

By: Darby

H.B. No. 3416

A BILL TO BE ENTITLED

AN ACT

relating to disclosures regarding indemnification obligations and insurance coverage in connection with provision of services pertaining to wells or mines by certain subcontractors.

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

SECTION 1. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 127A to read as follows:

CHAPTER 127A. DISCLOSURES REGARDING INDEMNIFICATION OBLIGATIONS AND INSURANCE COVERAGE REGARDING WELL OR MINE SERVICES PROVIDED BY CERTAIN SUBCONTRACTORS

Sec. 127A.001. DEFINITIONS. In this chapter:

(1) "Temporary placement service" means an entity or other person that employs individuals or contracts with another entity or person to refer or assign personnel to the placement service's clients to support or supplement the clients' workforce in a special work situation, including:

(A) an employee absence;

(B) a temporary skill shortage;

(C) a seasonal or cyclical workload;

(D) work requiring uniquely skilled personnel;

or

(E) a special assignment or project.

(2) "Temporary subcontractor" means an independent contractor who, in connection with performing well or mine

1 services:

2 (A) is referred to or placed by a temporary
3 placement service with the placement service's client; or

4 (B) has entered into an agreement with a
5 temporary placement service to provide those services to the
6 placement service's client.

7 (3) "Well or mine service" has the meaning assigned by
8 Section 127.001.

9 Sec. 127A.002. DISCLOSURE REGARDING TEMPORARY
10 SUBCONTRACTOR INDEMNIFICATION OBLIGATIONS AND INSURANCE COVERAGE
11 REQUIREMENTS. (a) Before a temporary placement service refers or
12 assigns a temporary subcontractor to the placement service's client
13 to perform well or mine services, the placement service shall
14 provide a written disclosure to the subcontractor that:

15 (1) describes the subcontractor's indemnification
16 obligations, if any, to the placement service and to the placement
17 service's client in connection with the services the subcontractor
18 will provide to the client;

19 (2) describes any insurance policy, including the
20 amount of coverage and any limits on coverage, that is provided for
21 the benefit of the subcontractor by the placement service or the
22 placement service's client, or both, in connection with the
23 services the subcontractor will provide to the client; and

24 (3) expressly states whether and to what extent any
25 insurance policy described by Subdivision (2) will cover the
26 subcontractor's tort liability and contractual indemnity
27 obligations arising out of the performance of the services by the

1 subcontractor for the placement service's client or clients.

2 (b) The disclosure required under Subsection (a) may state
3 that the disclosure does not alter, amend, or otherwise modify the
4 terms of any agreement governing services provided by the temporary
5 subcontractor or any insurance policy described by Subsection
6 (a)(2), provided that the temporary placement service is
7 responsible for the content of the disclosure.

8 (c) A temporary placement service shall:

9 (1) provide the disclosure required under Subsection
10 (a) to a temporary subcontractor as a separate document from any
11 agreement entered into with the subcontractor by the placement
12 service or the placement service's client; and

13 (2) ensure that the disclosure is written in plain
14 English and in a manner that is clear, concise, and designed to
15 enable the temporary subcontractor to understand the
16 subcontractor's contractual indemnity obligations, if any, and any
17 insurance policy provided for the benefit of the subcontractor in
18 connection with well or mine services to be performed by the
19 subcontractor.

20 (d) A temporary placement service may satisfy the
21 requirement to describe an insurance policy under Subsection (a)(2)
22 by providing to the temporary subcontractor a certificate of
23 insurance evidencing applicable coverage and limits.

24 Sec. 127A.003. DISCLOSURE REQUIREMENTS FOR ONGOING
25 INSURANCE POLICY. A temporary placement service that provides a
26 disclosure to a temporary subcontractor under Section 127A.002 that
27 states that an insurance policy described in that disclosure that

1 is provided for the benefit of the temporary subcontractor remains
2 in effect for a specified time period and with respect to a
3 specified client or clients is not required to provide that
4 subcontractor with an additional disclosure under Section 127A.002
5 for future services provided by the subcontractor to that client or
6 those clients until:

7 (1) the insurance policy is no longer in effect; or

8 (2) the placement service is required to provide the
9 subcontractor a new disclosure because of a change concerning the
10 insurance policy as provided under Section 127A.004.

11 Sec. 127A.004. NOTICE REQUIRED FOR CERTAIN CHANGES RELATED
12 TO INSURANCE POLICY. A temporary placement service shall provide a
13 temporary subcontractor who is provided a disclosure of a provided
14 insurance policy under Section 127A.002 a separate written notice
15 of a cancellation or nonrenewal of the policy or a material
16 reduction in coverage under the insurance policy not later than the
17 30th day before the date the cancellation or nonrenewal of the
18 policy or the material reduction in insurance coverage takes
19 effect.

20 SECTION 2. The change in law made by this Act applies only
21 to an agreement entered into on or after the effective date of this
22 Act.

23 SECTION 3. This Act takes effect September 1, 2021.