

## HB 2397 -- Drug and Alcohol Testing of Certain Construction Employees

Sponsor: Funderburk

This bill requires any entity that provides construction services under contract on the property of a public or private school or university or any state-owned building to have an approved drug and alcohol testing program in place before any work on the project begins. An employer may contract with a third party to administer the program.

With the submission of a bid, the contractor must provide a statement stipulating that he or she and each subcontractor or agent who will work on the project has an approved testing policy in place.

Before testing, the employer must provide the employee with a written policy statement explaining the employee's rights to challenge any positive result and to provide relevant information including any prescription or nonprescription drugs that he or she is currently using or has recently used.

An employee is not allowed to work on a project unless he or she has tested negative within 12 months of the start date of the project. After the project commences, the employer can require an employee to submit to testing if the employer has a reasonable belief that the employee is using drugs in violation of the employer's policies. After an employee begins work on a project, the employer must require the employee to submit to random testing in an objective, neutral, and nondiscriminatory manner that is spread out throughout the life of the project. The testing must be performed by a certified laboratory and conducted in accordance with scientific and technical guidelines established by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services for those laboratories. The bill specifies the minimum types and levels of drugs which must be tested for.

Employers are required to inform an employee of the nature and consequences of a positive test result as well as the employee's options. The employee can request a retest of the specimen by a certified laboratory chosen by the employee. The employee is required to pay the cost of any retesting but can be reimbursed if the retest yields a negative result. An employer must compensate an employee for his or her time in taking the test.

An employee who refuses to be tested or who tests positive is not permitted to work on the project until he or she tests negative for the presence of drugs or alcohol. An employee who tests

positive more than once is completely barred from working on the project. An employer who knowingly allows an employee to work in violation of the testing policy may be fined up to \$200, imprisoned for up to six months, or both. Each day that a violation continues is a separate offense.

An employer with an equivalent alcohol and drug testing program that has been in existence since January 1, 2005, and meets certain specified criteria is not subject to the requirements of the bill.