

1-1 By: Carona S.B. No. 473
1-2 (In the Senate - Filed February 11, 2013; February 13, 2013,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 February 27, 2013, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0;
1-6 February 27, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Carona	X		
1-10	Taylor	X		
1-11	Eltife		X	
1-12	Estes	X		
1-13	Hancock	X		
1-14	Lucio	X		
1-15	Van de Putte	X		
1-16	Watson	X		
1-17	Whitmire	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 473 By: Carona

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the regulation of temporary common worker employers;
1-22 providing a criminal penalty; authorizing fees.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle C, Title 7, Local Government Code, is
1-25 amended by adding Chapter 247 to read as follows:

1-26 CHAPTER 247. MUNICIPAL AND COUNTY AUTHORITY TO REGULATE TEMPORARY
1-27 COMMON WORKER EMPLOYERS

1-28 Sec. 247.001. DEFINITIONS. In this chapter:

1-29 (1) "Common worker" means an individual who performs
1-30 labor involving physical tasks that do not require:

1-31 (A) a particular skill;

1-32 (B) training in a particular occupation, craft,
1-33 or trade; or

1-34 (C) practical knowledge of the principles or
1-35 processes of an art, science, craft, or trade.

1-36 (2) "Labor hall" means a central location maintained
1-37 by a license holder where common workers assemble and are
1-38 dispatched to work for a user of common workers.

1-39 (3) "Temporary common worker employer" means a person
1-40 who provides common workers to a user of common workers and operates
1-41 a labor hall. The term:

1-42 (A) includes a temporary common worker agent or
1-43 temporary common worker agency; and

1-44 (B) does not include:

1-45 (i) a temporary skilled labor agency;

1-46 (ii) a staff leasing services company;

1-47 (iii) an employment counselor;

1-48 (iv) a talent agency;

1-49 (v) a labor union hiring hall;

1-50 (vi) a labor bureau or employment office
1-51 operated by a person for the sole purpose of employing an individual
1-52 for the person's own use; or

1-53 (vii) an employment service or labor
1-54 training program provided by a governmental entity.

1-55 (4) "User of common workers" means a person who uses
1-56 the services of a common worker provided by a temporary common
1-57 worker employer.

1-58 Sec. 247.002. AUTHORITY TO REGULATE. (a) A municipality
1-59 by ordinance or a county by order may:

1-60 (1) require that a temporary common worker employer

2-1 obtain a license issued by the municipality or county on a periodic
 2-2 basis in order to operate as a temporary common worker employer in
 2-3 the municipality or county; and

2-4 (2) collect a fee for the issuance of a temporary
 2-5 common worker employer license.

2-6 (b) An ordinance adopted by a municipality under this
 2-7 chapter applies only inside the municipality's corporate limits.

2-8 (c) An order adopted by a county applies only to the parts of
 2-9 the county outside the corporate limits of a municipality.

2-10 Sec. 247.003. REGULATION REQUIREMENTS. The regulations
 2-11 adopted by a municipality or county under this chapter must:

2-12 (1) provide that the municipality or county will issue
 2-13 a temporary common worker employer license to a person who:

2-14 (A) meets the application requirements
 2-15 established by the municipality or county; and

2-16 (B) pays the application and registration fees
 2-17 set by the municipality or county;

2-18 (2) provide that a license issued under this chapter
 2-19 is not assignable or transferable;

2-20 (3) require each license holder to maintain and make
 2-21 available to a representative of the municipality or county records
 2-22 that show for each common worker provided by the license holder to a
 2-23 user of common workers:

2-24 (A) the name and address of the worker;

2-25 (B) the hours worked by the worker;

2-26 (C) the places at which the work was performed by
 2-27 the worker;

2-28 (D) the wages paid to the worker; and

2-29 (E) any deductions made from the wages paid to a
 2-30 worker;

2-31 (4) require each license holder to maintain the
 2-32 records described by Subdivision (3) at least until the second
 2-33 anniversary of the date on which the worker was last employed by the
 2-34 license holder;

2-35 (5) provide that information received by the
 2-36 municipality or county under Subdivision (3):

2-37 (A) is privileged and confidential and is for the
 2-38 exclusive use of the municipality or county; and

2-39 (B) may not be disclosed to any other person
 2-40 except on the entry of a court order requiring disclosure or on the
 2-41 written consent of a person under investigation who is the subject
 2-42 of the records;

2-43 (6) require each license holder to post for inspection
 2-44 in a location that is in open view to the public on the licensed
 2-45 premises:

2-46 (A) the license for a place of business at which
 2-47 the license holder operates as a temporary common worker employer;
 2-48 and

2-49 (B) a notice of any charge permitted under this
 2-50 chapter that the license holder may assess against a common worker
 2-51 for equipment, tools, transportation, or other work-related
 2-52 services;

2-53 (7) require each license holder that operates a labor
 2-54 hall as part of a licensed premises to provide adequate facilities
 2-55 for a worker waiting for a job assignment that include:

2-56 (A) restroom facilities for both men and women;

2-57 (B) drinking water;

2-58 (C) sufficient seating; and

2-59 (D) access to vending refreshments and food; and

2-60 (8) prohibit each license holder from:

2-61 (A) charging a common worker for:

2-62 (i) safety equipment, clothing, or
 2-63 accessories required by the nature of the work, either by law,
 2-64 custom, or the requirements of the user of common workers;

2-65 (ii) uniforms, special clothing, or other
 2-66 items required as a condition of employment by the user of common
 2-67 workers;

2-68 (iii) the cashing of a check or voucher; or

2-69 (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.

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

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

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

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

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

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

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

(c) The changes in law made by this Act do not affect the pending prosecution of an offense under Chapter 92, Labor Code, as that chapter existed immediately before the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

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

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

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