

By: Kuempel

H.B. No. 3309

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of temporary common worker employers.

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

SECTION 1. Section 92.001(a), Labor Code, is amended to read as follows:

(a) The legislature finds that this chapter is necessary to:

(1) provide for the health, safety, and welfare of common workers throughout this state; and

(2) establish uniform standards of conduct and practice for temporary common worker ~~[certain]~~ employers in this state.

SECTION 2. Section 92.002, Labor Code, is amended by amending Subdivision (6) and adding Subdivision (6-a) to read as follows:

(6) "Labor hall" means a central location maintained by a temporary common worker employer ~~[license holder]~~ where common workers assemble and are dispatched to work for a user of common workers.

(6-a) "Municipality" has the meaning assigned by Section 1.005, Local Government Code.

SECTION 3. The heading to Subchapter B, Chapter 92, Labor Code, is amended to read as follows:

SUBCHAPTER B. AUTHORITY TO OPERATE ~~[LICENSE REQUIREMENTS]~~

SECTION 4. Subchapter B, Chapter 92, Labor Code, is amended

by adding Section 92.0115 to read as follows:

Sec. 92.0115. AUTHORITY TO OPERATE. Subject to Section 92.013 and unless prohibited by a governmental subdivision, a person may operate as a temporary common worker employer in this state if the person meets the requirements of this chapter.

SECTION 5. The heading to Section 92.012, Labor Code, is amended to read as follows:

Sec. 92.012. EXEMPTIONS [~~FROM LICENSING REQUIREMENT~~].

SECTION 6. Section 92.013(b), Labor Code, is amended to read as follows:

(b) A municipality with a population greater than one million may establish municipal [~~licensing~~] requirements that impose stricter standards of conduct and practice than those imposed under Subchapter C.

SECTION 7. The heading to Subchapter C, Chapter 92, Labor Code, is amended to read as follows:

SUBCHAPTER C. STANDARDS OF CONDUCT AND PRACTICE [~~POWERS AND DUTIES OF LICENSE HOLDER~~]

SECTION 8. Section 92.021, Labor Code, is amended to read as follows:

Sec. 92.021. POWERS AND DUTIES OF [~~LICENSE HOLDER AS~~] EMPLOYER. (a) Each temporary common worker employer [~~license holder~~] is the employer of the common workers provided by that temporary common worker employer [~~license holder~~].

(b) A temporary common worker employer [~~license holder~~] may hire, reassign, control, direct, and discharge the employees of the temporary common worker employer [~~license holder~~].

SECTION 9. Section 92.022, Labor Code, is amended to read as follows:

Sec. 92.022. REQUIRED RECORDS; CONFIDENTIALITY. (a) Each temporary common worker employer [~~license holder~~] shall maintain and make available to a governmental subdivision [~~representative of the department~~] records that show for each common worker provided by the temporary common worker employer [~~license holder~~] to a user of common workers:

- (1) the name and address of the worker;
- (2) the hours worked;
- (3) the places at which the work was performed;
- (4) the wages paid to the worker; and
- (5) any deductions made from those wages.

(b) The temporary common worker employer [~~license holder~~] shall maintain the records at least until the second anniversary of the date on which the worker was last employed by the temporary common worker employer [~~license holder~~].

(c) Information received by the governmental subdivision [~~commission or department~~] under this section is privileged and confidential and is for the exclusive use of the governmental subdivision [~~commission or department~~]. The information may not be disclosed to any other person except on the entry of a court order requiring disclosure or on the written consent of a person under investigation who is the subject of the records.

SECTION 10. Section 92.023(b), Labor Code, is amended to read as follows:

(b) Each temporary common worker employer [~~license holder~~]

1 shall ~~[also]~~ post in a conspicuous place in the ~~[licensed]~~ premises
2 on which the temporary common worker employer operates a notice of
3 any charge permitted under this chapter that the temporary common
4 worker employer ~~[license holder]~~ may assess against a common worker
5 for equipment, tools, transportation, or other work-related
6 services.

7 SECTION 11. Section 92.024, Labor Code, is amended to read
8 as follows:

9 Sec. 92.024. LABOR HALL REQUIREMENTS. A temporary common
10 worker employer ~~[license holder]~~ that operates a labor hall as part
11 of a ~~[licensed]~~ premises on which the temporary common worker
12 employer operates shall provide adequate facilities for a worker
13 waiting for a job assignment. The facilities must include:

- 14 (1) restroom facilities for both men and women;
- 15 (2) drinking water;
- 16 (3) sufficient seating; and
- 17 (4) access to vending refreshments and food.

18 SECTION 12. Section 92.025, Labor Code, is amended to read
19 as follows:

20 Sec. 92.025. CERTAIN CHARGES AND DEDUCTIONS PROHIBITED.

21 (a) A temporary common worker employer ~~[license holder]~~ may not
22 charge a common worker for:

23 (1) safety equipment, clothing, or accessories
24 required by the nature of the work, either by law, custom, or the
25 requirements of the user of common workers;

26 (2) uniforms, special clothing, or other items
27 required as a condition of employment by the user of common workers;

(3) the cashing of a check or voucher; or

(4) the receipt by the worker of earned wages.

(b) A temporary common worker employer [~~license holder~~] may not deduct or withhold any amount from the earned wages of a common worker except:

(1) a deduction required by federal or state law; or

(2) a reimbursement for a cash advance made to the worker during the same pay period.

SECTION 13. Chapter 92, Labor Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ENFORCEMENT

Sec. 92.031. ENFORCEMENT. A governmental subdivision may enforce this chapter within the boundaries of the governmental subdivision.

SECTION 14. The following provisions of the Labor Code are repealed:

(1) Sections 92.002(1), (4), and (4-a);

(2) Section 92.003;

(3) Section 92.004;

(4) Section 92.011;

(5) Section 92.013(a);

(6) Section 92.014;

(7) Section 92.015; and

(8) Section 92.023(a).

SECTION 15. (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,

1 Labor Code, as that chapter existed immediately before the
2 effective date of this Act, is dismissed.

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

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

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

23 SECTION 16. This Act takes effect September 1, 2017.