

1-1 By: Williams, et al. S.B. No. 21
1-2 (In the Senate - Filed February 13, 2013; February 20, 2013,
1-3 read first time and referred to Committee on Economic Development;
1-4 April 8, 2013, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 8, 2013,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Deuell	X		
1-10	Hancock	X		
1-11	Birdwell	X		
1-12	Davis	X		
1-13	Eltife	X		
1-14	Fraser	X		
1-15	Watson	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 21 By: Deuell

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to drug screening or testing as a condition for the receipt
1-20 of unemployment compensation benefits by certain individuals.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 207.021, Labor Code, is amended by
1-23 adding Subsection (b-1) to read as follows:

1-24 (b-1) An individual for whom suitable work is available only
1-25 in an occupation designated by United States Department of Labor
1-26 regulation as an occupation that regularly conducts preemployment
1-27 drug testing is available for work for purposes of Subsection
1-28 (a)(4) only if the individual complies with the applicable
1-29 requirements of the drug screening and testing program administered
1-30 by the commission under Section 207.026. The commission shall
1-31 adopt rules for determining the type of work that is suitable for an
1-32 individual for purposes of this subsection.

1-33 SECTION 2. Subchapter B, Chapter 207, Labor Code, is
1-34 amended by adding Section 207.026 to read as follows:

1-35 Sec. 207.026. DRUG SCREENING OR TESTING AS CONDITION OF
1-36 BENEFIT ELIGIBILITY FOR CERTAIN APPLICANTS AND RECIPIENTS.

1-37 (a) The commission by rule shall adopt a drug screening and
1-38 testing program as part of the requirements for the receipt of
1-39 benefits under this subtitle by an individual to whom Section
1-40 207.021(b-1) applies. The program must:

1-41 (1) comply with the drug testing requirements of 49
1-42 C.F.R. Part 382 or other similar national requirements for drug
1-43 testing programs recognized by the commission; and

1-44 (2) be designed to protect the rights of benefit
1-45 applicants and recipients.

1-46 (b) Under the program, each individual to whom Section
1-47 207.021(b-1) applies who files an initial claim must submit to and
1-48 pass a drug screening assessment developed and administered by or
1-49 on behalf of the commission for purposes of this subsection as a
1-50 prerequisite to receiving benefits under this subtitle. The
1-51 assessment tool used under this subsection must consist of a
1-52 written questionnaire to be completed by the individual applying
1-53 for benefits and must be designed to accurately determine the
1-54 reasonable likelihood that an individual is using a substance that
1-55 is subject to regulation under Chapter 481, Health and Safety Code.
1-56 An individual whose drug screening assessment indicates a
1-57 reasonable likelihood of use by the individual of a substance
1-58 subject to regulation under that chapter must submit to and pass a
1-59 drug test administered by or on behalf of the commission to
1-60 establish the individual's eligibility for benefits under this

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

2-6 (c) Notwithstanding Subsection (b), an individual is not
2-7 disqualified from receiving benefits based on the individual's
2-8 failure to pass a drug test if, on the basis of evidence presented
2-9 by the individual, the commission determines that:

2-10 (1) the individual is participating in a treatment
2-11 program for drug abuse; or

2-12 (2) the failure to pass the test is caused by the use
2-13 of a substance that was prescribed by a health care practitioner as
2-14 medically necessary for the individual.

2-15 (d) The commission by rule shall prescribe procedures for an
2-16 appeal and the retaking of a failed drug test by an individual under
2-17 this section.

2-18 (e) The commission shall administer the program under this
2-19 section using existing administrative funds and any funds
2-20 appropriated to the commission for the purposes of this section.

2-21 SECTION 3. The changes in law made by this Act apply only to
2-22 a claim for unemployment compensation benefits that is filed with
2-23 the Texas Workforce Commission on or after February 1, 2014.

2-24 SECTION 4. If before implementing any provision of this Act
2-25 a state agency determines that a waiver or authorization from a
2-26 federal agency is necessary for implementation of that provision,
2-27 the agency affected by the provision shall request the waiver or
2-28 authorization and may delay implementing that provision until the
2-29 waiver or authorization is granted.

2-30 SECTION 5. This Act takes effect September 1, 2013.

2-31 * * * * *