

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3601

To amend title III of the Social Security Act to require a substance abuse risk assessment and targeted drug testing as a condition for the receipt of unemployment benefits, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 2011

Mr. KINGSTON (for himself and Mr. FARENTHOLD) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To amend title III of the Social Security Act to require a substance abuse risk assessment and targeted drug testing as a condition for the receipt of unemployment benefits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ensuring Quality in  
5 the Unemployment Insurance Program (EQUIP) Act”.

1 **SEC. 2. DRUG SCREENING MADE A CONDITION OF BENEFIT**  
2 **RECEIPT.**

3 (a) IN GENERAL.—Section 303 of the Social Security  
4 Act (42 U.S.C. 503) is amended by adding at the end the  
5 following:

6 “(1)(1) For purposes of subsection (a), the State law  
7 (as defined in section 205 of the Federal-State Extended  
8 Unemployment Compensation Act of 1970 (26 U.S.C.  
9 3304 note)) of a State shall provide the following:

10 “(A) No regular compensation may be paid to  
11 an applicant for such compensation with respect to  
12 a benefit year unless, before the receipt of any such  
13 compensation—

14 “(i) the applicant has completed a sub-  
15 stance abuse risk assessment for such benefit  
16 year; and

17 “(ii) subject to subparagraph (B), if the  
18 State determines based on the results of such  
19 assessment that the applicant is a high-risk ap-  
20 plicant, not later than 1 week after the results  
21 of the assessment are determined, the applicant  
22 tests negative for controlled substances.

23 “(B) If a high-risk applicant tests positive for  
24 any controlled substance—

1           “(i) if such test result is the first positive  
2 test result for such applicant in the benefit  
3 year—

4           “(I) no regular compensation may be  
5 paid to such applicant for a period of 30  
6 days beginning on the date that such test  
7 result is determined; and

8           “(II) no regular compensation may be  
9 paid to such applicant during the remain-  
10 der of such benefit year unless the appli-  
11 cant tests negative for controlled sub-  
12 stances at the end of such period;

13           “(ii) if such test result is not the first posi-  
14 tive test result for such applicant in the benefit  
15 year, no regular compensation may be paid to  
16 such applicant during the remainder of such  
17 benefit year.

18           “(C) A high-risk applicant receiving benefits  
19 with respect to a benefit year shall be subject to  
20 testing for controlled substances by the State at any  
21 time during the benefit year, with limited notice pro-  
22 vided to the applicant of such testing.

23           “(D) A high-risk applicant who is tested for  
24 controlled substances under—

1           “(i) subparagraph (A) or (C) shall be re-  
2           sponsible for the cost of such test if the indi-  
3           vidual tests positive for any such substance; and

4           “(ii) subparagraph (B)(i)(II) shall be re-  
5           sponsible for the cost of such test.

6           “(2) For purposes of this subsection—

7           “(A) the term ‘benefit year’ means the benefit  
8           year as defined in the applicable State law;

9           “(B) the term ‘controlled substance’—

10           “(i) means a drug or other substance se-  
11           lected by the State to be included in drug test-  
12           ing under this subsection; and

13           “(ii) does not include any drug or other  
14           substance used by the applicant pursuant to a  
15           valid prescription or as otherwise authorized by  
16           law;

17           “(C) the term ‘high-risk applicant’, with respect  
18           to a benefit year, means an individual who is deter-  
19           mined by the State to have a high risk of substance  
20           abuse based on the results of a substance abuse risk  
21           assessment administered under paragraph (1)(A)(i);  
22           and

23           “(D) the term ‘substance abuse risk assess-  
24           ment’ means a screening instrument, approved by  
25           the Director of the National Institutes of Health, de-

1 signed to determine whether an individual has a  
2 high risk of substance abuse.”.

3 (b) NO MERIT STAFFING REQUIREMENTS.—Section  
4 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1))  
5 shall not be construed in such a manner as to apply the  
6 merit staffing requirements in section 900.603 of title 5,  
7 Code of Federal Regulations, as in effect on October 1,  
8 2011, to the implementation of section 303(l) of such Act  
9 (as amended by subsection (a)).

10 (c) FUNDING FOR SUBSTANCE ABUSE TESTING.—

11 (1) FUNDING FROM IPAB.—Section 1899A(m)  
12 of the Social Security Act is amended—

13 (A) in paragraph (1), in the matter pre-  
14 ceding subparagraph (A), by striking “to the  
15 Board to carry” and inserting “for the purposes  
16 of carrying out section 303(l), and, if any funds  
17 remain in the fiscal year involved, for the Board  
18 for the purpose of carrying”; and

19 (B) by striking paragraph (2).

20 (2) FUNDING FROM THE CO-OP PROGRAM.—

21 Section 1322(g) of the Patient Protection and Af-  
22 fordable Care Act is amended by striking “to carry  
23 out this section.” and inserting “to carry out section  
24 303(l) of the Social Security Act, to the extent funds

1 are necessary to carry out such section after the ap-  
2 plication of section 1899A(m)(1) of such Act.”.

3 (d) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-  
5 graph (2), the amendment made by subsection (a)  
6 shall take effect on the date that is 180 days after  
7 the date of the enactment of this Act.

8 (2) DELAY PERMITTED IF LEGISLATION PEND-  
9 ING.—If a State applies to the Secretary of Labor  
10 to delay implementation of the requirements of sec-  
11 tion 303(l) of the Social Security Act (42 U.S.C.  
12 503(l)) on the grounds that legislation to implement  
13 such requirements is pending in the State legislature  
14 on the date that is 180 days after the date of the  
15 enactment of this Act, the Secretary shall not refuse  
16 certification for payment to the State under section  
17 302 of such Act solely on the basis of the failure of  
18 the State to implement such requirements before  
19 such date.

○