

By: Thompson of Harris

H.B. No. 1955

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the employment of domestic workers and hotel workers;
3 providing an administrative penalty.

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

5 SECTION 1. Subtitle B, Title 2, Labor Code, is amended by
6 adding Chapter 53 to read as follows:

7 CHAPTER 53. EMPLOYMENT OF DOMESTIC WORKERS AND HOTEL WORKERS

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 53.001. DEFINITIONS. In this chapter:

10 (1) "Commission" means the Texas Workforce
11 Commission.

12 (2) "Domestic worker" means an individual employed in
13 a home or residence for the purpose of caring for a child, serving
14 as a companion to a sick, convalescing, or elderly person, or
15 performing housekeeping, or for any other domestic service purpose.
16 The term does not include an individual who is engaged in providing:

17 (A) part-time babysitting services on a casual
18 basis;

19 (B) companionship services, as defined by
20 Section 13(a)(15), Fair Labor Standards Act of 1938 (29 U.S.C.
21 Section 213), and who is employed by an employer or agency other
22 than the family or household using the individual's services; or

23 (C) domestic services to the individual's own
24 parents, spouse, or child.

1 (3) "Domestic worker employer" means any individual
2 who employs one or more domestic workers in that capacity in the
3 individual's own home or residence.

4 (4) "Employer" means a domestic worker employer or a
5 hotel, motel, or other lodging establishment that employs one or
6 more workers.

7 (5) "Hotel worker" means a person employed by a hotel,
8 motel, or other lodging establishment.

9 (6) "Worker" means a domestic worker or a hotel
10 worker.

11 Sec. 53.002. RIGHTS UNDER OTHER LAW. The rights provided by
12 this chapter are cumulative of all other rights to which domestic or
13 hotel workers are entitled under other law.

14 Sec. 53.003. RULES. The commission may adopt rules for the
15 administration of this chapter.

16 SUBCHAPTER B. DUTIES OF EMPLOYERS

17 Sec. 53.051. MINIMUM WAGE REQUIRED. An employer may not pay
18 a worker a regular hourly rate of pay that is less than the minimum
19 wage required by law.

20 Sec. 53.052. COMPUTATION OF REGULAR HOURLY RATE OF PAY. If
21 an employer and a worker negotiate a rate of pay, the worker's
22 regular hourly rate of pay is computed by dividing the total dollar
23 amount agreed to for one week by 40.

24 Sec. 53.053. HOURS OF EMPLOYMENT; COMPENSATION FOR
25 OVERTIME. (a) An employer may not require a worker to work more
26 than eight hours in one workday.

27 (b) An agreement between an employer and a worker under

1 which a worker agrees to work more than eight hours in one workday
2 must provide that the worker is compensated at the rate of at least
3 1.5 times the regular hourly rate of pay for each hour worked by the
4 worker in excess of eight hours during any workday.

5 Sec. 53.054. DAY OF REST. (a) A worker is entitled to at
6 least 24 consecutive hours of rest each calendar week.

7 (b) An employer may not require a worker to work on the
8 worker's day of rest.

9 (c) An agreement between an employer and a worker under
10 which a worker agrees to work on the worker's day of rest must
11 provide that the worker is compensated at the rate of at least 1.5
12 times the regular hourly rate of pay for each hour worked by the
13 worker on that day.

14 Sec. 53.055. PAID SICK LEAVE AND VACATION LEAVE. (a) For
15 purposes of this section, "paid time off" means time off with pay
16 calculated at the worker's regular rate of pay for the worker's
17 regular hours worked on that day.

18 (b) A worker who regularly works at least 40 hours each week
19 for an employer is entitled to at least:

20 (1) seven days of paid time off for sick leave each
21 year; and

22 (2) five days of paid time off for vacation each year.

23 (c) A worker who regularly works for an employer at least 20
24 but less than 40 hours each week is entitled to at least three days
25 of paid time off for vacation each year.

26 (d) The dates of a vacation taken under this section must be
27 agreed to by the worker and employer at least 30 days before the

1 first day of the vacation.

2 Sec. 53.056. NOTICE OF TERMINATION; EXCEPTION. (a) Except
3 as provided by Subsection (b), an employer shall provide written
4 notice of termination of the worker's employment at least 14 days
5 before the worker's final day of employment.

6 (b) An employer is not required to comply with Subsection
7 (a) and may not be held liable for failing to comply with that
8 subsection if the employer terminated the worker's employment based
9 on the employer's reasonable, good faith belief that the worker has
10 committed a violation of law, including theft, destruction of
11 property, assault, or the abuse or neglect of a person in the
12 worker's care. The employer bears the burden of proof under this
13 subsection.

14 Sec. 53.057. WRITTEN NOTIFICATIONS. An employer shall
15 provide to a worker at the time the worker is hired a written notice
16 of:

17 (1) the employer's policies on sick leave, vacation,
18 personal leave, holidays, and hours of work; and

19 (2) the worker's rate of pay for regular and overtime
20 wages and the intervals at which the worker will receive wages.

21 Sec. 53.058. DEDUCTIONS FROM WAGES. Except as otherwise
22 required by law, an employer may not deduct money from a worker's
23 wages without written permission from the worker.

24 Sec. 53.059. BOOKKEEPING. An employer must keep detailed
25 payroll and time records of:

26 (1) each worker's hours worked;

27 (2) wages paid to each worker; and

1 (3) any deductions made from wages.

2 Sec. 53.060. PAYDAY. An employer must pay wages at least
3 weekly.

4 Sec. 53.061. RETALIATION. (a) An employer commits an
5 unlawful employment practice for purposes of Chapter 21 if the
6 employer retaliates or discriminates against a worker who, under
7 that chapter:

8 (1) opposes a discriminatory practice;

9 (2) makes or files a charge;

10 (3) files a complaint; or

11 (4) testifies, assists, or participates in any manner
12 in an investigation, proceeding, or hearing.

13 (b) An employer may not retaliate or discriminate against a
14 worker who reports unsafe working conditions or any violation of
15 this chapter to the commission or takes any other legal action to
16 remedy the unsafe working conditions or violation of this chapter.

17 (c) An employer may not discriminate or retaliate against a
18 worker who in good faith seeks to recover wages owed to the worker
19 by:

20 (1) filing a complaint with a governmental entity;

21 (2) seeking or accepting the assistance of a nonprofit
22 organization or an employee rights organization;

23 (3) exercising or attempting to exercise a right or
24 remedy granted to the worker by a contract, local ordinance or
25 order, or federal or state law; or

26 (4) filing a wage claim under Subchapter D, Chapter
27 61.

1 (d) It is a rebuttable presumption that the worker was
2 subjected to retaliation in violation of this section if the
3 adverse employment action was taken on or before the 90th day after
4 the date the worker takes an action described by Subsection (a),
5 (b), or (c).

6 (e) A presumption under Subsection (d) may be rebutted only
7 by clear and convincing evidence that the adverse employment action
8 was not taken for a reason prohibited under this section.

9 SUBCHAPTER C. WORKPLACE SAFETY

10 Sec. 53.101. FEDERAL LAW COMPLIANCE. (a) An employer shall
11 comply with federal occupational safety laws and rules.

12 (b) An employer shall comply with federal laws regarding
13 sexual harassment.

14 Sec. 53.102. REASONABLE BREAKS. An employer shall provide
15 a worker reasonable breaks based on the nature of the work and the
16 length of the worker's shift.

17 Sec. 53.103. HOTEL HOUSEKEEPER QUOTAS. An employer of
18 hotel workers may not require a worker performing housekeeping
19 duties to clean more than 15 rooms in an eight-hour shift, or the
20 pro rata equivalent for a shift shorter than eight hours.

21 Sec. 53.104. PRESUMPTION. A violation of this subchapter
22 creates a rebuttable presumption that any injury the worker
23 sustains in the workplace was caused by an unsafe working
24 condition.

25 SUBCHAPTER D. BENEFITS

26 Sec. 53.151. WORKERS' COMPENSATION. An employer under this
27 chapter shall provide workers' compensation insurance coverage for

1 each worker who works 40 or more hours a week.

2 Sec. 53.152. DISABILITY INSURANCE. An employer under this
3 chapter shall provide disability insurance coverage for each worker
4 who works 40 or more hours a week unless the worker waives the
5 insurance coverage.

6 SUBCHAPTER E. ENFORCEMENT

7 Sec. 53.201. ENFORCEMENT. (a) A worker who is adversely
8 affected by an employer's violation of this chapter may file a
9 written, sworn complaint with the commission. The commission shall
10 review and resolve a complaint filed under this subsection in the
11 same manner as a complaint concerning an unlawful employment
12 practice filed under Chapter 21.

13 (b) This section does not limit a worker's remedies under
14 another provision of this code or other law.

15 SECTION 2. This Act takes effect September 1, 2013.