

By: Legler

H.B. No. 126

A BILL TO BE ENTITLED

AN ACT

relating to required drug testing for applicants and recipients of unemployment compensation benefits.

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

SECTION 1. Section 207.021, Labor Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to meeting the requirements of Subsections (a)-(c), to be eligible to receive benefits under this subtitle a claimant must comply with Section 207.026.

SECTION 2. Subchapter B, Chapter 207, Labor Code, is amended by adding Section 207.026 to read as follows:

Sec. 207.026. REQUIRED DRUG TESTING; DISQUALIFICATION FOR BENEFITS. (a) Each individual who files a claim for benefits under Chapter 208 or receives benefits under this subtitle must submit to drug testing as provided by this section.

(b) The commission by rule shall adopt a drug testing program as part of the requirements for the receipt of benefits under this subtitle. The program must:

(1) comply with the drug testing requirements of 49 C.F.R. Part 382 or other similar national requirements for drug testing programs recognized by the commission; and

(2) be designed to protect the rights of benefit applicants and recipients.

(c) Each individual who files an initial claim under Section

1 208.001 must successfully pass a drug test conducted by the
2 commission before being eligible to receive benefits.

3 (d) If an individual who is receiving benefits under this
4 subtitle applies for employment with an employer who requires a
5 preemployment drug test and the individual fails the drug test, the
6 individual must disclose the results of that test to the commission
7 in the manner prescribed by the commission. The individual must
8 disclose the test results within 72 hours of receipt by the
9 individual of the notice that the individual failed the drug test.
10 Except as provided by Subsection (f), an individual described by
11 this subsection who fails a preemployment drug test is disqualified
12 for benefits under this subtitle until the individual meets the
13 requirements of Subsection (e).

14 (e) An applicant for or recipient of benefits who does not
15 successfully pass a drug test required under this section is
16 disqualified for benefits. Disqualification under this section
17 continues until the individual has returned to employment and:

18 (1) worked for six weeks; or
19 (2) earned wages equal to six times the individual's
20 benefit amount.

21 (f) Notwithstanding Subsection (d) or (e), an individual is
22 not disqualified for benefits based on a failure to successfully
23 pass a drug test required by this section if, on the basis of
24 evidence presented by the individual, the commission finds that:

25 (1) the individual is participating in a treatment
26 program for drug abuse; or

27 (2) the failure to pass the drug test is caused by the

1 use of a drug that was prescribed by a physician as medically
2 necessary for the individual.

3 (g) Notwithstanding Subsection (f), an individual who fails
4 to report test results to the commission as required by Subsection
5 (d) must repay the commission for any benefits received under this
6 subtitle from the date on which the individual knows or should have
7 known that the individual failed the preemployment drug test until
8 the date on which the commission receives notice that the
9 individual failed the preemployment drug test.

10 SECTION 3. The change in law made by this Act applies only
11 to a claim for unemployment compensation benefits that is filed
12 with the Texas Workforce Commission on or after March 1, 2012.

13 SECTION 4. This Act takes effect September 1, 2011.