

AN ACT

relating to certain required notices under the Texas Unemployment Compensation Act, including employer liability arising from failure to provide the notice.

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

SECTION 1. Section 205.013, Labor Code, is amended by adding Subsection (d) to read as follows:

(d) If a reimbursing employer pays a reimbursement to the commission for benefits paid to a claimant that are not in accordance with the final determination or decision under this subtitle, the employer is not entitled to a refund of, or credit for, the amount paid by the employer to the commission unless the employer has complied with the requirements of Section 208.004 with respect to the claimant.

SECTION 2. Section 208.004, Labor Code, is amended by adding Subsections (a-1), (c), (d), (e), and (f) to read as follows:

(a-1) A notification provided by a person under Subsection (a), including an initial response to a notice mailed to the person under Section 208.002, must include sufficient factual information to allow the commission to make a determination regarding the claimant's entitlement to benefits under this subtitle.

(c) Notwithstanding Subchapter B, Chapter 204, benefits paid to a claimant that are not in accordance with the final determination or decision under this subtitle shall be charged to

1 the account of a person if:

2 (1) the person, or the person's agent, without good  
3 cause, fails to provide adequate or timely notification under this  
4 section; and

5 (2) the commission determines that the person, or the  
6 person's agent, has failed to provide timely or adequate  
7 notification under this section on at least two prior occasions.

8 (d) For purposes of Subsection (c), a notification is not  
9 adequate if the notification merely alleges that a claimant is not  
10 entitled to benefits without providing sufficient factual  
11 information, other than a general statement of the law, to support  
12 the allegation.

13 (e) For purposes of Subsection (c), good cause is  
14 established only by showing that a person, or the person's agent,  
15 was prevented from complying with this section due to compelling  
16 circumstances that were beyond the person's control.

17 (f) The commission may adopt rules as necessary to implement  
18 this section.

19 SECTION 3. Section 212.005, Labor Code, is amended to read  
20 as follows:

21 Sec. 212.005. CHARGEBACK ON REVERSAL OF DETERMINATION OR  
22 DECISION ALLOWING BENEFITS PROHIBITED; EXCEPTION. (a) Except as  
23 provided by Subsection (b), a [A] chargeback may not be made to an  
24 employer's account because of payments having been made under a  
25 determination or decision to the claimant for any benefit period  
26 with regard to which the claimant is finally denied benefits by a  
27 modification or reversal of the determination or decision.

1        (b) A chargeback shall be made to an employer's account for  
2 benefits paid to a claimant that are not in accordance with the  
3 final determination or decision under this subtitle if the benefits  
4 were paid due to the failure of the employer, or the employer's  
5 agents, to comply with Section 208.004.

6        SECTION 4. The changes in law made by this Act apply only to  
7 a final determination made by the Texas Workforce Commission on or  
8 after October 1, 2013, that a person received an erroneous payment.  
9 A final determination made before that date is governed by the law  
10 in effect on the date the determination was made, and the former law  
11 is continued in effect for that purpose.

12        SECTION 5. This Act takes effect October 1, 2013.

S.B. No. 1537

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1537 passed the Senate on April 11, 2013, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1537 passed the House on May 2, 2013, by the following vote: Yeas 147, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor