

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Health Regulation

CS/CS/CS/HB 1205 — Drug-Free Workplaces

by State Affairs Committee; Appropriations Committee; Government Operations Subcommittee; and Rep. Smith and others (CS/CS/CS/SB 1358 by Budget Committee; Budget Subcommittee on General Government Appropriations; Governmental Oversight and Accountability Committee; and Senator Hays)

This bill amends drug-free workplace provisions in s. 112.0455, F.S., concerning state agency employees, and s. 440.102, F.S., concerning employers and employees covered under the Workers' Compensation Law. It authorizes state agencies to conduct random drug testing on all employees every 3 months. Employees to be tested must be chosen via computer-generated random sampling by an independent third party, and each sample may not constitute more than 10 percent of the total employee population. Agencies may also administer drug tests to all job applicants. Drug testing must be conducted within each agency's appropriation.

The bill also revises provisions related to discipline and management of state agency employees with positive drug tests. An agency may discipline or terminate the employment of any employee who receives a first-time positive drug test. If the employee is not discharged, the employer may refer him or her to an employee assistance program or alcohol and drug rehabilitation program, in which he or she may participate at personal expense or at the expense of a health insurance plan. The employer must determine whether the employee is able to safely and effectively perform assigned job duties while participating in such programs, and if the employee is deemed unable to do so, he or she must be placed in a job assignment which can be performed during that time or placed on leave status. Certain employees, such as those who carry firearms or work with children, are automatically considered to be unable to perform their duties while participating in employee assistance programs or alcohol and drug rehabilitation programs.

In provisions relating to employees and employers covered by the Workers' Compensation Law, the bill replaces references to "safety-sensitive" positions with "mandatory-testing" positions and provides a definition for "mandatory-testing." The bill states that employers who maintain drug-free workplace programs which exceed statutory standards are still entitled to receive insurance discounts. The requirement that random drug testing provisions must be specified in collective bargaining agreements before such testing is implemented is deleted.

The bill also provides for the drug testing of all Department of Corrections job applicants and for random testing of corrections employees in mandatory-testing positions.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 26-14; House 79-37