

By: Chisum

H.B. No. 328

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain information that may be obtained by a  
3 prospective employer from an applicant for employment.

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

5 SECTION 1. Subchapter C, Chapter 21, Labor Code, is amended  
6 by adding Section 21.1195 to read as follows:

7 Sec. 21.1195. MEDICAL INFORMATION OBTAINED BY PROSPECTIVE  
8 EMPLOYER. An employer does not commit an unlawful employment  
9 practice if the employer requests an applicant for employment to  
10 provide information regarding any injury, disability, or other  
11 medical condition of the applicant that directly relates to a bona  
12 fide occupational qualification.

13 SECTION 2. Subchapter C, Chapter 401, Labor Code, is  
14 amended by adding Section 401.025 to read as follows:

15 Sec. 401.025. EMPLOYER INQUIRY REGARDING EMPLOYEE'S PRIOR  
16 CLAIMS; FORFEITURE OF BENEFITS. (a) This subtitle does not  
17 prohibit an employer from asking an employee about the existence of  
18 any workers' compensation claim for which the employee was paid  
19 benefits in this or any other state while the employee was employed  
20 by a prior employer. An employee who is asked about prior claims,  
21 injuries, disabilities, or other medical conditions as described by  
22 this section must answer truthfully.

23 (b) An employee's failure to truthfully answer a medical  
24 inquiry made by an employer as permitted by Section 21.1195

1 subjects the employee to the forfeiture of benefits if the medical  
2 condition for which the claim for benefits is made is related to a  
3 medical condition, disability, or injury that was not disclosed.

4 SECTION 3. Section 402.088(b), Labor Code, is amended to  
5 read as follows:

6 (b) If the commission finds that the applicant has made an  
7 [two or more general] injury claim [claims] in the preceding five  
8 years, the commission shall release the date and description of  
9 each injury to the employer.

10 SECTION 4. Subchapter E, Chapter 402, Labor Code, is  
11 amended by adding Section 402.0885 to read as follows:

12 Sec. 402.0885. PROSPECTIVE EMPLOYER IMMUNE FROM CERTAIN  
13 LIABILITY. A prospective employer who receives information under  
14 this subchapter regarding a prior injury of an applicant for  
15 employment is not liable in a suit for damages solely because the  
16 prospective employer relied on the information in deciding not to  
17 hire the applicant.

18 SECTION 5. Section 402.088(e), Labor Code, is repealed.

19 SECTION 6. (a) This Act takes effect September 1, 2003.

20 (b) The change in law made by this Act applies to an  
21 application for employment made on or after the effective date of  
22 this Act. An application for employment made before the effective  
23 date of this Act is governed by the law in effect on the date the  
24 application was made, and the former law is continued in effect for  
25 that purpose.