

By: Eckhardt

S.B. No. 28

A BILL TO BE ENTITLED

1 AN ACT
2 relating to paid rest breaks for construction employees of
3 construction contractors and subcontractors; providing an
4 administrative penalty.

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

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

8 CHAPTER 83. PAID REST BREAKS FOR CONSTRUCTION EMPLOYEES

9 Sec. 83.001. DEFINITIONS. In this chapter:

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

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

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

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

20 (5) "General construction" means the:

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

23 (B) remodeling, extension, repair, or demolition
24 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 sign 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 on the 91st day after the
18 last day of the legislative session.