

By: Legler

H.B. No. 975

A BILL TO BE ENTITLED

AN ACT

relating to drug testing of professional employees of public school districts.

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

SECTION 1. Subchapter Z, Chapter 22, Education Code, is amended by adding Section 22.903 to read as follows:

Sec. 22.903. DRUG TESTING OF PROFESSIONAL EMPLOYEES. (a)

In this section, "professional employee of a school district" has the meaning assigned by Section 22.051.

(b) A school district shall establish a drug testing policy for professional employees of the district. The district may satisfy the requirement imposed by this subsection by adopting the model drug testing policy adopted by the agency under Subsection (c).

(c) The agency by rule shall adopt a model drug testing policy that may be used by school districts.

(d) Any drug testing policy under this section must be designed to ensure the safety of students and to protect the rights of employees and must:

(1) test for:

(A) excessive use of alcoholic beverages, as defined by Section 1.04, Alcoholic Beverage Code; and

(B) use of marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.

1 Section 801 et seq., or a dangerous drug, as defined by Chapter 483,
2 Health and Safety Code;

3 (2) require at least one scheduled drug test for each
4 prospective professional employee of a district;

5 (3) authorize random, unannounced drug testing once
6 each year for not fewer than 10 percent of the professional
7 employees of a district; and

8 (4) require a drug test for each professional employee
9 of a district who is injured on the job.

10 (e) A school district may not hire a prospective
11 professional employee who fails a drug test administered under this
12 section.

13 (f) A school district may either terminate the employment of
14 a professional employee of the district who fails a drug test
15 administered under this section or may require the employee to
16 attend a rehabilitation program. A district that requires an
17 employee to attend a rehabilitation program must provide for
18 administering a weekly drug test to the employee throughout the
19 course of the program. A district shall terminate the employment of
20 a professional employee of the district who fails a weekly drug test
21 administered under this subsection.

22 (g) A person whose employment is terminated under this
23 section may not apply for employment as a professional employee of a
24 school district until at least nine months after the date of the
25 latest failed drug test and must submit to a drug test as a
26 prospective employee. If the person attempts to apply for a
27 position as a professional employee of a school district before the

1 end of the nine-month period, the person may not apply again for
2 such employment for an additional 36 months after the date of
3 applying.

4 (h) A professional employee of a school district who fails a
5 drug test administered under this section shall reimburse the
6 district for the cost of administering that drug test and for the
7 cost of a drug test taken as a prospective employee after
8 termination of employment under this section.

9 (i) A school district is required to establish and
10 administer a drug testing policy under this section only if the
11 legislature appropriates sufficient money specifically for the
12 purpose of reimbursing districts for expenses incurred in
13 establishing and administering the policy.

14 SECTION 2. This Act takes effect September 1, 2009.