

By: Carona

S.B. No. 473

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of temporary common worker employers;  
providing a criminal penalty; authorizing fees.

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

SECTION 1. Subtitle C, Title 7, Local Government Code, is  
amended by adding Chapter 247 to read as follows:

CHAPTER 247. MUNICIPAL AND COUNTY AUTHORITY TO REGULATE TEMPORARY  
COMMON WORKER EMPLOYERS

Sec. 247.001. DEFINITIONS. In this chapter:

(1) "Common worker" means an individual who performs  
labor involving physical tasks that do not require:

(A) a particular skill;

(B) training in a particular occupation, craft,  
or trade; or

(C) practical knowledge of the principles or  
processes of an art, science, craft, or trade.

(2) "Labor hall" means a central location maintained  
by a license holder where common workers assemble and are  
dispatched to work for a user of common workers.

(3) "Temporary common worker employer" means a person  
who provides common workers to a user of common workers. The term  
includes a temporary common worker agent or temporary common worker  
agency.

(4) "User of common workers" means a person who uses

1 the services of a common worker provided by a temporary common  
2 worker employer.

3 Sec. 247.002. AUTHORITY TO REGULATE. (a) A municipality by  
4 ordinance or a county by order may:

5 (1) require that a temporary common worker employer  
6 obtain a license issued by the municipality or county on a periodic  
7 basis in order to operate as a temporary common worker employer in  
8 the municipality or county; and

9 (2) collect a fee for the issuance of a temporary  
10 common worker employer license.

11 (b) An ordinance adopted by a municipality under this  
12 chapter applies only inside the municipality's corporate limits.

13 (c) An order adopted by a county applies only to the parts of  
14 the county outside the corporate limits of a municipality.

15 Sec. 247.003. REGULATION REQUIREMENTS. The regulations  
16 adopted by a municipality or county under this chapter must:

17 (1) provide that the municipality or county will issue  
18 a temporary common worker employer license to a person who:

19 (A) meets the application requirements  
20 established by the municipality or county; and

21 (B) pays the application and registration fees  
22 set by the municipality or county;

23 (2) provide that a license issued under this chapter  
24 is not assignable or transferable;

25 (3) require each license holder to maintain and make  
26 available to a representative of the municipality or county records  
27 that show for each common worker provided by the license holder to a

1 user of common workers:

2 (A) the name and address of the worker;

3 (B) the hours worked by the worker;

4 (C) the places at which the work was performed by  
5 the worker;

6 (D) the wages paid to the worker; and

7 (E) any deductions made from the wages paid to a  
8 worker;

9 (4) require each license holder to maintain the  
10 records described by Subdivision (3) at least until the second  
11 anniversary of the date on which the worker was last employed by the  
12 license holder;

13 (5) provide that information received by the  
14 municipality or county under Subdivision (3):

15 (A) is privileged and confidential and is for the  
16 exclusive use of the municipality or county; and

17 (B) may not be disclosed to any other person  
18 except on the entry of a court order requiring disclosure or on the  
19 written consent of a person under investigation who is the subject  
20 of the records;

21 (6) require each license holder to post for inspection  
22 in a location that is in open view to the public on the licensed  
23 premises:

24 (A) the license for a place of business at which  
25 the license holder operates as a temporary common worker employer;  
26 and

27 (B) a notice of any charge permitted under this

chapter that the license holder may assess against a common worker for equipment, tools, transportation, or other work-related services;

(7) require each license holder that operates a labor hall as part of a licensed premises to provide adequate facilities for a worker waiting for a job assignment that include:

(A) restroom facilities for both men and women;

(B) drinking water;

(C) sufficient seating; and

(D) access to vending refreshments and food; and

(8) prohibit each license holder from:

(A) charging a common worker for:

(i) safety equipment, clothing, or accessories required by the nature of the work, either by law, custom, or the requirements of the user of common workers;

(ii) uniforms, special clothing, or other items required as a condition of employment by the user of common workers;

(iii) the cashing of a check or voucher; or

(iv) the receipt by the worker of earned wages; or

(B) deducting or withholding any amount from the earned wages of a common worker except:

(i) a deduction required by federal or state law; or

(ii) a reimbursement for a cash advance made to the worker during the same pay period.

1       Sec. 247.004. LICENSE HOLDER AS EMPLOYER. (a) Each license  
2 holder under this chapter is the employer of the common workers  
3 provided by that license holder.

4       (b) A license holder under this chapter may hire, reassign,  
5 control, direct, and discharge the employees of the license holder.

6       Sec. 247.005. INJUNCTION; CRIMINAL PENALTY. (a) A  
7 municipality or county may bring an action in a district court for  
8 an injunction to prohibit the violation of a regulation adopted  
9 under this chapter.

10       (b) A person commits an offense if the person violates a  
11 municipal or county regulation adopted under this chapter. An  
12 offense under this subsection is a Class A misdemeanor.

13       SECTION 2. Chapter 92, Labor Code, is repealed.

14       SECTION 3. (a) An administrative proceeding pending under  
15 Chapter 51, Occupations Code, or Chapter 92, Labor Code, on the  
16 effective date of this Act related to a violation of Chapter 92,  
17 Labor Code, as that chapter existed immediately before the  
18 effective date of this Act, is dismissed.

19       (b) An administrative penalty assessed by the Texas  
20 Commission of Licensing and Regulation or the executive director of  
21 the Texas Department of Licensing and Regulation related to a  
22 violation of Chapter 92, Labor Code, as that chapter existed  
23 immediately before the effective date of this Act, may be collected  
24 as provided by Chapter 51, Occupations Code.

25       (c) The changes in law made by this Act do not affect the  
26 pending prosecution of an offense under Chapter 92, Labor Code, as  
27 that chapter existed immediately before the effective date of this

1 Act. An offense committed before the effective date of this Act is  
2 governed by the law in effect on the date the offense was committed,  
3 and the former law is continued in effect for that purpose. For  
4 purposes of this subsection, an offense was committed before the  
5 effective date of this Act if any element of the offense was  
6 committed before that date.

7 (d) The Texas Department of Licensing and Regulation shall  
8 return to a person who holds a valid license under Chapter 92, Labor  
9 Code, as that chapter existed immediately before the effective date  
10 of this Act, a prorated portion of the fee paid to the department  
11 for the issuance or renewal of the license.

12 SECTION 4. This Act takes effect September 1, 2013.