

By: Bucy

H.B. No. 3349

A BILL TO BE ENTITLED

AN ACT

relating to certain drug tests administered to employees and independent contractors of state agencies and political subdivisions.

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

SECTION 1. Subtitle A, Title 6, Government Code, is amended by adding Chapter 620 to read as follows:

CHAPTER 620. DRUG TESTING

Sec. 620.001. DEFINITIONS. In this chapter:

(1) "Drug test" means a technical analysis of an individual's biological specimen to determine the presence or absence of specified drugs or metabolites.

(2) "Peace officer" means a person elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure.

Sec. 620.002. EXCEPTION. This chapter does not apply to a peace officer who is elected, employed, or appointed by a state agency or political subdivision of this state.

Sec. 620.003. PROHIBITED DRUG TESTING. A state agency or a political subdivision of this state may not:

(1) establish a drug testing policy that requires an employee or independent contractor of the agency or political subdivision as a condition of employment or contract to submit to a drug test the intent of which is to screen for the presence of

1 tetrahydrocannabinols or cannabidiol indicating the use of
2 marihuana or low-THC cannabis;

3 (2) administer or require the administration to the
4 employee or contractor as a condition of employment or contract of a
5 drug test the intent of which is to screen for the presence of
6 tetrahydrocannabinols or cannabidiol indicating the use of
7 marihuana or low-THC cannabis; or

8 (3) establish for the employee or contractor as a
9 condition of employment or contract a test result that is negative
10 for the presence of tetrahydrocannabinols or cannabidiol.

11 Sec. 620.004. RELIEF AVAILABLE. (a) A person may assert an
12 actual or threatened violation of Section 620.003 as a claim or
13 defense in a judicial or administrative proceeding and obtain:

14 (1) compensatory damages;

15 (2) injunctive relief;

16 (3) declaratory relief; and

17 (4) other appropriate relief, including reasonable
18 attorney's fees.

19 (b) Notwithstanding any other law, a person may commence an
20 action under this section and relief may be granted regardless of
21 whether the person has sought or exhausted available administrative
22 remedies.

23 Sec. 620.005. IMMUNITY WAIVED. A person who alleges a
24 violation of Section 620.003 may sue the governmental entity for
25 the relief provided under Section 620.004. Sovereign or
26 governmental immunity, as applicable, is waived and abolished to
27 the extent of liability for that relief.

1 SECTION 2. The changes in law made by this Act apply only to
2 the administration of a drug testing policy or a drug test on or
3 after the effective date of this Act.

4 SECTION 3. This Act takes effect September 1, 2019.