

House Bill 275 (COMMITTEE SUBSTITUTE)

By: Representatives McDonald of the 26th, Hatchett of the 150th, Powell of the 32nd, Collins of the 68th, Smyre of the 135th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 4 of Title 25 and Article 3 of Chapter 11 of Title 31 of the Official Code
2 of Georgia Annotated, relating to general provisions relative to firefighter standards and
3 training and to emergency medical services personnel, respectively, so as to require random
4 drug tests for certain firefighters, emergency medical technicians, paramedics, and cardiac
5 technicians; to provide for licensure and certification of emergency medical services
6 personnel, paramedics, and cardiac technicians previously convicted of a felony; to provide
7 for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 4 of Title 25 of the Official Code of Georgia Annotated, relating to general
11 provisions relative to firefighter standards and training, is amended by adding a new Code
12 section to read as follows:

13 "25-4-11.1.

14 (a) All firefighters qualified pursuant to paragraph (2) of subsection (a) of Code
15 Section 25-4-8 shall be subject to random testing for evidence of use of illegal drugs. Such
16 testing shall occur at least biannually for the first two years of licensure or certification.

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17 Such testing shall be noninvasive and may be conducted at any time during the calendar
18 year, and the cost of all such testing shall be borne by the employer. If the drug test shows
19 the presence of drugs in the firefighter's system, the results of the test will be confirmed
20 with an alternative method by using the same urine sample.

21 (b) The council shall adopt rules and regulations for purposes of testing and retesting for
22 illegal drugs, including:

23 (1) Which illegal drugs will be the subject of testing;

24 (2) Methods for ensuring minimal privacy intrusions during collection of body fluid
25 specimens for such testing;

26 (3) Methods for ensuring proper storage, transportation, and handling of such specimens
27 in order to maintain the integrity of the testing process;

28 (4) Which persons should be entitled to the results of such tests and which methods
29 should be used for ensuring that only authorized persons are given access to such results;

30 (5) A list of laboratories qualified to conduct established drug tests; and

31 (6) Procedures through which firefighters, prior to the collection of body fluid specimens
32 for such testing, may provide information to their employers regarding use of any drug
33 pursuant to a medical prescription or, as otherwise authorized by law, any substance
34 which could affect the results of such test.

35 (c) Any rules or regulations adopted pursuant to this Code section shall be in compliance
36 with Parts 40 and 382 of Title 49 of the Code of Federal Regulations."

37 **SECTION 2.**

38 Article 3 of Chapter 11 of Title 31 of the Official Code of Georgia Annotated, relating to
39 emergency medical services personnel, is amended by revising Code Section 31-11-51,
40 relating to certification and recertification of emergency medical technicians, rules and
41 regulations, and use of conviction data in licensing decisions, as follows:

42 "31-11-51.

43 (a) As used in this Code section, the term 'conviction data' means a record of a finding or
44 verdict of guilty or plea of guilty or plea of nolo contendere with regard to any crime,
45 regardless of whether an appeal of the conviction has been sought.

46 (b) ~~The~~ Except as otherwise provided for in this chapter, the board shall, by regulation,
47 authorize the department to establish procedures and standards for the licensing of
48 emergency medical services personnel. The department shall succeed to all rules and
49 regulations, policies, procedures, and administrative orders of the composite board which
50 were in effect on December 31, 2001, and which relate to the functions transferred to the
51 department by this chapter. Such rules, regulations, policies, procedures, and
52 administrative orders shall remain in effect until amended, repealed, superseded, or
53 nullified by proper authority or as otherwise provided by law.

54 (c) In reviewing applicants for initial licensure of emergency medical services personnel,
55 the department shall be authorized pursuant to this Code section to obtain conviction data
56 with respect to such applicants for the purposes of determining the suitability of the
57 applicant for licensure.

58 (d) The department shall by rule or regulation, consistent with the requirements of this
59 subsection, establish a procedure for requesting a fingerprint based criminal history records
60 check from the center and the Federal Bureau of Investigation. Fingerprints shall be in
61 such form and of such quality as prescribed by the center and under standards adopted by
62 the Federal Bureau of Investigation. Fees may be charged as necessary to cover the cost
63 of the records search. An applicant may request that a criminal history records check be
64 conducted by a state or local law enforcement agency or by a private vendor approved by
65 the department. Fees for criminal history records checks shall be paid by the applicant to
66 the entity processing the request at the time such request is made. The state or local law
67 enforcement agency or private vendor shall remit payment to the center in such amount as
68 required by the center for conducting a criminal history records check. The department

69 shall accept a criminal history records check whether such request is made through a state
70 or local law enforcement agency or through a private vendor approved by the department.
71 Upon receipt of an authorized request, the center shall promptly cause such criminal
72 records search to be conducted. The center shall notify the department in writing of any
73 finding of disqualifying information, including, but not limited to, any conviction data
74 regarding the fingerprint records check, or if there is no such finding.

75 (e) An applicant with conviction data which indicates a conviction of a felony more than
76 five but less than ten years prior to application shall not be disqualified for licensure,
77 provided that such applicant has:

78 (1) Successfully completed a training program approved by the department and
79 sponsored by the Department of Corrections; and

80 (2) Met all other requirements as set forth in this chapter.

81 (f) Conviction data received by the department or a state or local law enforcement agency
82 shall be privileged and shall not be a public record or disclosed to any person. Conviction
83 data shall be maintained by the department and the state or local law enforcement pursuant
84 to laws regarding such records and the rules and regulations of the center and the Federal
85 Bureau of Investigation. Penalties for the unauthorized release or disclosure of conviction
86 data shall be as prescribed by law or rule or regulation of the center or Federal Bureau of
87 Investigation.

88 (f)(g) The center, the department, or any law enforcement agency, or the employees of any
89 such entities, shall neither be responsible for the accuracy of information provided pursuant
90 to this Code section nor be liable for defamation, invasion of privacy, negligence, or any
91 other claim relating to or arising from the dissemination of information pursuant to this
92 Code section."

93 **SECTION 3.**

94 Said article is further amended by revising Code Section 32-11-52, relating to certification
95 and recertification of, and training for, paramedics and cardiac technicians, as follows:

96 "31-11-52.

97 (a) The department shall establish procedures and standards for certifying and recertifying
98 paramedics and cardiac technicians. An applicant for initial certification as a paramedic
99 or a cardiac technician must:

100 (1) Submit a completed application on a form to be prescribed by the department, which
101 shall include evidence that the applicant is 18 years of age or older and is of good moral
102 character;

103 (2) Submit from the department a notarized statement that the applicant has completed
104 a training course approved by the department;

105 (3) Submit to the department a fee as set forth in the regulations of the department; and

106 (4) Meet such other requirements as are set forth in the rules and regulations of the
107 department.

108 (b) The department shall also adopt procedures and standards for its approval of paramedic
109 training courses and cardiac technician training courses. The department shall adopt such
110 regulations after consultation with appropriate public and private agencies and
111 organizations concerned with medical education and the practice of medicine. Procedures
112 and standards adopted by the department shall be consistent with the purposes and
113 provisions of this chapter.

114 (c) An applicant convicted of a felony more than five but less than ten years prior to
115 application shall not be disqualified for certification, provided that such applicant has:

116 (1) Successfully completed a training program approved by the department and
117 sponsored by the Department of Corrections; and

118 (2) Met all other requirements as set forth in this chapter."

119 **SECTION 4.**

120 Said article is further amended by adding a new Code section to read as follows:

121 "31-11-60.2.

122 (a) All persons licensed or certified as emergency medical technicians, paramedics, or
123 cardiac technicians convicted of a felony more than five but less than ten years prior to
124 licensure or certification shall be subject to random testing for evidence of use of illegal
125 drugs. Such testing shall occur at least biannually for the first two years of licensure or
126 certification. Such testing shall be noninvasive and may be conducted at any time during
127 the calendar year, and the cost of all such testing shall be borne by the employer. If the
128 drug test shows the presence of drugs in the employee's system, the results of the test will
129 be confirmed with an alternative method by using the same urine sample.

130 (b) The department shall adopt rules and regulations to establish for purposes of testing
131 and retesting for illegal drugs:

132 (1) Which illegal drugs will be the subject of testing;

133 (2) Methods for ensuring minimal privacy intrusions during collection of body fluid
134 specimens for such testing;

135 (3) Methods for ensuring proper storage, transportation, and handling of such specimens
136 in order to maintain the integrity of the testing process;

137 (4) Which persons should be entitled to the results of such tests and which methods
138 should be used for ensuring that only authorized persons are given access to such results;

139 (5) A list of laboratories qualified to conduct established drug tests; and

140 (6) Procedures through which emergency medical technicians, paramedics, or cardiac
141 technicians, prior to the collection of body fluid specimens for such testing, may provide
142 information to their employers regarding use of any drug pursuant to a medical
143 prescription or, as otherwise authorized by law, any substance which could affect the
144 results of such test.

145 (c) Any rules or regulations adopted pursuant to this Code section shall be in compliance
146 with Parts 40 and 382 of Title 49 of the Code of Federal Regulations."

147 **SECTION 5.**

148 All laws and parts of laws in conflict with this Act are repealed.