Public assistance-drug testing.

Sponsored by: Representative(s) Miller, Burkhart, Davison, Edmonds, Gay, Jaggi, Peasley, Quarberg and Teeters and Senator(s) Jennings and Peterson

A BILL

For

1 AN ACT relating to welfare and the personal opportunities
2 with employment responsibilities program; requiring notice of drug testing; requiring a pilot program; requiring a report;
3 permitting controlled substances testing for applicants as specified; providing exceptions; providing for suspension of eligibility following a positive test for controlled substances; providing a definition; providing for rules and regulations; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 42-2-115 is created to read:

(a) The department shall require a drug test to advise each individual adult who applies for POWER benefits for that if the individual enrolls in the POWER Program he may be subject to random drug testing. The department is authorized to undertake a pilot program for the random drug testing of adult participants in the POWER program. Before July 1, 2013, the department shall randomly test at least one (1) sample of at least one hundred (100) adult participants in the POWER program and shall inform the joint labor, health and social services interim committee of the number of participants in the sample, the number of participants declining the test and the incidence of controlled substance use found. The cost of drug testing shall be the responsibility of the department.

(b) The department may test any individual receiving POWER benefits or receiving POWER benefits on behalf of a minor child for the use of controlled substances by that individual if the department has probable cause to believe that the individual may be using controlled substances illegally or may be abusing or neglecting a child receiving POWER benefits.
This section shall apply to any parent or caretaker relative who is included in the cash assistance group of a minor recipient, including an individual who may be exempt from work activity requirements due to the age of the youngest child or who may be exempt from work activity requirements under W.S. 42-2-202. If an individual is enrolled in a work training program that requires a drug test, the individual shall be exempt from the drug test requirements of this section.

An individual who tests positive for controlled substances, unless the substance was obtained directly from, or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice, because of a positive drug test under this section is ineligible to receive POWER benefits for one (1) month after the date of the positive drug test unless the individual meets the requirements of subsection (e) of this section.

The department shall:

(i) Provide notice of drug testing to each
individual at the time of application. The notice shall advise the individual that drug testing will be conducted as 
a condition for receiving POWER benefits. The individual shall be advised that the required drug testing may be avoided if the individual does not apply for POWER benefits. Dependent children under the age of eighteen (18) are exempt from the drug testing requirement;

(ii) Require that for two (2) parent families, where both parents live within the home with the children, both parents comply with the drug testing requirement;

(iii) Advise each individual to be tested, before the test is conducted, that the individual may, but is not required to, advise the agent administering the test of any prescription or over-the-counter medication the individual is taking;

(iv) Require each individual to be tested to sign a written acknowledgement that the individual has received and understood the notice and advice provided under paragraphs (i) and (iii) of this subsection;

(v) Assure each individual to be tested a
reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the state's need to ensure the reliability of the sample;

(vi) Specify circumstances under which an individual who fails a drug test has the right to take one (1) or more additional tests;

(vii) Inform an individual who tests positive for a controlled substance and is deemed ineligible for POWER benefits that the individual may reapply for those benefits one (1) month after the date of the positive drug test unless the individual meets the requirements of subsection (e) of this section. If the individual tests positive again, the individual shall be ineligible to receive POWER benefits for one (1) year after the date of the second positive drug test unless the individual meets the requirements of subsection (e) of this section;

(viii) Provide any individual who tests positive with a list of substance abuse treatment providers, certified pursuant to W.S. 9-2-2701, available in the area in which the individual resides.
(f) An individual who is denied POWER benefits because of a positive drug test may reapply for those benefits immediately if the individual documents the successful participation in a substance abuse treatment program offered by a provider certified pursuant to W.S. 9-2-2701. An individual who has met the requirements of this subsection and reapplies for POWER benefits shall also pass an additional drug test and meet the requirements of this section. An individual who fails the drug test required under this section may reapply for benefits under this subsection only once.

(f)(g) If a parent is deemed ineligible for POWER benefits because of a positive drug test conducted under this section:

(i) Any other household member's eligibility for POWER benefits is not affected;

(ii) An appropriate protective payee shall be designated to receive benefits on behalf of any dependent child of a parent who is ineligible;

(iii) An ineligible parent may choose to
designate another individual to receive benefits for the
parent's minor child. The designated individual shall be
an immediate family member or, if an immediate family
member is not available or the family member declines the
designation, another individual approved by the department
shall be designated. The designated individual shall also
undergo drug testing before being approved to receive
benefits on behalf of the child. If the designated
individual tests positive for controlled substances, the
individual shall not be eligible to receive benefits on
behalf of the child except as provided in subsection (e) of
this section.

The department shall adopt rules and
regulations to implement this section.

Section 2. W.S. 42-2-102(a) by creating a new
paragraph (x) is amended to read:


(a) Except as otherwise specifically provided, as
used in this article:
"POWER" or "POWER program" means the personal opportunities with employment responsibilities program authorized by this article.

Section 3. This act is effective July 1, 2012.