

1-1 By: Fraser S.B. No. 1229  
1-2 (In the Senate - Filed March 9, 2005; March 21, 2005, read  
1-3 first time and referred to Committee on Business and Commerce;  
1-4 April 18, 2005, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 18, 2005,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1229 By: Fraser

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the powers and duties of the Texas Workforce  
1-11 Commission, including the administration of unemployment  
1-12 compensation; providing a penalty.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (i), Section 207.045, Labor Code, is  
1-15 amended to read as follows:

1-16 (i) An assigned employee of a staff leasing services company  
1-17 is considered to have left the assigned employee's last work  
1-18 without good cause if the staff leasing services company  
1-19 demonstrates that:

1-20 (1) at the time the employee's assignment to a client  
1-21 company concluded, the staff leasing services company, or the  
1-22 client company acting on the staff leasing services company's  
1-23 behalf, gave written notice and written instructions to the  
1-24 assigned employee to contact the staff leasing services company for  
1-25 a new assignment [on termination of assignment at a client  
1-26 company]; and

1-27 (2) the assigned employee did not contact the staff  
1-28 leasing services company regarding reassignment or continued  
1-29 employment; provided that the assigned employee may show that good  
1-30 cause existed for the assigned employee's failure to contact the  
1-31 staff leasing services company.

1-32 SECTION 2. Section 208.002, Labor Code, is amended to read  
1-33 as follows:

1-34 Sec. 208.002. [~~NOTICE OF~~] INITIAL CLAIM; LAST WORK.

1-35 (a) When used in connection with an initial claim, "last work" and  
1-36 "person for whom the claimant last worked" refer to:

1-37 (1) the person for whom the claimant actually last  
1-38 worked, if the claimant worked for that person in six or more  
1-39 consecutive weeks and was paid wages by that person equal to at  
1-40 least six times the claimant's weekly benefit amount; or

1-41 (2) the employer, as defined by Subchapter C, Chapter  
1-42 201, or by the unemployment law of any other state, for whom the  
1-43 claimant last worked.

1-44 (b) The commission shall mail a notice of the filing of an  
1-45 initial claim to the person for whom the claimant last worked before  
1-46 the effective date of the initial claim. If the person for whom the  
1-47 claimant last worked has more than one branch or division operating  
1-48 at different locations, the commission shall mail the notice to the  
1-49 branch or division at which the claimant last worked.

1-50 (c) [~~(b)~~] Mailing of a notice under this section to the  
1-51 correct address of the person, branch, or division for which the  
1-52 claimant last worked constitutes notice of the claim to the person.

1-53 SECTION 3. Section 214.002, Labor Code, is amended to read  
1-54 as follows:

1-55 Sec. 214.002. LIABILITY FOR [~~IMPROPERLY~~] OBTAINING  
1-56 IMPROPER BENEFITS. (a) A person who has received improper  
1-57 benefits is liable for the amount of the improper benefits. The  
1-58 commission may recover improper benefits by:

1-59 (1) deducting the amount of the improper benefits from  
1-60 any future benefits payable to the person; [~~or~~]

1-61 (2) collecting the amount of the improper benefits for  
1-62 the compensation fund in the same manner provided by Sections  
1-63 213.031, 213.032, 213.033, 213.035, and 213.051 for the collection

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

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

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

~~[(2) while:  
 [(A) any condition imposed by this subtitle for the person's qualifying for the benefit was not fulfilled in the person's case; or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 8. The changes in law made by this Act to Subtitle A, Title 4, Labor Code, apply only to a claim for unemployment

3-1 compensation benefits that is filed with the Texas Workforce  
3-2 Commission on or after the effective date of this Act. A claim  
3-3 filed before that date is governed by the law in effect on the date  
3-4 the claim was filed, and the former law is continued in effect for  
3-5 that purpose.

3-6 SECTION 9. This Act takes effect September 1, 2005.

3-7

\* \* \* \* \*