

HOUSE BILL No. 6042

July 22, 1992, Introduced by Reps. DeLange, Gernaat and Hoekman and referred to the Committee on Judiciary.

A bill to provide for the awarding of state grants and contracts to persons who refrain from illegal drug use and implement certain drug prevention measures; to prescribe the powers and duties of certain persons and state agencies; and to provide for penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "work force drug use prevention act".

3 Sec. 2. As used in this act:

4 (a) "Contractor" means the department, division, or other
5 unit of a party responsible for the performance of work under a
6 contract.

7 (b) "Controlled substance" means that term as defined in
8 section 7104 of the public health code, Act No. 368 of the Public

1 Acts of 1978, being section 333.7104 of the Michigan Compiled
2 Laws.

3 (c) "Employee" means an individual who performs work for and
4 is compensated by a grantee or contractor.

5 (d) "Grantee" means a person who applies for and receives a
6 grant directly from a state agency. Grantee does not include a
7 state agency.

8 (e) "Person" means a sole proprietorship, partnership, cor-
9 poration, association, or other legal entity. Person does not
10 include an individual.

11 (f) "State agency" or "agency" means a state department,
12 agency, authority, board, bureau, commission, division, institu-
13 tion of higher education, office, or other unit of state
14 government.

15 Sec. 3. A person is not eligible to receive a grant for any
16 purpose or be awarded a contract for the procurement of any prop-
17 erty or services from a state agency unless the person has certi-
18 fied to the granting or contracting agency, as applicable, that
19 it has adopted and implemented a program to prevent the illegal
20 use of controlled substances by employees. The program shall
21 include the adoption of a written policy on the matter and the
22 annual distribution to each employee of all of the following:

23 (a) Standards of conduct that clearly prohibit, at a mini-
24 mum, the unlawful manufacture, distribution, possession, or use
25 of a controlled substance by employees on the grantee's or
26 contractor's property or while performing duties for the grantee
27 or contractor.

1 (b) A description of the applicable legal sanctions under
2 local, state, or federal law for the unlawful manufacture, dis-
3 tribution, possession, or use of a controlled substance and
4 information as to how employees may notify law enforcement
5 authorities regarding suspected infractions of these laws.

6 (c) A description of the health risks associated with the
7 use of a controlled substance.

8 (d) A description of drug counseling, treatment, or rehabil-
9 itation programs that are available to employees.

10 (e) A clear statement that the grantee or contractor will
11 impose sanctions on employees for violation of the standards of
12 conduct required by subdivision (a), consistent with local,
13 state, and federal law, and a description of those sanctions, up
14 to and including termination of employment and possible referral
15 for prosecution for any violation of state or federal law. In
16 addition to these sanctions, an employer may require an affected
17 employee to participate in an appropriate drug rehabilitation
18 program as a condition of continued employment.

19 Sec. 4. A state agency shall not enter into a contract with
20 or award a grant to any individual unless the contract or grant
21 includes a certification by the individual that, at a minimum, he
22 or she will not be under the influence of, or engage in the
23 unlawful manufacture, distribution, possession, or use of, a con-
24 trolled substance while the contract or grant is in effect.

25 Sec. 5. (1) Each contract awarded by a state agency is
26 subject to suspension of payments under the contract or
27 termination of the contract, or both, and the contractor or the

1 individual who entered into the contract with the state agency is
2 subject to suspension or debarment in accordance with the
3 requirements of this section if the head of the contracting
4 agency or his or her designee has determined, in writing, that
5 the contractor has failed to implement the requirements of the
6 certification required in section 3, including the enforcement of
7 sanctions required by the section. Any suspension of payments,
8 termination of payments, suspension of eligibility, or debarment
9 proceedings shall be conducted pursuant to the administrative
10 procedures act of 1969, Act No. 306 of the Public Acts of 1969,
11 being sections 24.201 to 24.328 of the Michigan Compiled Laws.

12 (2) Upon the issuance of any final decision under this sec-
13 tion requiring debarment of a contractor or individual, the con-
14 tractor or individual is not eligible for the awarding of any
15 contract by a state agency or for participation in any future
16 procurement by a state agency for a period specified in the deci-
17 sion, which shall not be less than 1 year, nor more than 5
18 years.

19 Sec. 6. (1) Each grant awarded by a state agency is subject
20 to suspension of payments under the grant or termination of the
21 grant, or both, and the grantee or the individual who entered
22 into the grant with the state agency is subject to suspension or
23 debarment in accordance with the requirements of this section if
24 the head of the granting agency or his or her designee has deter-
25 mined, in writing, that the grantee has failed to implement the
26 requirements of the certification required in section 3,
27 including the enforcement of sanctions required by the section.

1 Any suspension of payments, termination of payments, suspension
2 of eligibility, or debarment proceedings shall be conducted pur-
3 suant to the administrative procedures act of 1969, Act No. 306
4 of the Public Acts of 1969, being sections 24.201 to 24.328 of
5 the Michigan Compiled Laws.

6 (2) Upon the issuance of any final decision under this sec-
7 tion requiring debarment of a grantee or individual, the grantee
8 or individual is not eligible for the awarding of any grant by a
9 state agency or for participation in any future grant from a
10 state agency for a period specified in the decision, which shall
11 not be less than 1 year, nor more than 5 years.

12 Sec. 7. The director of the department of management and
13 budget may waive a termination, suspension of payments, suspen-
14 sion of eligibility, or debarment under this act with respect to
15 a particular contract or grant if he or she determines that the
16 action would severely disrupt the operation of an agency or oth-
17 erwise would not be in the public interest.

18 Sec. 8. The department of management and budget shall
19 promulgate, as necessary, rules to implement this act pursuant to
20 the administrative procedures act of 1969, Act No. 306 of the
21 Public Acts of 1969, being sections 24.201 to 24.328 of the
22 Michigan Compiled Laws.