

By: Rodríguez

S.B. No. 927

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the classification of workers for purposes of the Texas
3 Unemployment Compensation Act; providing a penalty.

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

5 SECTION 1. Section 201.041, Labor Code, is amended to read
6 as follows:

7 Sec. 201.041. GENERAL DEFINITION OF EMPLOYMENT;
8 PRESUMPTION OF EMPLOYMENT. (a) In this subtitle, "employment"
9 means a service, including service in interstate commerce,
10 performed by an individual for wages or under an express or implied
11 contract of hire.

12 (b) An individual performing a service for wages or under an
13 express or implied contract of hire is presumed to be an employee of
14 the person for whom the service is performed.

15 (c) A presumption under Subsection (b) may be rebutted if
16 the person for whom the service is performed shows~~[, unless it is~~
17 ~~shown]~~ to the satisfaction of the commission that the individual's
18 performance of the service has been and will continue to be free
19 from control or direction under the contract and in fact.

20 SECTION 2. The heading to Section 214.008, Labor Code, is
21 amended to read as follows:

22 Sec. 214.008. MISCLASSIFICATION OF [~~CERTAIN~~] WORKERS;
23 PENALTY.

24 SECTION 3. Section 214.008, Labor Code, is amended by

1 adding Subsections (b-1) and (c-1) to read as follows:

2 (b-1) A person, other than a person to whom Subsection (a)
3 or (b) applies, shall properly classify, as an employee or
4 independent contractor in accordance with Chapter 201, any
5 individual the person directly retains and compensates for the
6 performance of a service.

7 (c-1) The commission may assess a penalty against a person
8 who fails to properly classify an individual as required by
9 Subsection (b-1), in an amount not to exceed \$200 for each
10 individual that the person has not properly classified. The amount
11 of the penalty may be based on:

12 (1) the seriousness of the violation, including the
13 nature, circumstances, extent, and gravity of any prohibited acts;

14 (2) the history of previous violations;

15 (3) the amount necessary to deter future violations;

16 or

17 (4) efforts to correct the violation.

18 SECTION 4. Section [214.008](#), Labor Code, as amended by this
19 Act, applies only to service performed by an individual on or after
20 the effective date of this Act. Service performed by an individual
21 before the effective date of this Act is governed by the law in
22 effect on the date the service was performed, and the former law is
23 continued in effect for that purpose.

24 SECTION 5. This Act takes effect September 1, 2015.