

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a database of employers penalized for failure to pay
3 wages or convicted of certain criminal offenses involving wage
4 theft.

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

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

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

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

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

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

18 (1) assessed an administrative penalty under Section
19 61.053;

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

22 (3) convicted of an offense under:

23 (A) Section 61.019; or

24 (B) Section 31.04, Penal Code, if the offense

1 involved the theft of a service that was rendered by an employee of
2 the employer.

3 (c) For an employer that is a business entity, the database
4 must include the name under which the entity operates and the name
5 of each individual who is an owner of the entity and actively
6 involved in the management of the entity.

7 (d) The commission must provide notice to an employer not
8 later than the 180th day before the date the employer is listed in
9 the database.

10 (e) The commission by rule shall establish a process by
11 which an employer may, at any time after receiving notice under
12 Subsection (d), dispute the employer's initial inclusion or
13 continued inclusion in the database, as applicable. The process
14 must require the commission to investigate and make a final
15 determination regarding an employer dispute under this subsection
16 not later than the 21st day after the date the dispute is filed.

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

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

27 (h) An attorney representing the state shall report to the

1 commission the name of each employer that is prosecuted and
2 convicted in the attorney's jurisdiction of an offense described by
3 Subsection (b)(3).

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

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

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

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

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

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

27 (3) for whom a judgment of conviction is entered, or

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

6 SECTION 3. Not later than December 1, 2023, the Texas
7 Workforce Commission shall establish the database required by
8 Section 301.0705, Labor Code, as added by this Act.

9 SECTION 4. This Act takes effect September 1, 2023.