

# 18A:40A-22

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005 **CHAPTER:** 209

**NJSA:** 18A:40A-22 (Authorizes school boards to adopt policy for drug testing certain students)

**BILL NO:** S500 (Substituted for A1193)

**SPONSOR(S):** Sacco and others

**DATE INTRODUCED:** January 13, 2004

**COMMITTEE:** **ASSEMBLY:** Budget  
**SENATE:** Education

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** June 30, 2005

**SENATE:** June 20, 2005

**DATE OF APPROVAL:** August 29, 2005

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (1<sup>st</sup> reprint enacted)

### S500

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

### A1193

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

**COMMITTEE STATEMENT** [ASSEMBLY](#) [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or

<mailto:refdesk@njstatelib.org>

**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

Yes

"Legislation authorizing random drug tests by school officials now law," 8-30-2005 Asbury Park Press, p.A4

"New law makes random high school drug testing procedures uniform" 8-30-2005 Courier News, p.A3

"Law sets policy for drug tests," 8-30-2005 Courier-Post, p.5B

"N.J. sets rules for drug tests," 8-31-2005 Philadelphia Inquirer, p.B10

"Codey signs drug law," 8-31-2005 The Times p.B7

"New law may expand testing for drug use in high schools," 8-31-2005 The Star Ledger, p.19

P.L. 2005, CHAPTER 209, *approved August 29, 2005*  
Senate, No. 500 (*First Reprint*)

1 **AN ACT** authorizing the adoption of substance abuse testing policies  
2 in public school districts and supplementing chapter 40A of Title  
3 18A of the New Jersey Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. The Legislature finds and declares that there are many school  
9 districts within the State with a growing problem of drug abuse among  
10 <sup>1</sup>their<sup>1</sup> students <sup>1</sup>[who participate in interscholastic athletics; and that  
11 this abuse creates the risk of immediate physical harm to the student  
12 using drugs as well as other students participating in interscholastic  
13 athletics]<sup>1</sup>. The Legislature further finds that <sup>1</sup>[in a school district  
14 where there is evidence of a drug abuse problem among students who  
15 participate in interscholastic athletics,] federal and State courts have  
16 held that<sup>1</sup> it may be appropriate for <sup>1</sup>[that district] school districts<sup>1</sup> to  
17 combat this problem through the random drug testing of <sup>1</sup>[student  
18 athletes to deter] students participating in extracurricular activities,  
19 including interscholastic athletics, and students who possess school  
20 parking permits. The Legislature also finds that a random drug testing  
21 program may have a positive effect on attaining the important  
22 objectives of deterring<sup>1</sup> drug use and <sup>1</sup>[to provide] providing<sup>1</sup> a  
23 means for the early detection of students with drug problems so that  
24 counseling and rehabilitative treatment may be offered. <sup>1</sup>[The  
25 Legislature also finds that because student athletes are role models for  
26 the student body, it is appropriate to hold them to a higher degree of  
27 scrutiny to deter and detect drug use.]<sup>1</sup>

28  
29 2. A board of education may adopt a policy, pursuant to rules and  
30 regulations adopted by the State Board of Education in consultation  
31 with the Department of <sup>1</sup>[Health] Human Services<sup>1</sup>, <sup>1</sup>which are  
32 consistent with the New Jersey Constitution and the federal  
33 Constitution,<sup>1</sup> for the random <sup>1</sup>[urinalysis]<sup>1</sup> testing of the district's  
34 students in grades 9-12 who participate in <sup>1</sup>extracurricular activities,

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SED committee amendments adopted May 5, 2005.

1 including<sup>1</sup> interscholastic athletics<sup>1</sup>, or who possess school parking  
2 permits.<sup>1</sup> for the use of controlled dangerous substances as defined in  
3 N.J.S.2C:35-2 <sup>1</sup>and anabolic steroids<sup>1</sup>. The testing shall be conducted  
4 by the school physician, school nurse or a physician, laboratory or  
5 health care facility designated by the board of education and the cost  
6 shall be paid by the board. Any disciplinary action taken against a  
7 student who tests positive for drug use or who refuses to consent to  
8 testing shall be limited to the student's suspension <sup>1</sup>from<sup>1</sup> or  
9 prohibition <sup>1</sup>[from] against<sup>1</sup> participation in [interscholastic  
10 athletics] extracurricular activities, or revocation of the student's  
11 parking permits<sup>1</sup>.

12

13 3. Each board of education shall hold a public hearing prior to the  
14 adoption of its drug testing policy. The policy shall be in written form  
15 and shall be distributed to students and their parents or guardians at  
16 the beginning of each school year. The policy shall include, but need  
17 not be limited to, the following:

18 a. notice that the consent of the student and his parent or guardian  
19 for random student drug testing is required for the student to  
20 participate in <sup>1</sup>[the district's interscholastic athletics program]  
21 extracurricular activities and to possess a school parking permit<sup>1</sup>;

22 b. the procedures for collecting and testing <sup>1</sup>[urine]<sup>1</sup> specimens;

23 c. the manner in which students shall be randomly selected for drug  
24 testing;

25 d. the procedures for a student or his parent or guardian to  
26 challenge a positive test result;

27 e. the standards for ensuring the confidentiality of test results;

28 f. the specific disciplinary action to be imposed upon a student who  
29 tests positive for drug use or refuses to consent to testing; <sup>1</sup>[and]<sup>1</sup>

30 g. the guidelines for the referral of a student who tests positive for  
31 drug use to drug counseling or rehabilitative treatment<sup>1</sup>; and

32 h. the scope of authorized disclosure of test results<sup>1</sup>.

33

34 4. The State Board of Education, in consultation with the  
35 Department of Health, shall adopt pursuant to the "Administrative  
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and  
37 regulations necessary to carry out the provisions of this act.

38

39 5. This act shall take effect immediately.

40

41

42

43

44 Authorizes school boards to adopt policy for drug testing certain  
45 students.

**SENATE, No. 500**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Senator NICHOLAS J. SACCO**  
**District 32 (Bergen and Hudson)**  
**Senator JOSEPH A. PALAIA**  
**District 11 (Monmouth)**

**SYNOPSIS**

Authorizes school boards to adopt a drug testing policy of student athletes.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



S500 SACCO, PALAIA

2

1 AN ACT authorizing the adoption of substance abuse testing policies  
2 in public school districts and supplementing chapter 40A of Title  
3 18A of the New Jersey Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. The Legislature finds and declares that there are many school  
9 districts within the State with a growing problem of drug abuse among  
10 students who participate in interscholastic athletics; and that this abuse  
11 creates the risk of immediate physical harm to the student using drugs  
12 as well as other students participating in interscholastic athletics. The  
13 Legislature further finds that in a school district where there is  
14 evidence of a drug abuse problem among students who participate in  
15 interscholastic athletics, it may be appropriate for that district to  
16 combat this problem through the random drug testing of student  
17 athletes to deter drug use and to provide a means for the early  
18 detection of students with drug problems so that counseling and  
19 rehabilitative treatment may be offered. The Legislature also finds that  
20 because student athletes are role models for the student body, it is  
21 appropriate to hold them to a higher degree of scrutiny to deter and  
22 detect drug use.

23

24 2. A board of education may adopt a policy, pursuant to rules and  
25 regulations adopted by the State Board of Education in consultation  
26 with the Department of Health, for the random urinalysis testing of  
27 the district's students in grades 9-12 who participate in interscholastic  
28 athletics for the use of controlled dangerous substances as defined in  
29 N.J.S.2C:35-2. The testing shall be conducted by the school  
30 physician, school nurse or a physician, laboratory or health care facility  
31 designated by the board of education and the cost shall be paid by the  
32 board. Any disciplinary action taken against a student who tests  
33 positive for drug use or who refuses to consent to testing shall be  
34 limited to the student's suspension or prohibition from participation in  
35 interscholastic athletics.

36

37 3. Each board of education shall hold a public hearing prior to the  
38 adoption of its drug testing policy. The policy shall be in written form  
39 and shall be distributed to students and their parents or guardians at  
40 the beginning of each school year. The policy shall include, but need  
41 not be limited to, the following:

42 a. notice that the consent of the student and his parent or guardian  
43 for random student drug testing is required for the student to  
44 participate in the district's interscholastic athletics program;

45 b. the procedures for collecting and testing urine specimens;

46 c. the manner in which students shall be randomly selected for drug

- 1 testing;
- 2 d. the procedures for a student or his parent or guardian to
- 3 challenge a positive test result;
- 4 e. the standards for ensuring the confidentiality of test results;
- 5 f. the specific disciplinary action to be imposed upon a student who
- 6 tests positive for drug use or refuses to consent to testing; and
- 7 g. the guidelines for the referral of a student who tests positive for
- 8 drug use to drug counseling or rehabilitative treatment.

9

10 4. The State Board of Education, in consultation with the

11 Department of Health, shall adopt pursuant to the "Administrative

12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and

13 regulations necessary to carry out the provisions of this act.

14

15 5. This act shall take effect immediately.

16

17

18 STATEMENT

19

20 This bill permits a board of education to adopt a policy for the

21 random drug testing of the district's high school students who

22 participate in interscholastic athletics. The bill establishes certain

23 guidelines that a district must follow in adopting a drug testing policy

24 similar to that upheld by the U.S. Supreme Court in Vernonia School

25 District v. Acton, 115 S.Ct. 2386 (1995). The purpose of a drug

26 testing policy would be to combat a district's problem of drug use

27 among student athletes, which poses an immediate risk of physical

28 harm to that athlete and to other students participating in

29 interscholastic athletics. In addition, because student athletes are role

30 models for a student body, it may be appropriate to hold them to a

31 higher standard. The drug testing policy would deter drug use among

32 student athletes and provide a means for the early detection of

33 students with drug problems so that counseling and rehabilitative

34 treatment may be offered.

35 The bill requires that any drug testing policy adopted by a district

36 be adopted pursuant to rules and regulations promulgated by the State

37 Board of Education, in consultation with the Department of Health.

38 The testing is to be conducted by the school physician, school nurse

39 or a physician, laboratory or health care facility designated by the

40 board of education, and the cost would be paid by the board. Any

41 disciplinary action imposed upon a student who tests positive for drug

42 use or who refuses to be tested is to be limited to the student's

43 suspension or prohibition from interscholastic athletic participation.

44 Each board of education is to hold a public hearing prior to the

45 adoption of a drug testing policy. The policy would be in written form

46 and distributed to students and their parents or guardians at the

**S500 SACCO, PALAIA**

1 beginning of each school year. It would include, but need not be  
2 limited to: notice that the consent of the student and the student's  
3 parent or guardian for random student drug testing is required for the  
4 student to participate in the district's interscholastic athletics program;  
5 the procedures for collecting and testing urine specimens; the manner  
6 in which students will be randomly selected; the procedures for  
7 students and their parents or guardians to challenge positive test  
8 results; the standards for ensuring the confidentiality of test results; the  
9 specific disciplinary action imposed upon students who test positive  
10 for drug use or who refuse to consent to testing; and the guidelines for  
11 referring students who test positive for drug use to counseling or  
12 rehabilitative treatment.



# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 500**

# STATE OF NEW JERSEY

DATED: JUNE 29, 2005

The Assembly Budget Committee reports favorably Senate Bill No. 500 (1R).

Senate Bill No. 500 (1R) permits a board of education to adopt a policy for the random drug testing of the district's high school students who participate in extracurricular activities, including interscholastic athletics, or who possess a school parking permit. The policy would be adopted pursuant to regulations promulgated by the State Board of Education, in consultation with the Department of Human Services, which are consistent with the controlling dictates of the State and federal constitutions. The bill also sets forth certain procedural guidelines that a district must follow in adopting its policy and certain provisions that the policy must include.

As reported by the committee, this bill is identical to Assembly Bill No. 1193 as also amended and reported by the committee.

### FISCAL IMPACT:

This bill has no impact on State revenues or expenditures. The provisions of the bill are permissive, and the impact on boards of education cannot be estimated.

# SENATE EDUCATION COMMITTEE

## STATEMENT TO

### **SENATE, No. 500**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 5, 2005

The Senate Education Committee reports favorably Senate Bill No. 500 with committee amendments.

As amended, this bill permits a board of education to adopt a policy for the random drug testing of the district's high school students who participate in extracurricular activities, including interscholastic athletics, or who possess a school parking permit. The policy would be adopted pursuant to regulations promulgated by the State Board of Education, in consultation with the Department of Health and Senior Services, which are consistent with the controlling dictates of the State and federal constitutions. The bill also sets forth certain procedural guidelines that a district must follow in adopting its policy and certain provisions that the policy must include.

The committee amended the bill to include anabolic steroids among the drugs for the use of which a student may be tested under the bill; and to state explicitly that the regulations promulgated by the State Board pursuant to the bill must be consistent with all State and federal constitutional restrictions on the random drug testing of public school students. The committee also deleted specific references to the urinalysis testing method in order to leave the door open for the State Board to permit districts to use an alternative drug testing method.

This bill was pre-filed for introduction in the 2004-2005 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

# ASSEMBLY, No. 1193

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## STATE OF NEW JERSEY

### 211th LEGISLATURE

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PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Assemblywoman JOAN M. QUIGLEY**

**District 32 (Bergen and Hudson)**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**SYNOPSIS**

Authorizes school boards to adopt a drug testing policy of student athletes.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 5/3/2005)**

**A1193 QUIGLEY, PRIETO**

2

1 **AN ACT** authorizing the adoption of substance abuse testing policies  
2 in public school districts and supplementing chapter 40A of Title  
3 18A of the New Jersey Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. The Legislature finds and declares that there are many school  
9 districts within the State with a growing problem of drug abuse among  
10 students who participate in interscholastic athletics; and that this abuse  
11 creates the risk of immediate physical harm to the student using drugs  
12 as well as other students participating in interscholastic athletics. The  
13 Legislature further finds that in a school district where there is  
14 evidence of a drug abuse problem among students who participate in  
15 interscholastic athletics, it may be appropriate for that district to  
16 combat this problem through the random drug testing of student  
17 athletes to deter drug use and to provide a means for the early  
18 detection of students with drug problems so that counseling and  
19 rehabilitative treatment may be offered. The Legislature also finds that  
20 because student athletes are role models for the student body, it is  
21 appropriate to hold them to a higher degree of scrutiny to deter and  
22 detect drug use.

23

24 2. A board of education may adopt a policy, pursuant to rules and  
25 regulations adopted by the State Board of Education in consultation  
26 with the Department of Health, for the random urinalysis testing of  
27 the district's students in grades 9-12 who participate in interscholastic  
28 athletics for the use of controlled dangerous substances as defined in  
29 N.J.S.2C:35-2. The testing shall be conducted by the school  
30 physician, school nurse or a physician, laboratory or health care facility  
31 designated by the board of education and the cost shall be paid by the  
32 board. Any disciplinary action taken against a student who tests  
33 positive for drug use or who refuses to consent to testing shall be  
34 limited to the student's suspension or prohibition from participation in  
35 interscholastic athletics.

36

37 3. Each board of education shall hold a public hearing prior to the  
38 adoption of its drug testing policy. The policy shall be in written form  
39 and shall be distributed to students and their parents or guardians at  
40 the beginning of each school year. The policy shall include, but need  
41 not be limited to, the following:

42 a. notice that the consent of the student and his parent or guardian  
43 for random student drug testing is required for the student to  
44 participate in the district's interscholastic athletics program;

45 b. the procedures for collecting and testing urine specimens;

46 c. the manner in which students shall be randomly selected for drug

- 1 testing;
- 2 d. the procedures for a student or his parent or guardian to
- 3 challenge a positive test result;
- 4 e. the standards for ensuring the confidentiality of test results;
- 5 f. the specific disciplinary action to be imposed upon a student who
- 6 tests positive for drug use or refuses to consent to testing; and
- 7 g. the guidelines for the referral of a student who tests positive for
- 8 drug use to drug counseling or rehabilitative treatment.

9

10 4. The State Board of Education, in consultation with the

11 Department of Health, shall adopt pursuant to the "Administrative

12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and

13 regulations necessary to carry out the provisions of this act.

14

15 5. This act shall take effect immediately.

16

17

18 STATEMENT

19

20 This bill permits a board of education to adopt a policy for the

21 random drug testing of the district's high school students who

22 participate in interscholastic athletics. The bill establishes certain

23 guidelines that a district must follow in adopting a drug testing policy

24 similar to that upheld by the U.S. Supreme Court in Vernonia School

25 District v. Acton, 115 S.Ct. 2386 (1995). The purpose of a drug

26 testing policy would be to combat a district's problem of drug use

27 among student athletes, which poses an immediate risk of physical

28 harm to that athlete and to other students participating in

29 interscholastic athletics. In addition, because student athletes are role

30 models for a student body, it may be appropriate to hold them to a

31 higher standard. The drug testing policy would deter drug use among

32 student athletes and provide a means for the early detection of

33 students with drug problems so that counseling and rehabilitative

34 treatment may be offered.

35 The bill requires that any drug testing policy adopted by a district

36 be adopted pursuant to rules and regulations promulgated by the State

37 Board of Education, in consultation with the Department of Health.

38 The testing is to be conducted by the school physician, school nurse

39 or a physician, laboratory or health care facility designated by the

40 board of education, and the cost would be paid by the board. Any

41 disciplinary action imposed upon a student who tests positive for drug

42 use or who refuses to be tested is to be limited to the student's

43 suspension or prohibition from interscholastic athletic participation.

44 Each board of education is to hold a public hearing prior to the

45 adoption of a drug testing policy. The policy would be in written form

46 and distributed to students and their parents or guardians at the

**A1193 QUIGLEY, PRIETO**

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1 beginning of each school year. It would include, but need not be  
2 limited to: notice that the consent of the student and the student's  
3 parent or guardian for random student drug testing is required for the  
4 student to participate in the district's interscholastic athletics program;  
5 the procedures for collecting and testing urine specimens; the manner  
6 in which students will be randomly selected; the procedures for  
7 students and their parents or guardians to challenge positive test  
8 results; the standards for ensuring the confidentiality of test results; the  
9 specific disciplinary action imposed upon students who test positive  
10 for drug use or who refuse to consent to testing; and the guidelines for  
11 referring students who test positive for drug use to counseling or  
12 rehabilitative treatment.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1193**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 29, 2005

The Assembly Budget Committee reports favorably Assembly Bill No. 1193, with committee amendments.

Assembly Bill No. 1193, as amended, permits a board of education to adopt a policy for the random drug testing of the district's high school students who participate in extracurricular activities, including interscholastic athletics, or who possess a school parking permit. The policy would be adopted pursuant to regulations promulgated by the State Board of Education, in consultation with the Department of Human Services, which are consistent with the controlling dictates of the State and federal constitutions. The bill also sets forth certain procedural guidelines that a district must follow in adopting its policy and certain provisions that the policy must include.

This bill was prefiled for introduction in the 2005-2005 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

As amended and reported by the committee, this bill is identical to Senate Bill No. 500 (1R) as also reported by the committee.

#### FISCAL IMPACT:

This bill has no impact on State revenues or expenditures. The provisions of the bill are permissive, and the impact on boards of education cannot be estimated.

#### COMMITTEE AMENDMENTS:

The amendments include anabolic steroids among the drugs for the use of which a student may be tested under the bill and state explicitly that the regulations promulgated by the State Board of Education pursuant to the bill must be consistent with all State and federal constitutional restrictions on the random drug testing of public school students. The amendments also delete specific references to the urinalysis testing method, to leave the door open for the State board to permit districts to use an alternative drug testing method.