

By: Fraser

S.B. No. 1229

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

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

1 as follows:

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

3 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 212.006, Labor Code, is amended by
22 adding Subsection (a-1) to read as follows:

23 (a-1) If the claimant fails to repay benefits under
24 Subsection (a) and the commission determines that those benefits
25 are otherwise uncollectible, the commission may employ a private
26 collection agency to seek repayment of the amount of the benefits.
27 If the commission employs a collection agency, the commission may

1 assess a fee against the claimant. The fee may be collected in the
2 manner used to collect improper benefits, except that the amount
3 collected must remain separate from the repaid benefits and may not
4 be deposited in the unemployment compensation fund.

5 SECTION 4. Section 214.002, Labor Code, is amended to read
6 as follows:

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

11 (1) deducting the amount of the improper benefits from
12 any future benefits payable to the person; [~~or~~]

13 (2) collecting the amount of the improper benefits for
14 the compensation fund in the same manner provided by Sections
15 213.031, 213.032, 213.033, 213.035, and 213.051 for the collection
16 of past due contributions; or

17 (3) employing a private collection agency to seek
18 repayment of the amount of the improper benefits, but only if the
19 commission determines the improper benefits are otherwise
20 uncollectible.

21 (b) In this section, "improper benefit" means any [~~the~~]
22 benefit or payment obtained under this subtitle by a person who is
23 disqualified or otherwise ineligible to receive the benefit or
24 payment for any reason under a final determination or decision made
25 under this subtitle[~~+~~

26 [~~(1) because of the nondisclosure or~~
27 ~~misrepresentation by the person or by another of a material fact,~~

1 ~~without regard to whether the nondisclosure or misrepresentation~~
2 ~~was known or fraudulent; and~~

3 ~~[(2) while:~~

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

7 ~~[(B) the person was disqualified from receiving~~
8 ~~benefits].~~

9 (c) If the commission employs a collection agency under
10 Subsection (a)(3), the commission may assess a fee against the
11 claimant. The fee may be collected in the manner used to collect
12 improper benefits, except that the amount collected must remain
13 separate from the repaid benefits and may not be deposited in the
14 unemployment compensation fund.

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

17 (a) A person commits an offense if the person wilfully
18 violates a provision of this title [~~subtitle~~] or a rule adopted
19 under this title [~~subtitle~~]:

20 (1) the violation of which is made unlawful or the
21 observance of which is required under this title [~~subtitle~~]; and

22 (2) for which a penalty is not otherwise provided by
23 this title [~~subtitle~~] or any other applicable statute.

24 SECTION 6. Chapter 214, Labor Code, is amended by adding
25 Section 214.008 to read as follows:

26 Sec. 214.008. ACCESS TO RECORDS BY PRIVATE ENTITY. For the
27 proper and efficient administration of the federal-state

1 unemployment compensation program, the commission may make records
2 maintained by the commission that relate to this title available to
3 a private entity under a written agreement in accordance with
4 federal law.

5 SECTION 7. Sections 301.081(c) and (d), Labor Code, are
6 amended to read as follows:

7 (c) Employment information thus obtained or otherwise
8 secured by the commission, including information obtained directly
9 from employers or from other states, may not be published and is not
10 open to public inspection, other than to a public employee in the
11 performance of public duties, except as the commission considers
12 necessary for the proper administration of this title or as
13 otherwise provided under federal or state law, including this
14 title.

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

21 SECTION 8. Section 301.082, Labor Code, is amended by
22 adding Subsection (a-1) to read as follows:

23 (a-1) For the proper and efficient implementation of any
24 federal, state, or local law, the commission or a local workforce
25 development board may make records maintained by the commission or
26 local workforce development board, as applicable, that relate to
27 this title available to a public or private entity under a written

1 agreement in accordance with federal law.

2 SECTION 9. The changes in law made by this Act to Subtitle
3 A, Title 4, Labor Code, apply only to a claim for unemployment
4 compensation benefits that is filed with the Texas Workforce
5 Commission on or after the effective date of this Act. A claim
6 filed before that date is governed by the law in effect on the date
7 the claim was filed, and the former law is continued in effect for
8 that purpose.

9 SECTION 10. This Act takes effect September 1, 2005.