

By: Barrientos

S.B. No. 715

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition of certain required arbitration agreements and employee waivers.

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

SECTION 1. Subchapter B, Chapter 21, Labor Code, is amended by adding Section 21.062 to read as follows:

Sec. 21.062. REQUIRING ARBITRATION AGREEMENT. An employer commits an unlawful employment practice if the employer fails or refuses to hire, discharges, harasses, or in any other manner discriminates against an individual in connection with compensation, terms, conditions, or privileges of employment because the individual refuses to sign an arbitration agreement.

SECTION 2. Subtitle A, Title 2, Labor Code, is amended by adding Chapter 25 to read as follows:

CHAPTER 25. MANDATORY ARBITRATION PROHIBITED

Sec. 25.001. MANDATORY ARBITRATION PROHIBITED. (a) An employer may not require as a condition of employment that:

(1) an employee submit to mandatory arbitration; or

(2) an employee or prospective employee waive any rights.

(b) An arbitration agreement or waiver described by Subsection (a) is not enforceable unless the employee or prospective employee:

(1) knowingly and voluntarily agrees to the agreement

1 or waiver; and

2 (2) signs the agreement or waiver.

3 (c) An arbitration agreement or waiver described by
4 Subsection (a) that violates this section is void and
5 unenforceable.

6 Sec. 25.002. BURDEN OF PROOF. In any proceeding in which
7 enforcement of an arbitration agreement or a waiver of rights
8 described by Section 25.001 is sought, the employer has the burden
9 of proof to show that the agreement or waiver was agreed to by the
10 employee knowingly and voluntarily and that the agreement or waiver
11 was not a condition of employment.

12 SECTION 3. (a) The change in law made by this Act by the
13 enactment of Section 21.062, Labor Code, applies only to a
14 perfected complaint filed with the civil rights division of the
15 Texas Workforce Commission on or after the effective date of this
16 Act. A perfected complaint filed before the effective date of this
17 Act is governed by the law in effect on the date the perfected
18 complaint was filed, and the former law is continued in effect for
19 that purpose.

20 (b) The change in law made by this Act by the enactment of
21 Chapter 25, Labor Code, applies to an arbitration agreement or
22 waiver of rights entered into before, on, or after the effective
23 date of this Act.

24 SECTION 4. This Act takes effect September 1, 2005.