

By: Williams

S.B. No. 21

A BILL TO BE ENTITLED

AN ACT

relating to drug screening or testing as a condition for the receipt of unemployment compensation benefits by certain individuals.

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

SECTION 1. Section 207.021, Labor Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) An individual for whom suitable work is available only in an occupation designated by United States Department of Labor regulation as an occupation that regularly conducts preemployment drug testing is available for work for purposes of Subsection (a)(4) only if the individual complies with the applicable requirements of the drug screening and testing program administered by the commission under Section 207.026. The commission shall adopt rules for determining the type of work that is suitable for an individual for purposes of this subsection.

(b-2) An individual receiving benefits under this subtitle who applies for employment with an employer that requires preemployment drug testing and fails that test is not available for work for purposes of Subsection (a)(4) and is not eligible to continue to receive benefits under this subtitle until the individual has complied with the applicable requirements of the drug screening and testing program administered by the commission under Section 207.026.

SECTION 2. Subchapter B, Chapter 207, Labor Code, is

1 amended by adding Section 207.026 to read as follows:

2 Sec. 207.026. DRUG SCREENING OR TESTING AS CONDITION OF
3 BENEFIT ELIGIBILITY FOR CERTAIN APPLICANTS AND RECIPIENTS. (a)
4 The commission by rule shall adopt a drug screening and testing
5 program as part of the requirements for the receipt of benefits
6 under this subtitle by an individual to whom Section 207.021(b-1)
7 or (b-2) applies. The program must:

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

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

13 (b) Under the program, each individual to whom Section
14 207.021(b-1) applies who files an initial claim must submit to and
15 pass a drug screening assessment developed and administered by or
16 on behalf of the commission for purposes of this subsection as a
17 prerequisite to receiving benefits under this subtitle. The
18 assessment tool used under this subsection must consist of a
19 written questionnaire to be completed by the individual applying
20 for benefits and must be designed to accurately determine the
21 reasonable likelihood that an individual is using a substance that
22 is subject to regulation under Chapter 481, Health and Safety Code.
23 An individual whose drug screening assessment indicates a
24 reasonable likelihood of use by the individual of a substance
25 subject to regulation under that chapter must submit to and pass a
26 drug test administered by or on behalf of the commission to
27 establish the individual's eligibility for benefits under this

1 subtitle. An individual who fails a drug test under this subsection
2 is not eligible to receive benefits under this subtitle until the
3 individual has passed a subsequent drug test administered by or on
4 behalf of the commission not earlier than four weeks after the date
5 the individual submitted to the failed drug test.

6 (c) Under the program, each individual to whom Section
7 207.021(b-2) applies must disclose the individual's failure of an
8 employer-required preemployment drug test to the commission in the
9 manner prescribed by the commission for purposes of this subsection
10 within 72 hours of receipt by the individual of the notice that the
11 individual failed the test. The individual is disqualified from
12 continuing to receive benefits under this subtitle until the
13 individual has satisfied the eligibility conditions prescribed by
14 Subsection (b) for an individual who has failed a drug test
15 administered under that subsection.

16 (d) An individual who fails to report test results to the
17 commission as required by Subsection (c) must repay the commission
18 the amount of any benefits received by the individual under this
19 subtitle for a benefit period between:

20 (1) the date on which the individual knows or should
21 have known that the individual failed the employer-required
22 preemployment drug test; and

23 (2) the date on which the commission receives notice
24 that the individual failed that test.

25 (e) Notwithstanding Subsection (b) or (c), an individual is
26 not disqualified from receiving benefits based on the individual's
27 failure to pass a drug test if, on the basis of evidence presented

1 by the individual, the commission determines that:

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

4 (2) the failure to pass the test is caused by the use
5 of a substance that was prescribed by a physician as medically
6 necessary for the individual.

7 (f) The commission by rule shall prescribe procedures for an
8 appeal and the retaking of a failed drug test by an individual under
9 this section.

10 (g) The commission shall administer the program under this
11 section using existing administrative funds and any funds
12 appropriated to the commission for the purposes of this section.

13 SECTION 3. The changes in law made by this Act apply only to
14 a claim for unemployment compensation benefits that is filed with
15 the Texas Workforce Commission on or after February 1, 2014.

16 SECTION 4. If before implementing any provision of this Act
17 a state agency determines that a waiver or authorization from a
18 federal agency is necessary for implementation of that provision,
19 the agency affected by the provision shall request the waiver or
20 authorization and may delay implementing that provision until the
21 waiver or authorization is granted.

22 SECTION 5. This Act takes effect September 1, 2013.