

By: González of El Paso, Leach, Romero, Jr.,
et al.

H.B. No. 202

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a database of employers penalized for failure to pay
3 wages or convicted of certain offenses involving wage theft.

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

5 SECTION 1. Subchapter D, Chapter 301, Labor Code, is
6 amended by adding Section 301.070 to read as follows:

7 Sec. 301.070. DATABASE REGARDING WAGE THEFT. (a) In this
8 section:

9 (1) "Attorney representing the state" means a district
10 attorney, criminal district attorney, or county attorney
11 performing the duties of a district attorney.

12 (2) "Employee" and "employer" have the meanings
13 assigned by Section 61.001.

14 (b) The commission shall make available on its Internet
15 website a publicly accessible list of all employers in this state
16 that have been:

17 (1) assessed an administrative penalty under Section
18 61.053;

19 (2) ordered to pay wages by a final order of the
20 commission and have failed to comply with Section 61.063; or

21 (3) convicted of an offense under:

22 (A) Section 61.019; or

23 (B) Section 31.04, Penal Code, if the offense
24 involved the theft of a service that was rendered by an employee of

1 the employer.

2 (c) For an employer that is a business entity, the database
3 must include the name under which the entity operates and the name
4 of each individual who is an owner of the entity and actively
5 involved in the management of the entity.

6 (d) The commission must provide notice to an employer not
7 later than the 180th day before the date the employer is listed in
8 the database.

9 (e) The commission by rule shall establish a process by
10 which an employer may, at any time after receiving notice under
11 Subsection (d), dispute the employer's inclusion in the database.
12 The process must require the commission to investigate and make a
13 final determination regarding an employer dispute under this
14 subsection not later than the 21st day after the date the dispute is
15 filed.

16 (f) The commission shall list an employer in the database
17 until the third anniversary of the date the penalty is assessed or
18 the employer is convicted.

19 (g) An attorney representing the state shall report to the
20 commission the name of each employer that is prosecuted and
21 convicted in the attorney's jurisdiction of an offense described by
22 Subsection (b)(3).

23 (h) For purposes of this section, a person has been
24 convicted of an offense if the person was adjudged guilty of the
25 offense or entered a plea of guilty or nolo contendere in return for
26 a grant of deferred adjudication community supervision, regardless
27 of whether the sentence for the offense was ever imposed or whether

1 the sentence was probated and the person was subsequently
2 discharged from community supervision.

3 (i) This section does not impose any additional requirement
4 on a contractor performing work under a contract that is subject to:

5 (1) Chapter 2258, Government Code; or

6 (2) the Davis-Bacon Act (40 U.S.C. Section 3141 et
7 seq.) or another federal law that makes the Davis-Bacon Act
8 applicable to the contract.

9 SECTION 2. The change in law made by this Act applies only
10 to an employer:

11 (1) for whom an administrative penalty is assessed on
12 or after the effective date of this Act, regardless of whether the
13 conduct giving rise to the penalty occurred before, on, or after
14 that date;

15 (2) who is subject to a final order of the Texas
16 Workforce Commission entered on or after the effective date of this
17 Act, regardless of whether the conduct giving rise to the order
18 occurred before, on, or after that date; or

19 (3) for whom a judgment of conviction is entered, or
20 who is placed on deferred adjudication community supervision, on or
21 after the effective date of this Act, regardless of whether the
22 offense for which the employer was convicted, or for which the
23 employer was placed on deferred adjudication community
24 supervision, was committed before, on, or after that date.

25 SECTION 3. Not later than December 1, 2017, the Texas
26 Workforce Commission shall establish the database required by
27 Section 301.070, Labor Code, as added by this Act.

1 SECTION 4. This Act takes effect September 1, 2017.