

105TH CONGRESS
2^D SESSION

H. RES. 456

Amending the Rules of the House of Representatives to provide for mandatory drug testing of Members, officers, and employees of the House of Representatives.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 1998

Mr. BARTON of Texas (for himself, Mr. SOLOMON, Mr. GIBBONS, Mr. SESSIONS, Mr. COBURN, Mrs. MYRICK, Mr. TAYLOR of Mississippi, Mr. BALLENGER, Mr. BURTON of Indiana, Mr. SHAYS, Mr. TRAFICANT, Mr. PORTMAN, Mr. HASTERT, Mrs. NORTHRUP, Mr. GRAHAM, and Mr. LATHAM) submitted the following resolution; which was referred to the Committee on Rules

RESOLUTION

Amending the Rules of the House of Representatives to provide for mandatory drug testing of Members, officers, and employees of the House of Representatives.

1 *Resolved,*

2 **SECTION 1. MANDATORY DRUG TESTING OF MEMBERS, OF-**
3 **FICERS, AND EMPLOYEES OF THE HOUSE OF**
4 **REPRESENTATIVES.**

5 (a) IN GENERAL.—The Rules of the House of Rep-
6 resentatives are amended by adding at the end the follow-
7 ing new Rule:

1 “RULE LII.

2 “DRUG TESTING.

3 “1. Each Member, officer, and employee of the House
4 of Representatives shall participate in accordance with
5 this rule in a program for testing for illegal use of con-
6 trolled substances, and participation in the program shall
7 be considered a condition of employment for officers and
8 employees of the House of Representatives.

9 “2. Not later than 3 months after the date on which
10 the resolution enacting this rule is agreed to, the Clerk
11 of the House of Representatives shall contract with a pri-
12 vate, nongovernmental entity to carry out the drug testing
13 program under this rule.

14 “3. The drug testing program under this rule shall
15 include the following features:

16 “(a) The program shall be mandatory for each
17 Member, officer, and employee of the House of Rep-
18 resentatives.

19 “(b) Except as otherwise provided in this rule,
20 the program shall be conducted in accordance with
21 the Mandatory Guidelines for Federal Workplace
22 Drug Testing Programs, as prescribed pursuant to
23 section 503 of the Supplemental Appropriations Act,
24 1987 (5 U.S.C. 7301 note).

1 “(e) Members, officers, and employees of the
2 House of Representatives shall be assigned to a pool,
3 with one pool consisting of all Members and a sec-
4 ond pool consisting of all officers and employees. All
5 individuals in a pool shall be subject to random drug
6 testing on a neutral selection basis, in an appro-
7 priate testing frequency and ratio.

8 “(d) In addition to any methods under the
9 Guidelines referred to in paragraph (b), the program
10 shall provide for testing using urinalysis, hair test-
11 ing, and other appropriate methods of testing for il-
12 legal use of controlled substances.

13 “(e) Each confirmed positive result under the
14 program shall be provided as follows:

15 “(1) To the Member, officer, or employee
16 involved.

17 “(2) In the case of a Member, to the Com-
18 mittee on Standards of Official Conduct, which
19 shall take such action as may be necessary
20 under the Rules of the House of Representa-
21 tives.

22 “(3) In the case of an employee of a Mem-
23 ber, to the Member involved.

1 “(4) In the case of an employee of a com-
2 mittee, to the chair and ranking minority mem-
3 ber of the committee involved.

4 “(5) In the case of an officer or employee
5 not described in subparagraph (3) or (4), to the
6 Speaker, Majority Leader, Majority Whip, Mi-
7 nority Leader, and Minority Whip.

8 “(f) The final results of each test of Members
9 shall be included in a biennial report of the Clerk of
10 the House of Representatives and printed as a
11 House document in October of each even-numbered
12 year.

13 “4. (a) At the request of the supervising Member of
14 an officer or employee of the House of Representatives,
15 an officer or employee of the House shall be subject to
16 a drug test under any of the following conditions:

17 “(1) Evidence exists that supports a reasonable
18 suspicion that the officer or employee may be engag-
19 ing in or has engaged in the illegal use of controlled
20 substances, or is otherwise in violation of a drug-
21 abuse prevention policy of the supervising Member.

22 “(2) The officer or employee is participating in
23 or has participated in a substance abuse treatment
24 program under an employee assistance program, or

1 is otherwise receiving treatment or counseling for
2 substance abuse.

3 “(3) The officer or employee has been involved
4 in an incident which may have involved human error
5 and which caused or may have caused a fatality, an
6 injury, or significant property damage in an esti-
7 mated amount of not less than \$200.

8 “(4) The supervising Member proposes to pro-
9 mote the officer or employee.

10 “(5) The officer or employee is returning to em-
11 ployment with the House of Representatives after a
12 period of absence of not less than 6 months.

13 “(b) In paragraph (a), the term ‘supervising Member’
14 means—

15 “(1) in the case of an employee of a Member,
16 the Member involved;

17 “(2) in the case of an employee of a committee,
18 the chair of the committee involved (or, in the case
19 of an employee designated as a member of the com-
20 mittee minority staff, the ranking minority member
21 of the committee involved); and

22 “(3) in the case of an officer or employee not
23 described in subparagraph (1) or (2), the Speaker of
24 the House of Representatives.

1 “5. The Committee on Standards of Official Conduct
2 shall take such action as it considers appropriate against
3 any Member of the House of Representatives who refuses
4 to provide a sample for testing under the program.

5 “6. No individual who is first given an offer of em-
6 ployment by the House of Representatives on or after
7 June 1, 1998, may be hired as an officer or employee of
8 the House unless—

9 “(a) the individual executes a witnessed state-
10 ment agreeing to participate in random drug testing
11 under the program under this rule if hired and
12 agreeing to waive legal rights of challenge;

13 “(b) the individual provides a sample for drug
14 testing under the program under this rule; and

15 “(c) the individual’s sample does not produce a
16 confirmed positive result.

17 “7. The Committee on House Oversight shall issue
18 such regulations as may be necessary to carry out this
19 rule.

20 “8. No officer or employee may carry out any duties
21 with respect to the fields of national defense, foreign pol-
22 icy, intelligence, law enforcement, or any other field involv-
23 ing national security or public safety (as determined in
24 accordance with regulations issued by the Committee on
25 House Oversight) unless the officer or employee partici-

1 pates in the drug testing program established pursuant
2 to this rule.

3 “9. In this rule, the following definitions shall apply:

4 “(a) The term ‘appropriate testing frequency
5 and ratio’ means a frequency and ratio of random
6 drug tests such that—

7 “(1) the total number of random drug
8 tests administered in any calendar year with re-
9 spect to each pool described in clause 3(c) shall
10 be equal to 25 percent of the number of individ-
11 uals in the pool;

12 “(2) random drug tests shall be conducted
13 on not less than 4 and not more than 6 occa-
14 sions during any calendar year; and

15 “(3) any individual who is selected for a
16 random drug test during a calendar year shall
17 be placed in a pool for further random drug
18 testing with a selection frequency rate of 50
19 percent of the rate applicable to individuals who
20 have not been selected for a test during the
21 year and shall remain in this pool for the re-
22 mainder of the calendar year without regard of
23 the number of times the individual is selected
24 for a test during the year.

1 “(b) The term ‘confirmed positive result’ means
2 a drug screen—

3 “(1) which has initially tested as positive
4 for the presence of an illegal controlled sub-
5 stance;

6 “(2) for which the initially positive test has
7 been confirmed by a second test using a dif-
8 ferent chemical process than the process used
9 for the initial test; and

10 “(3) which has been reviewed and certified
11 as positive by a medical review officer with
12 whom the House of Representatives has entered
13 into a contract to perform such reviews. In per-
14 forming such reviews, a medical officer shall not
15 count as positive the presence of legal prescrip-
16 tion drugs or legal over-the-counter drugs.

17 “(c) The term ‘controlled substance’ has the
18 meaning given that term in section 102 of the Con-
19 trolled Substances Act (21 U.S.C. 802).

20 “(d) A ‘Member’ of the House of Representa-
21 tives includes a Delegate or Resident Commissioner
22 to the Congress.

23 “(e) The term ‘neutral selection basis’ means a
24 method under which individuals are selected for ran-
25 dom drug testing through a neutral, computer-based

1 random number generation program that ensures
2 that every individual in a pool described in clause
3 3(c) has the same chance of being selected for an
4 initial random drug test as every other individual in
5 the pool.

6 “(f) The term ‘random drug test’ means a test
7 conducted for the purpose of detecting the illegal use
8 of controlled substances which is conducted on a
9 periodic basis without advance notice and without
10 individualized suspicion.”.

11 (b) PARTICIPATION IN PROGRAM AS CONDITION OF
12 ACCESS TO HOUSE CHAMBER.—Rule XXXII of the Rules
13 of the House of Representatives is amended by adding at
14 the end the following new clause:

15 “6. No officer or employee of the House of Represent-
16 atives may be entitled to admission to the Hall of the
17 House or rooms leading thereto unless such individual par-
18 ticipates in the program established pursuant to rule LII
19 for testing for illegal use of controlled substances.”.

20 (c) CONFORMING AMENDMENT.—Rule I of the Rules
21 of the House of Representatives is amended by striking
22 clause 13.

23 (d) SEVERABILITY OF PROVISIONS.—If any provision
24 of rule LII of the Rules of the House of Representatives
25 (as added by subsection (a)) or clause 6 of rule XXXII

1 of the Rules of the House of Representatives (as added
2 by subsection (b)), or the application of such a provision
3 to any person or circumstance, is held to be unconstitu-
4 tional, the remainder of rule LII or clause 6 of rule XXXII
5 (as the case may be), and the application of the provision
6 to any person or circumstance, shall not be affected by
7 the holding.

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