88S40129 SCP-F

By:  Eckhardt S.B. No. 28

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

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

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

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

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

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

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

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

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

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

(b)  A construction employer may comply with this section by displaying a sign in a conspicuous place, accessible to construction employees, at the employer's place of business and at the applicable construction work site that contains the information required by this section in both English and Spanish.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3.  This Act takes effect on the 91st day after the last day of the legislative session.