

CHAPTER 317
FORMERLY
SENATE BILL NO. 169

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO DRUG TESTING OF UNIFORMED SERVICES EMPLOYEES

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 10 of the Delaware Code as follows:

§ 9224. Drug testing required.

(a) The Justice of the Peace Court is authorized and required to conduct drug testing as set forth in this section of any employee or prospective employee accepting a uniformed services position, which includes those positions where qualification to carry an employer issued firearm is a condition of employment. The following drug testing shall be authorized or required:

(1) Preemployment testing. -- The Justice of the Peace Court shall not hire or employ any person without first obtaining the results of such person's mandatory drug screening as specified in subsection (b) of this section.

(2) Random testing. -- All uniformed services employees shall be subject to random testing for illegal use of the drugs specified in subsection (b) of this section.

(3) Reasonable suspicion testing. -- The Justice of the Peace Court, acting through its supervisory personnel, may also conduct a drug test based on a reasonable suspicion that a uniformed services employee is impaired by an illegal drug.

(b) Any person offered employment with the Justice of the Peace Court as a uniformed services employee shall be required to submit to mandatory drug screening pursuant to this section and the regulations promulgated by the Justice of the Peace Court. Such regulations shall require drug testing for the following controlled substances:

- (1) Marijuana/cannabis;
- (2) Cocaine;
- (3) Opiates;
- (4) Phencyclidine ("PCP");
- (5) Amphetamines;

(6) Any other controlled prescription drugs specified by the Justice of the Peace Court in the regulations promulgated pursuant to this section.

(c) Conditional offer. -- Notwithstanding the provisions of this section, the Justice of the Peace Court may make a conditional offer of employment to an applicant who has submitted to the required drug screening. No person made a conditional offer of employment shall receive an official starting date until the results of their preemployment drug screen have been received. Any applicant made a conditional offer of employment shall be informed that the results of that applicant's drug screen have been requested.

(d) The Justice of the Peace Court shall adopt policies and procedures for imposing sanctions, which may include referral to the State's Employee Assistance Program, suspension or termination, upon any uniformed services employee who willfully refuses to submit to random or reasonable suspicion testing or whose drug screen indicates that such person has illegally used or consumed a drug or drugs. No employee shall be sanctioned when such person has used or consumed the drug or drugs detected according to the directions and terms of a lawfully obtained prescription for such drug or drugs.

Approved July 15, 2014