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CM.CM.06772

Proposed Committee Substitute by the Committee on Commerce

A bill to be entitled

An act relating to employee leasing companies; providing a short title; amending s. 443.036, F.S.; amending the definition of the term "employee leasing company"; amending s. 443.1216, F.S.; requiring the provision of quarterly reports that include client and establishment specific information; authorizing rules; providing enforcement authority; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Se Section 1. This act may be cited as the "Accurate Employment Statistics Enhancement Act."

Section 2. Subsection (18) of section 443.036, Florida Statutes, is amended to read:

443.036 Definitions.—As used in this chapter, the term:

(18) "Employee leasing company" means an employing unit that has a valid and active license under chapter 468 and that maintains the records required by s. 443.171(5) and, in addition, produces ~~maintains~~ quarterly reports, as specified in s. 443.1216, on the clients of the employee leasing company and the internal staff of the employee leasing company ~~a listing of the clients of the employee leasing company and of the employees, including their social security numbers, who have been assigned to work at each client company job site. Further, each client company job site must be identified by industry, products or services, and address. The client list must be provided to the tax collection service provider by June 30 and by December 31 of each year.~~ As used in this subsection, the term "client" means a



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30 party who has contracted with an employee leasing company to
31 provide a worker, or workers, to perform services for the client.

32 ~~Leased employees include employees subsequently placed on the~~
33 ~~payroll of the employee leasing company on behalf of the client.~~

34 An employee leasing company must notify the tax collection
35 service provider within 30 days after the initiation or
36 termination of the company's relationship with any client company
37 under chapter 468.

38 Section 3. Paragraph (a) of subsection one of section
39 443.1216, Florida Statutes, is amended to read:

40 443.1216 Employment.-Employment, as defined in s. 443.036,
41 is subject to this chapter under the following conditions:

42 (1) (a) The employment subject to this chapter includes a
43 service performed, including a service performed in interstate
44 commerce, by:

45 1. An officer of a corporation.

46 2. An individual who, under the usual common-law rules
47 applicable in determining the employer-employee relationship, is
48 an employee. However, whenever a client, as defined in s.
49 443.036(18), which would otherwise be designated as an employing
50 unit has contracted with an employee leasing company to supply it
51 with workers, those workers are considered employees of the
52 employee leasing company. An employee leasing company may lease
53 corporate officers of the client to the client and other workers
54 to the client, except as prohibited by regulations of the
55 Internal Revenue Service. Employees of an employee leasing
56 company must be reported under the employee leasing company's tax
57 identification number and contribution rate for work performed
58 for the employee leasing company.

59 a. In addition to any other report required to be filed by



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60 law, an employee leasing company shall submit a report which must
61 include every client establishment and each establishment of the
62 employee leasing company to the Florida Agency for Workforce
63 Innovation, Labor Market Statistics Center, or as otherwise
64 directed by the agency, which must include the following
65 information for each establishment:

66 I. the trade or establishment name;

67 II. the former unemployment compensation account number, if
68 available;

69 III. the former Federal Employment Identification Number
70 (FEIN), if available;

71 IV. the industry code recognized and published by the United
72 States Office of Management and Budget, if available;

73 V. a description of the client's primary business activity
74 in order to verify or assign an industry code;

75 VI. the physical location address;

76 VII. the number of full-time and part-time employees who
77 worked during or received pay that was subject to unemployment
78 compensation taxes for the pay period including the 12th of the
79 month for each month of the quarter;

80 VIII. the total wages subject to unemployment compensation
81 taxes paid during the calendar quarter;

82 IX. an internal identification code to uniquely identify
83 each establishment of each client,

84 X. the month and year the client entered into contract; and

85 XI. the month and year the client terminated the contract
86 for services.

87 b. The report shall be submitted electronically or in a
88 manner otherwise prescribed by the Agency in the format specified
89 by the U.S. Bureau of Labor Statistics for its Multiple Worksite



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90 Report for Professional Employer Organizations. The report must
91 be provided quarterly to the Agency for Workforce Innovation,
92 Labor Market Statistics Center, or as otherwise directed by the
93 agency, and must be filed by the last day of the month
94 immediately following the end of the calendar quarter. The
95 information required in sub-sub-paragraphs (1)(a)2.a.X. and
96 XI. need only be provided in the quarter in which the contract to
97 which it relates was entered into or terminated. The sum of the
98 employment data and the sum of the wage data on this report must
99 match the employment and wages reported on the unemployment
100 compensation quarterly tax and wage report.

101 c. The Agency for Workforce Innovation may adopt rules as
102 necessary to implement the provisions of subparagraph (1)(a)2.
103 and shall have the authority to administer, collect, enforce and
104 waive the penalty imposed by s. 443.141(1)(b) for the report
105 required by subparagraph (1)(a)2.

106 d. For the purposes of (1)(a)2., the term "establishment" or
107 "worksite" means any location where business is conducted or
108 where services or industrial operations are performed.

109 3. An individual other than an individual who is an employee
110 under subparagraph 1. or subparagraph 2., who performs services
111 for remuneration for any person:

112 a. As an agent-driver or commission-driver engaged in
113 distributing meat products, vegetable products, fruit products,
114 bakery products, beverages other than milk, or laundry or
115 drycleaning services for his or her principal.

116 b. As a traveling or city salesperson engaged on a full-time
117 basis in the solicitation on behalf of, and the transmission to,
118 his or her principal of orders from wholesalers, retailers,
119 contractors, or operators of hotels, restaurants, or other



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120 similar worksites for merchandise for resale or supplies for use
121 in their business operations. This sub-subparagraph does not
122 apply to an agent-driver or a commission-driver and does not
123 apply to sideline not apply to an agent-driver or a commission-
124 driver and does not apply to sideline sales activities performed
125 on behalf of a person other than the salesperson's principal.

126 4. The services described in subparagraph 3. are employment
127 subject to this chapter only if:

128 a. The contract of service contemplates that substantially
129 all of the services are to be performed personally by the
130 individual;

131 b. The individual does not have a substantial investment in
132 facilities used in connection with the services, other than
133 facilities used for transportation; and

134 c. The services are not in the nature of a single
135 transaction that is not part of a continuing relationship with
136 the person for whom the services are performed.

137 Section 4. This act shall take effect October 1, 2008.

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