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H.B. No. 48

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Subchapter D, Chapter 301, Labor Code, is amended by adding Section 301.0705 to read as follows:

Sec. 301.0705. DATABASE REGARDING WAGE THEFT. (a) In this section:

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

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

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

(1) assessed an administrative penalty under Section 61.053;

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

(3) convicted of an offense under:

(A) Section 61.019; or

(B) Section 31.04, Penal Code, if the offense 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 initial inclusion or  
12 continued inclusion in the database, as applicable. The process  
13 must require the commission to investigate and make a final  
14 determination regarding an employer dispute under this subsection  
15 not later than the 21st day after the date the dispute is filed.

16 (f) In a dispute regarding an employer's continued  
17 inclusion in the database under Subsection (e), the commission  
18 shall consider any material changes to the employer's management or  
19 ownership following the incident for which the employer was  
20 initially included in the database.

21 (g) The commission shall list an employer in the database  
22 until the third anniversary of the date the penalty is assessed or  
23 the employer is convicted, unless the employer is removed from the  
24 database as a result of the commission's determination following a  
25 dispute under Subsection (e).

26 (h) An attorney representing the state shall report to the  
27 commission the name of each employer that is prosecuted and

1 convicted in the attorney's jurisdiction of an offense described by  
2 Subsection (b)(3).

3 (i) For purposes of this section, a person has been  
4 convicted of an offense if the person was adjudged guilty of the  
5 offense or entered a plea of guilty or nolo contendere in return for  
6 a grant of deferred adjudication community supervision, regardless  
7 of whether the sentence for the offense was ever imposed or whether  
8 the sentence was probated and the person was subsequently  
9 discharged from community supervision.

10 (j) This section does not impose any additional requirement  
11 on a contractor performing work under a contract that is subject to:

- 12 (1) Chapter 2258, Government Code; or  
13 (2) the Davis-Bacon Act (40 U.S.C. Section 3141 et  
14 seq.) or another federal law that makes the Davis-Bacon Act  
15 applicable to the contract.

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

18 (1) for whom an administrative penalty is assessed on  
19 or after the effective date of this Act, regardless of whether the  
20 conduct giving rise to the penalty occurred before, on, or after  
21 that date;

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

26 (3) for whom a judgment of conviction is entered, or  
27 who is placed on deferred adjudication community supervision, on or

1 after the effective date of this Act, regardless of whether the  
2 offense for which the employer was convicted, or for which the  
3 employer was placed on deferred adjudication community  
4 supervision, was committed before, on, or after that date.

5 SECTION 3. Not later than December 1, 2019, the Texas  
6 Workforce Commission shall establish the database required by  
7 Section 301.0705, Labor Code, as added by this Act.

8 SECTION 4. This Act takes effect September 1, 2019.