

By: Deuell
(Cortez)

S.B. No. 1537

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain required notices under the Texas Unemployment
3 Compensation Act, including employer liability arising from
4 failure to provide the notice.

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

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

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

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

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

22 (c) Notwithstanding Subchapter B, Chapter 204, benefits
23 paid to a claimant that are not in accordance with the final
24 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.