



TO: House Insurance Committee  
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio  
DATE: November 24, 2015  
RE: House Bill 394

To Chairman Hackett, Vice Chair LaTourette, Ranking Minority Member Bishoff, and members of the House Insurance Committee, my name is Gary Daniels, chief lobbyist for the American Civil Liberties Union of Ohio ("ACLU of Ohio") and I appear to present opponent testimony on House Bill 394.

As a civil liberties organization, the ACLU of Ohio takes no position on almost all changes HB 394 makes to Ohio's unemployment system. However, we do oppose sections of this bill to create an unnecessary and possibly unconstitutional drug-testing scheme.

HB 394 would require those applying for unemployment benefits to submit to a drug test under the following criteria:

- 1) If the director of job and family services has "reasonable cause" to believe an applicant has unlawfully used controlled substances and either of the following apply:
  - a) The applicant was terminated from their most recent position as a result of unlawful drug use or;
  - b) The applicant "is an individual for whom suitable work is only available in an occupation" the U.S. Dept. of Labor determines is an occupation that regularly conducts drug testing.

The problems with this addition to Ohio law are many, and I will very briefly touch on several.

- 1) Using HB 394 to disqualify an applicant because they were terminated from their most recent job for illegal drug use is wholly unnecessary. Ohioans are *already* denied these benefits if they were terminated for "just cause" and illegal drug use is surely included among factors defined as just cause.

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2) As the LSC summary states, the U.S. Dept. of Labor "has not yet adopted a final rule to identify occupations that regularly conduct drug testing." At a minimum, it is premature to pass a law without knowing or having required information affecting this law and those subject to it.

3) HB 394 affords zero opportunity to appeal positive drug tests. It also does not permit future tests should an applicant successfully complete treatment or otherwise reverse course with regard to their drug use, abuse, and addiction. In this sense, HB 394 is a draconian, ill-advised "one strike and you're out" approach.

4) On a related note, Ohio currently does not have nearly enough drug treatment options to satisfy demand. Punishing those who wish to improve their situations but cannot because of a lack of resources or options is to knowingly set them and their families up for failure.

5) This bill perpetuates the ongoing and misguided responses by the Ohio General Assembly to legitimate drug problems. So-called solutions that focus almost exclusively on punishment have led to overcrowded prisons and jails that accomplish almost nothing to remedy the problems of drug user or addicts. The War on Drugs has been a colossal failure using any objective measures yet this bill offers more of the same thinking. In addition, should HB 394 pass with the drug-test requirements, it will only be a matter of time before another bill is introduced to expand this practice to additional unemployed people, among others.

Members of the House Insurance Committee, we urge you to amend HB 394 by removing the bill's drug-testing provisions. Should concerns about Ohioans' drug abuse be legitimate, yanking a safety net from underneath Ohio's struggling and vulnerable families has no place among a discussion about meaningful and actual solutions.