

By: Farrar

H.B. No. 2430

A BILL TO BE ENTITLED

AN ACT

relating to a discount on workers' compensation insurance premiums for employers who elect to implement substance abuse testing of employees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 5, Labor Code, is amended by adding Chapter 420 to read as follows:

CHAPTER 420. SUBSTANCE ABUSE TESTING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 420.001. DEFINITIONS. In this chapter:

(1) "Employee" means a person who works for salary, wages, or other remuneration for an employer. The term includes a part-time or leased employee.

(2) "Employer" means a person who employs one or more employees.

(3) "Job applicant" means a person who has applied for a position of employment and has been offered employment subject to passing a substance abuse test. The term includes a person who has begun work pending the results of the substance abuse test.

(4) "Post-accident testing" means substance abuse testing of an employee who is involved in an accident that occurs during the time the employee is performing work for the employer.

(5) "Substance" means alcohol or other drugs.

(6) "Substance abuse test" means any chemical,

1 biological, or physical instrumental analysis administered to
2 determine the presence or absence of alcohol or other drugs or their
3 metabolites.

4 Sec. 420.002. APPLICABILITY OF CHAPTER. (a) This chapter
5 does not require an employer to conduct substance abuse testing of
6 employees.

7 (b) An employer may establish policies that are
8 supplemental to and not inconsistent with this chapter.

9 (c) This chapter does not prevent the negotiation of
10 collective bargaining agreements that provide greater protection
11 to employees than the protections provided by this chapter and may
12 not be construed to limit the rights, privileges, or remedies of any
13 employee or collective bargaining representative under any other
14 state or federal law or regulation or under any collective
15 bargaining agreement or employment contract.

16 (d) This chapter does not prevent an employer from requiring
17 or performing medical examinations of employees as permitted by law
18 or from conducting medical screenings to monitor exposure to toxic
19 or other harmful substances in the workplace if those examinations
20 or screenings are not used to avoid the requirements of this
21 chapter.

22 (e) This chapter does not prevent an employer from adopting
23 rules related to the possession or use of a controlled substance by
24 an employee, including rules relating to the consequences of a
25 conviction for a related offense, or from taking an action based on
26 a violation of those rules, including termination of the
27 employment.

1 (f) This chapter does not restrict an employer's authority
2 to prohibit the use or possession of alcohol or other drugs during
3 work hours.

4 (g) This chapter may not be construed to prevent an employer
5 from establishing reasonable work rules relating to employee
6 manufacture, sale, distribution, possession, or use of alcohol or
7 other drugs, including convictions for drug-related offenses, and
8 taking action based on a violation of any of those rules.

9 Sec. 420.003. CERTIFICATION PROGRAM. (a) An employer who
10 elects to obtain workers' compensation insurance coverage may apply
11 for certification of a drug-free workplace under this section.

12 (b) The division shall issue a certificate to each employer
13 determined by the division, after an investigation by the division,
14 to have implemented the following:

15 (1) a written policy statement explaining the
16 employer's policies on alcohol and drug abuse as applicable to
17 employees and job applicants;

18 (2) substance abuse testing for job applicants after
19 an offer of employment;

20 (3) random substance abuse testing of employees; and

21 (4) post-accident substance abuse testing of
22 employees.

23 (c) A certificate issued under this section is valid for one
24 year from the date of issuance and may be renewed by the employer on
25 application to the commission and reinvestigation by the division.

26 SECTION 2. Chapter 2053, Insurance Code, is amended by
27 adding Subchapter G to read as follows:

1 SUBCHAPTER G. DRUG-FREE WORKPLACE

2 Sec. 2053.301. WORKERS' COMPENSATION INSURANCE PREMIUM
3 DISCOUNT FOR EMPLOYERS WITH DRUG-FREE WORKPLACE. (a) In this
4 section, "insurer" means a stock company, mutual company,
5 reciprocal, interinsurance exchange, Lloyd's plan, or other entity
6 authorized to write workers' compensation insurance in this state.
7 The term includes the Texas Mutual Insurance Company.

8 (b) This section applies to an employer who holds a
9 certificate of a drug-free workplace issued by the division of
10 workers' compensation of the department under Section 420.003,
11 Labor Code.

12 (c) The commissioner by rule shall adopt a plan under which
13 each insurer shall grant a discount to an employer subject to
14 Subsection (b) who obtains workers' compensation insurance
15 coverage from that insurer and applies for the discount in the
16 manner prescribed by the commissioner. The insurer shall grant a
17 discount in a percentage set by the commissioner by rule on the
18 amount of the employer's workers' compensation premium. The
19 percentage set by the commissioner must be not greater than five
20 percent.

21 (d) A discount established under this section is valid for
22 the term of the policy or contract of insurance. On renewal of the
23 policy or contract, the employer must reapply for the discount in
24 the manner prescribed by the commissioner.

25 (e) A discount under this section is in addition to any
26 other premium discount to which the employer is eligible under this
27 code.

1 SECTION 3. This Act takes effect September 1, 2007.