

BILL ANALYSIS

C.S.H.B. 1131
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Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Many additions and changes relating to the protection of workers and consumers have been made in recent legislative sessions, but some Texans feel that current law still does not provide adequate consequences for a Texas employer convicted of an offense of failure to pay wages or of theft of service under certain circumstances. C.S.H.B. 1131 seeks to address this situation by ensuring that consumers are able to access the history of employers and businesses assessed a related administrative penalty or convicted of such offenses.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1131 amends the Labor Code to require the Texas Workforce Commission (TWC), not later than December 1, 2013, to establish a database and make available on its Internet website a publicly accessible list of all employers in Texas that have been assessed an administrative penalty relating to acting in bad faith in not paying wages or that have been convicted of an offense of failure to pay wages or of theft of service if the offense involved the theft of a service that was rendered by an employee of the employer. The bill requires the database, for an employer that is a business entity, to include the name under which the entity operates and the name of each individual who is an owner of the entity.

C.S.H.B. 1131 requires TWC to provide notice to an employer not later than the 60th day before the date the employer is listed in the database. The bill requires TWC by rule to establish a process by which an employer may, at any time after receiving the notice, dispute the employer's inclusion in the database and requires the process to require TWC to investigate and make a final determination regarding such an employer not later than the 21st day after the date the dispute is filed. The bill requires TWC to list an employer in the database until the third anniversary of the date the penalty is assessed or the employer is convicted.

C.S.H.B. 1131 requires an attorney representing the state to report to TWC the name of each employer that is prosecuted and convicted in the attorney's jurisdiction of the offense of failure to pay wages or of theft of service if the offense involved the theft of a service rendered by an employee of the employer. The bill specifies that for purposes of the bill's provisions a person has been convicted of an offense if the person was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the person was subsequently discharged from community supervision.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1131 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter D, Chapter 301, Labor Code, is amended by adding Section 301.070 to read as follows:

Sec. 301.070. DATABASE REGARDING WAGE THEFT.

(a) In this section, "employee" and "employer" have the meanings assigned by Section 61.001.

(b) The commission shall make available on its Internet website a publicly accessible list of all employers in this state that have been convicted of an offense under:

(1) Section 61.019; or

(2) Section 31.04, Penal Code, if the offense involved the theft of a service that was rendered by an employee of the employer.

(c) For an employer that is a business entity, the database must include the name under which the entity operates and the name of each individual who is an owner of the entity.

(d) The commission shall list an employer in the database until the third anniversary of the date of the conviction described by

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter D, Chapter 301, Labor Code, is amended by adding Section 301.070 to read as follows:

Sec. 301.070. DATABASE REGARDING WAGE THEFT. (a) In this section:

(1) "Attorney representing the state" means a district attorney, criminal district attorney, or county attorney performing the duties of a district attorney.

(2) "Employee" and "employer" have the meanings assigned by Section 61.001.

(b) The commission shall make available on its Internet website a publicly accessible list of all employers in this state that have been:

(1) assessed an administrative penalty under Section 61.053; or

(2) convicted of an offense under:

(A) Section 61.019; or

(B) Section 31.04, Penal Code, if the offense involved the theft of a service that was rendered by an employee of the employer.

(c) For an employer that is a business entity, the database must include the name under which the entity operates and the name of each individual who is an owner of the entity.

(d) The commission must provide notice to an employer not later than the 60th day before the date the employer is listed in the database.

(e) The commission by rule shall establish a process by which an employer may, at any time after receiving notice under Subsection (d), dispute the employer's inclusion in the database. The process must require the commission to investigate and make a final determination regarding an employer dispute under this subsection not later than the 21st day after the date the dispute is filed.

(f) The commission shall list an employer in the database until the third anniversary of the date the penalty is assessed or the

Subsection (b).

employer is convicted.

(g) An attorney representing the state shall report to the commission the name of each employer that is prosecuted and convicted in the attorney's jurisdiction of an offense described by Subsection (b)(2).

(h) For purposes of this section, a person has been convicted of an offense if the person was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the person was subsequently discharged from community supervision.

No equivalent provision.

SECTION 2. (a) The change in law made by this Act applies only to an administrative penalty assessed on or after the effective date of this Act. An administrative penalty assessed before the effective date of this Act is governed by the law in effect on the date the penalty was assessed, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act applies only to a criminal proceeding that commences on or after the effective date of this Act. A criminal proceeding that commences before the effective date of this Act is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 2. Not later than December 1, 2013, the Texas Workforce Commission shall establish the database required by Section 301.070, Labor Code, as added by this Act.

SECTION 3. Same as introduced version.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 4. Same as introduced version.