

By: Fraser

S.B. No. 1229

A BILL TO BE ENTITLED

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AN ACT

relating to the powers and duties of the Texas Workforce Commission, including the administration of unemployment compensation; providing a penalty.

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

SECTION 1. Subsection (i), Section 207.045, Labor Code, is amended to read as follows:

(i) An assigned employee of a staff leasing services company is considered to have left the assigned employee's last work without good cause if the staff leasing services company demonstrates that:

(1) at the time the employee's assignment to a client company concluded, the staff leasing services company, or the client company acting on the staff leasing services company's behalf, gave written notice and written instructions to the assigned employee to contact the staff leasing services company for a new assignment [~~on termination of assignment at a client company~~]; and

(2) the assigned employee did not contact the staff leasing services company regarding reassignment or continued employment; provided that the assigned employee may show that good cause existed for the assigned employee's failure to contact the staff leasing services company.

SECTION 2. Section 208.002, Labor Code, is amended to read

1 as follows:

2 Sec. 208.002. [~~NOTICE OF~~] INITIAL CLAIM; LAST WORK.

3 (a) When used in connection with an initial claim, "last work" and
4 "person for whom the claimant last worked" refer to:

5 (1) the person for whom the claimant actually last
6 worked, if the claimant worked for that person in six or more
7 consecutive weeks and was paid wages by that person equal to at
8 least six times the claimant's weekly benefit amount; or

9 (2) the employer, as defined by Subchapter C, Chapter
10 201, or by the unemployment law of any other state, for whom the
11 claimant last worked.

12 (b) The commission shall mail a notice of the filing of an
13 initial claim to the person for whom the claimant last worked before
14 the effective date of the initial claim. If the person for whom the
15 claimant last worked has more than one branch or division operating
16 at different locations, the commission shall mail the notice to the
17 branch or division at which the claimant last worked.

18 (c) [~~(b)~~] Mailing of a notice under this section to the
19 correct address of the person, branch, or division for which the
20 claimant last worked constitutes notice of the claim to the person.

21 SECTION 3. Section 214.002, Labor Code, is amended to read
22 as follows:

23 Sec. 214.002. LIABILITY FOR [~~IMPROPERLY~~] OBTAINING
24 IMPROPER BENEFITS. (a) A person who has received improper
25 benefits is liable for the amount of the improper benefits. The
26 commission may recover improper benefits by:

27 (1) deducting the amount of the improper benefits from

1 any future benefits payable to the person; ~~[or]~~

2 (2) collecting the amount of the improper benefits for
3 the compensation fund in the same manner provided by Sections
4 213.031, 213.032, 213.033, 213.035, and 213.051 for the collection
5 of past due contributions; or

6 (3) employing a private collection agency to seek
7 repayment of the amount of the improper benefits, but only if the
8 commission determines the improper benefits are due to fraud under
9 Section 214.001 and are otherwise uncollectible.

10 (b) In this section, "improper benefit" means any ~~[the]~~
11 benefit or payment obtained under this subtitle by a person who is
12 disqualified or otherwise ineligible to receive the benefit or
13 payment for any reason under a final determination or decision made
14 under this subtitle ~~[+]~~

15 ~~[(1) because of the nondisclosure or~~
16 ~~misrepresentation by the person or by another of a material fact,~~
17 ~~without regard to whether the nondisclosure or misrepresentation~~
18 ~~was known or fraudulent; and~~

19 ~~[(2) while:~~

20 ~~[(A) any condition imposed by this subtitle for~~
21 ~~the person's qualifying for the benefit was not fulfilled in the~~
22 ~~person's case; or~~

23 ~~[(B) the person was disqualified from receiving~~
24 ~~benefits].~~

25 (c) If the commission employs a collection agency under
26 Subsection (a)(3), the commission may assess a fee against the
27 claimant. The fee may be collected in the manner used to collect

1 improper benefits, except that the amount collected must remain
2 separate from the repaid benefits and may not be deposited in the
3 unemployment compensation fund.

4 SECTION 4. Subsection (a), Section 214.007, Labor Code, is
5 amended to read as follows:

6 (a) A person commits an offense if the person wilfully
7 violates a provision of this title [~~sub-title~~] or a rule adopted
8 under this title [~~sub-title~~]:

9 (1) the violation of which is made unlawful or the
10 observance of which is required under this title [~~sub-title~~]; and

11 (2) for which a penalty is not otherwise provided by
12 this title [~~sub-title~~] or any other applicable statute.

13 SECTION 5. Chapter 214, Labor Code, is amended by adding
14 Section 214.008 to read as follows:

15 Sec. 214.008. ACCESS TO RECORDS BY PRIVATE ENTITY. For the
16 proper and efficient administration of the federal-state
17 unemployment compensation program, the commission may make records
18 maintained by the commission that relate to this title available to
19 a private entity under a written agreement in accordance with
20 federal law.

21 SECTION 6. Subsections (c) and (d), Section 301.081, Labor
22 Code, are amended to read as follows:

23 (c) Employment information thus obtained or otherwise
24 secured by the commission, including information obtained directly
25 from employers or from other states, may not be published and is not
26 open to public inspection, other than to a public employee in the
27 performance of public duties, except as the commission considers

1 necessary for the proper administration of this title or as
2 otherwise provided under federal or state law, including this
3 title.

4 (d) A person commits an offense if the person [~~is an~~
5 ~~employee or member of the commission who~~] violates any provision of
6 this section. Each [~~An~~] offense under this subsection is
7 punishable by a fine of not less than \$20 nor more than \$200,
8 confinement in jail for not more than 90 days, or both fine and
9 confinement.

10 SECTION 7. Section 301.082, Labor Code, is amended by
11 adding Subsection (a-1) to read as follows:

12 (a-1) For the proper and efficient implementation of any
13 federal, state, or local law, the commission or a local workforce
14 development board may make records maintained by the commission or
15 local workforce development board, as applicable, that relate to
16 this title available to a public or private entity under a written
17 agreement in accordance with federal law.

18 SECTION 8. The changes in law made by this Act to Subtitle
19 A, Title 4, Labor Code, apply only to a claim for unemployment
20 compensation benefits that is filed with the Texas Workforce
21 Commission on or after the effective date of this Act. A claim
22 filed before that date is governed by the law in effect on the date
23 the claim was filed, and the former law is continued in effect for
24 that purpose.

25 SECTION 9. This Act takes effect September 1, 2005.

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 1229 (Senate Engrossment) as follows:

(1) Add the following appropriately numbered SECTION to the bill:

SECTION ____ . Section 207.048, Labor Code, is amended by amending Subsections (a), (b), and (f) and adding Subsection (g) to read as follows:

(a) An individual is disqualified for benefits for a benefit period in which the individual's total or partial unemployment is caused by[+]

[~~(1)~~] the individual's stoppage of work because of a labor dispute at the factory, establishment, or other premises where the individual is or was last employed[~~, or~~

~~[(2) a labor dispute at another place that:~~

~~[(A) is owned or operated by the same employing unit that owns or operates the premises where the individual is or was last employed; and~~

~~[(B) supplies material or services necessary to the continued and usual operation of the premises where the individual is or was last employed].~~

(b) Disqualification for benefits under this section does not apply to an individual who shows to the satisfaction of the commission that the individual:

(1) is not participating in, financing, or directly interested in the labor dispute; [~~and~~]

(2) does not belong to a grade or class of workers any members of which were employed at the premises of the labor dispute

1 immediately before the beginning of the labor dispute and any of
2 whom are participating in, financing, or directly interested in the
3 dispute;

4 (3) has been locked out of the individual's place of
5 employment; or

6 (4) has been placed on emergency leave without pay by
7 the individual's employer.

8 (f) For the purposes of this section:

9 (1) "Lock out" means the denial of entry by an employer
10 to the place of employment of employees of that employer who have
11 not:

12 (A) gone on strike; or

13 (B) notified the employer of a date on which the
14 employees intend to go on strike.

15 (2) "Premises" [~~,"premises"~~] includes a vessel.

16 (g) For the purposes of Subsection (b), the payment of
17 regular union dues by an individual does not constitute financing a
18 labor dispute.

19 (2) Strike SECTION 2 of the bill, amended Section 208.002,
20 Labor Code (page 1, line 24, through page 2, line 20).

21 (3) In SECTION 5 of the bill, in the heading to added Section
22 214.008, Labor Code (page 4, line 15), strike "ENTITY" and
23 substitute "COLLECTION AGENCY".

24 (4) In SECTION 5 of the bill, in added Section 214.008,
25 Labor Code (page 4, lines 19 and 20), strike "entity under a written
26 agreement in accordance with federal law" and substitute
27 "collection agency employed by the commission to collect improper

1 benefits under Section 214.002(a)(3)".

2 (5) In SECTION 7 of the bill, in added Section 301.082(a-1),
3 Labor Code (page 5, lines 16 and 17), strike "public or private
4 entity under a written agreement in accordance with federal law"
5 and substitute "private collection agency employed by the
6 commission to collect improper benefits under Section
7 214.002(a)(3)".

8 (6) Renumber the SECTIONS of the bill appropriately.

9 79R17128 KSD-D

Ritter