

By: Rodríguez, Garcia

S.B. No. 473

A BILL TO BE ENTITLED

AN ACT

relating to paid rest breaks for construction employees of construction contractors and subcontractors; providing an administrative penalty.

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

SECTION 1. Subtitle D, Title 2, Labor Code, is amended by adding Chapter 83 to read as follows:

CHAPTER 83. PAID REST BREAKS FOR CONSTRUCTION EMPLOYEES

Sec. 83.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Workforce Commission.

(2) "Construction employee" means an individual paid by a construction employer to perform general construction work or services.

(3) "Construction employer" means a contractor or subcontractor who employs one or more construction employees in this state.

(4) "Contractor" means a person, firm, or corporation contracting for general construction.

(5) "General construction" means the:

(A) erection of or preparation to erect a structure;

(B) remodeling, extension, repair, or demolition of a structure; or

1           (C) other improvement of real property or a  
2 structure related to real property.

3           (6) "Rest break" means a break from work during work  
4 hours. The term does not include a regular meal break period  
5 provided to a construction employee by a construction employer.

6           (7) "Subcontractor" means a person, firm, or  
7 corporation contracting with a contractor for general  
8 construction.

9           Sec. 83.002. PAID REST BREAKS REQUIRED. (a) A construction  
10 employer shall provide at least a 15-minute paid rest break for  
11 every four hours of work to each construction employee.

12           (b) The construction employer may not require the paid rest  
13 break to be taken as part of a separate meal break.

14           Sec. 83.003. NOTICE TO CONSTRUCTION EMPLOYEES. (a) Each  
15 construction employer shall, at the time of hiring, provide notice  
16 in both English and Spanish to each construction employee:

17           (1) of the employee's entitlement to paid rest breaks  
18 under this chapter;

19           (2) that retaliation by the employer against the  
20 employee for requesting or taking paid rest breaks to which the  
21 employee is entitled under this chapter is prohibited; and

22           (3) that the employee has a right to file a complaint  
23 with the commission for any violation of this chapter.

24           (b) A construction employer may comply with this section by  
25 displaying a poster in a conspicuous place, accessible to  
26 construction employees, at the employer's place of business and at  
27 the applicable construction work site that contains the information

1 required by this section in both English and Spanish.

2 (c) The commission by rule shall prescribe the design and  
3 content of the sign described by Subsection (b).

4 Sec. 83.004. RETALIATION PROHIBITED. A construction  
5 employer may not take retaliatory personnel action or otherwise  
6 discriminate against a construction employee because the employee:

7 (1) requests or takes paid rest breaks in accordance  
8 with this chapter; or

9 (2) files a complaint with the commission alleging the  
10 employer's violation of this chapter.

11 Sec. 83.005. COMPLAINT; HEARING; PENALTY. (a) Any  
12 construction employee aggrieved by a violation of this chapter may  
13 file a claim with the commission in the manner prescribed by  
14 Subchapter D, Chapter 61. Except as otherwise provided by this  
15 chapter, the commission shall investigate and dispose of the  
16 complaint in the same manner as a wage claim under Subchapter D,  
17 Chapter 61.

18 (b) A construction employer that violates any applicable  
19 requirement of this chapter must be provided with an opportunity to  
20 correct the violation under Subsection (d).

21 (c) The commission shall notify the construction employer  
22 if the commission determines that the employer has violated this  
23 chapter.

24 (d) If the construction employer corrects the violation not  
25 later than the 30th business day after the date the employer  
26 receives notice under Subsection (c), the commission may not assess  
27 an administrative penalty against the employer.

1       (e) The commission may assess an administrative penalty  
2 against a construction employer for a violation of this chapter  
3 only if the employer fails to correct the violation before the 31st  
4 business day after the date the employer receives notice that the  
5 employer has violated this chapter.

6       (f) The commission may award the construction employee all  
7 appropriate relief, including rehiring or reinstatement to the  
8 employee's previous job, payment of back wages, and reestablishment  
9 of employee benefits for which the employee otherwise would have  
10 been eligible if the employee had not been subject to retaliatory  
11 personnel action or other discrimination.

12       (g) A party may appeal a final decision of the commission in  
13 the manner prescribed by Section [61.062](#).

14       SECTION 2. Chapter 83, Labor Code, as added by this Act,  
15 applies only to a violation that occurs on or after the effective  
16 date of this Act.

17       SECTION 3. This Act takes effect September 1, 2017.