

By: Brown of Brazos

H.B. No. 354

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility and drug testing of certain persons seeking food stamp benefits.

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

SECTION 1. Chapter 33, Human Resources Code, is amended by adding Section 33.016 to read as follows:

Sec. 33.016. ELIGIBILITY AND DRUG TESTING OF CERTAIN PERSONS FOR FOOD STAMP BENEFITS. (a) In this section, "controlled substance" has the meaning assigned by Chapter 481, Health and Safety Code.

(b) An applicant for benefits under the food stamp program must state in writing whether the applicant has been convicted of an offense described by 21 U.S.C. Section 862a(a). As authorized by 21 U.S.C. Section 862a(d)(1)(A), 21 U.S.C. Section 862a(a) does not apply in determining whether a person convicted of an offense described by that section is eligible for benefits under the food stamp program. A person convicted of an offense described by that section is not ineligible for benefits under the food stamp program because of the conviction unless ineligibility is imposed by this section.

(c) An applicant who has been convicted of an offense described in Subsection (b) during the five-year period preceding the date of the application must submit to drug testing to be eligible for benefits under the food stamp program. The department

1 shall provide for drug testing of each applicant described by this
2 subsection.

3 (d) An applicant whose drug test indicates the presence in
4 the applicant's body of a controlled substance that was not
5 prescribed for the applicant by a health practitioner is ineligible
6 for benefits under the food stamp program until the first
7 anniversary of the date the test was administered.

8 (e) An applicant whose drug test does not indicate the
9 presence in the applicant's body of a controlled substance that was
10 not prescribed for the applicant by a health practitioner must
11 submit to subsequent monthly drug tests while receiving those
12 benefits. A person whose subsequent drug test indicates the
13 presence in the person's body of a controlled substance that was not
14 prescribed for the person by a health practitioner is ineligible
15 for benefits under the food stamp program until the first
16 anniversary of the date that test was administered.

17 (f) A person denied eligibility under this section must
18 submit to additional monthly drug tests if the person reapplies for
19 benefits under the food stamp program after expiration of the
20 ineligibility period, regardless of the date of the person's
21 conviction described in Subsection (b).

22 (g) Before denying benefits under the food stamp program to
23 a person under this section, the department must:

24 (1) notify the person of the results of the drug test
25 and the department's proposed determination of ineligibility;

26 (2) confirm the results of the drug test through a
27 second drug test or other appropriate method; and

1 (3) provide the person with an opportunity for a
2 public hearing concerning the results of the drug tests.

3 (h) The executive commissioner shall adopt rules
4 implementing this section.

5 SECTION 2. Section 33.016, Human Resources Code, as added
6 by this Act, applies only to a person who applies for benefits
7 under the food stamp program under Chapter 33, Human Resources
8 Code, or for a recertification of eligibility for those benefits,
9 on or after the effective date of this Act.

10 SECTION 3. If before implementing any provision of this Act
11 a state agency determines that a waiver or authorization from a
12 federal agency is necessary for implementation, the state agency
13 shall request the waiver or authorization and may delay
14 implementing that provision until the waiver or authorization is
15 granted.

16 SECTION 4. This Act takes effect September 1, 2009.