public Instruction or the Commissioner**
 29 **of the Bureau of Labor and Industries, and fails a drug test for a third time, the Oregon**
 30 **State Police shall disclose to the public all information relating to the third failed drug test**
 31 **under this section.**

32 **(4) If a person has failed a drug test for a third time and the person thereafter is a**
 33 **candidate for a public office listed in section 2 of this 2009 Act, the Secretary of State shall**
 34 **cause to be inserted in the voters' pamphlet next to the name of the candidate the following**
 35 **statement: "_____ (candidate) has failed a statutorily required drug test for con-**
 36 **trolled substances three times."**

37 **SECTION 6. The Oregon State Police shall notify a person serving as a public official**
 38 **listed in section 2 of this 2009 Act if a drug test administered by the Oregon State Police**
 39 **under sections 1 to 7 of this 2009 Act indicates that the person has taken a Schedule I or II**
 40 **controlled substance. The notice must inform the person that the person may request a**
 41 **hearing within 30 days after the date of the notice. Hearings under this section are conducted**
 42 **as contested case hearings under ORS chapter 183. Hearings under this section are not**
 43 **public and are not subject to ORS 192.610 to 192.690.**

44 **SECTION 7. A person serving as a public official listed in section 2 of this 2009 Act fails**
 45 **a drug test for the purposes of sections 1 to 7 of this 2009 Act if the test indicates that the**

1 **person has used marijuana, without regard to whether the person is authorized to engage in**
2 **the medical use of marijuana under ORS 475.300 to 475.346.**

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