By: Farabee

H.B. No. 3086

A BILL TO BE ENTITLED

1 AN ACT

2 relating to Relating to deceptive use of the logo or name of the

3 Texas Workers' Compensation Commission

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

5   SECTION 1. Chapter 405, Labor Code, is created to read as

6 follows:

7   Chapter 405. MISUSE OF COMMISSION NAME

8   Sec. 405.001. DEFINITIONS. (a) In this chapter:

9   (1) "Representation of the commission's star logo"

10 includes a nonexact representation that is deceptively similar to

11 the star logo used by the commission.

12   (2) "Representation of the state seal" has the meaning

13 assigned by Section 17.08(a)(2), Business & Commerce Code.

14   (b) A term or representation is "deceptively similar" for

15 purposes of this chapter if:

16   (1) a reasonable person would believe that the term or

17 representation is in any manner approved, endorsed, sponsored,

18 authorized by, the same as, or associated with the commission, this

19 state, or an agency of this state; or

20   (2) the circumstances under which the term is used

21 could mislead a reasonable person as to its identity.

22   Sec. 405.002. MISUSE OF COMMISSION NAME OR SYMBOLS

23 PROHIBITED. (a) Except as authorized by law, a person, in

24 connection with any impersonation, advertisement, solicitation,

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1   business name, business activity, document, product, or service

2   made or offered by the person, may not knowingly use or cause to be

3   used:

4   (1) the words "Texas Workers' Compensation

5   Commission," "Workers' Compensation Commission," or "Texas

6   Workers' Compensation";

7   (2) any term using both "Texas" and "Workers'

8   Compensation" or any term using both "Texas" and "Workers' Comp";

9   (3)   the initials "T.W.C.C."; or

10   (4) any combination or variation of the words or

11   initials, or any term deceptively similar to the words or initials,

12   described by Subdivisions (1)-(3).

13   (b) A person subject to Subsection (a) may not knowingly use

14   or cause to be used a word, term, or initials described by

15   Subsection (a) alone or in conjunction with:

16   (1)   the state seal or a representation of the state

17   seal;

18   (2)   a picture or map of this state; or

19   (3) the official logo of the commission or a

20   representation of the commission's star logo.

21   Sec. 405.003. RULES.   The commission may adopt rules

22   relating to the regulation of the use of the commission's name and

23   other rules as necessary to implement this chapter.

24   Sec. 405.004. CIVIL PENALTY. (a) A person who violates

25   Section 405.002 or a rule adopted under this chapter is liable for a

26   civil penalty not to exceed $25,000 for each violation.

27   (b) The attorney general, at the request of the commission,

1   shall bring an action to collect a civil penalty under this section

2   in a district court in Travis County.

3   Sec. 405.005. ADMINISTRATIVE PENALTY. (a) The commission

4   may assess an administrative penalty against a person who violates

5   Section 405.002 or a rule adopted under this chapter.

6   (b) An administrative penalty imposed under this section:

7   (1) may not exceed $25,000 for each violation; and

8   (2) is subject to the procedural requirements adopted

9   for administrative penalties imposed under Section 415.021.

10   Sec. 405.006. INJUNCTIVE RELIEF. (a) At the request of the

11   commission, the attorney general or a district attorney may bring

12   an action in district court in Travis County to enjoin or restrain a

13   violation or threatened violation of this chapter on a showing that

14   a violation has occurred or is likely to occur.

15   (b) The commission may recover the costs of investigating an

16   alleged violation of this chapter if an injunction is issued.

17   Sec. 405.007. REMEDIES NOT EXCLUSIVE. The remedies

18   provided by this chapter are not exclusive and may be sought in any

19   combination determined by the commission as necessary to enforce

20   this chapter.

21   SECTION 2. This Act takes effect for allegations of

22   noncompliance received or after September 1, 2005.