

By: Representative Nettles

To: Judiciary A

HOUSE BILL NO. 151

1 AN ACT TO PROVIDE FOR THE TESTING OF ALL ELECTED OFFICIALS OF
2 THE STATE FOR UNLAWFUL DRUG USE; TO PROVIDE THAT THE BUREAU OF
3 NARCOTICS, IN CONJUNCTION WITH THE STATE BOARD OF HEALTH, SHALL
4 ESTABLISH AND ADMINISTER A TESTING PROGRAM TO ACCOMPLISH THE
5 REQUIREMENTS OF THIS ACT; TO PROVIDE FOR REMOVAL FROM OFFICE; TO
6 PROVIDE FOR FILLING VACANCIES IN OFFICE RESULTING FROM REMOVAL;
7 TO AMEND SECTION 41-29-111, MISSISSIPPI CODE OF 1972, TO PROVIDE
8 THAT THE BUREAU OF NARCOTICS AND THE STATE BOARD OF HEALTH SHALL
9 COOPERATE IN ADMINISTERING THE TESTING PROGRAM; AND FOR RELATED
10 PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 SECTION 1. (1) Every elected official of the state and its
13 political subdivisions shall be tested annually to determine
14 whether unlawful drugs are present in the system of such person.
15 The Bureau of Narcotics, in conjunction with the State Board of
16 Health, shall establish and administer a testing program with such
17 standards and procedures as deemed necessary to accomplish the
18 requirements of this section. For the purposes of this section,
19 "elected officials of the state" shall include all persons elected
20 to any political office of the state or its political
21 subdivisions.

22 (2) All testing required pursuant to this section shall be
23 performed at the Mississippi Crime Laboratory or at a laboratory
24 approved by the Director of the Mississippi Crime Laboratory.

25 (3) The results of such testing shall be disclosed only to
26 the Commissioner of Public Safety. The test results of the
27 Commissioner of Public Safety shall be disclosed only to the
28 Secretary of State.

29 (4) Each individual tested shall pay a reasonable fee to
30 defray the costs of the testing, which payment may be paid through

31 a payroll deduction.

32 (5) Any elected official whose test results are positive
33 regarding the presence of unlawful drugs in such elected
34 official's system shall be removed from office and the vacancy in
35 such office shall be filled in the manner prescribed by law.

36 SECTION 2. Section 41-29-111, Mississippi Code of 1972, is
37 amended as follows:

38 41-29-111. The bureau shall administer this article and
39 shall work in conjunction and cooperation with the State Board of
40 Pharmacy, county and municipal law enforcement agencies, the
41 district and county attorneys, the Office of the Attorney General
42 and the Mississippi Highway Safety Patrol. The State Board of
43 Health shall work with the bureau in an advisory capacity and
44 shall be responsible for recommending to the Legislature the
45 appropriate schedule for all substances to be scheduled or
46 rescheduled in Sections 41-29-113 through 41-29-121. In making a
47 recommendation regarding a substance, the board shall consider the
48 following:

- 49 (a) (1) The actual or relative potential for abuse;
50 (2) The scientific evidence of its pharmacological
51 effect, if known;
52 (3) The state of current scientific knowledge
53 regarding the substance;
54 (4) The history and current pattern of abuse;
55 (5) The scope, duration and significance of abuse;
56 (6) The risk to the public health;
57 (7) The potential of the substance to produce
58 psychic or physiological dependence liability; and
59 (8) Whether the substance is an immediate
60 precursor of a substance already controlled under this article.

61 (b) After considering the factors enumerated in
62 paragraph (a), the board shall make findings with respect thereto
63 and issue a recommendation to control the substance if it finds

64 the substance has a potential for abuse.

65 (c) If the board designates a substance as an immediate
66 precursor, substances which are precursors of the controlled
67 precursor shall not be recommended for control solely because they
68 are precursors of the controlled precursor.

69 (d) If any substance is designated, rescheduled, or
70 deleted as a controlled substance under federal law and notice
71 thereof is given to the board, it shall recommend the control of
72 the substance under this article at the next session of the
73 Legislature.

74 (e) Authority to control under this article does not
75 extend to distilled spirits, wine, malt beverages, or tobacco as
76 those terms are defined or used in the Local Option Alcoholic
77 Beverage Control Law, being Sections 67-1-1 through 67-1-91, and
78 the Tobacco Tax Law of 1934, being Sections 27-69-1 through
79 27-69-77. It is the intent of the Legislature of the State of
80 Mississippi that the bureau shall concentrate its efforts and
81 resources on the enforcement of the Uniform Controlled Substances
82 Law with respect to illicit narcotic and drug traffic in the
83 state.

84 The controlled substances listed in the schedules in Sections
85 41-29-113 through 41-29-121 are included by whatever official,
86 common, usual, chemical or trade name designated.

87 (f) The board shall recommend the exclusion of any
88 nonnarcotic substance from a schedule if such substance may, under
89 the Federal Food, Drug and Cosmetic Act and the laws of this
90 state, be lawfully sold over the counter without a prescription.

91 The bureau and the board shall cooperate in the
92 administration of the testing program for the presence of unlawful
93 drugs in elected officials of the state as provided for in Section
94 1 of this act.

95 SECTION 3. This act shall take effect and be in force from
96 and after July 1, 1999.