

By the Committee on Commerce; and Senator Diaz de la Portilla

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1 A bill to be entitled

2 An act relating to employee leasing companies; providing a
3 short title; amending s. 443.036, F.S.; redefining the
4 term "employee leasing company"; amending s. 443.1216,
5 F.S.; requiring quarterly reports that include client and
6 establishment specific information; authorizing the Agency
7 for Workforce Innovation to adopt rules; providing
8 enforcement authority; providing an effective date.
9

10 Be It Enacted by the Legislature of the State of Florida:
11

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

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

16 443.036 Definitions.--As used in this chapter, the term:
17 (18) "Employee leasing company" means an employing unit
18 that has a valid and active license under chapter 468 and that
19 maintains the records required by s. 443.171(5) and, in addition,
20 produces quarterly reports, as specified in s. 443.1216, on the
21 clients of the employee leasing company and the internal staff of
22 the employee leasing company ~~maintains a listing of the clients~~
23 ~~of the employee leasing company and of the employees, including~~
24 ~~their social security numbers, who have been assigned to work at~~
25 ~~each client company job site. Further, each client company job~~
26 ~~site must be identified by industry, products or services, and~~
27 ~~address. The client list must be provided to the tax collection~~
28 ~~service provider by June 30 and by December 31 of each year. As~~
29 used in this subsection, the term "client" means a party who has

577-06923-08

2008940c1

30 contracted with an employee leasing company to provide a worker,
31 or workers, to perform services for the client. ~~Leased employees~~
32 ~~include employees subsequently placed on the payroll of the~~
33 ~~employee leasing company on behalf of the client.~~ An employee
34 leasing company must notify the tax collection service provider
35 within 30 days after the initiation or termination of the
36 company's relationship with any client company under chapter 468.

37 Section 3. Paragraph (a) of subsection (1) of section
38 443.1216, Florida Statutes, is amended to read:

39 443.1216 Employment.--Employment, as defined in s. 443.036,
40 is subject to this chapter under the following conditions:

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

44 1. An officer of a corporation.

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

58 a. In addition to any other report required by law, an

577-06923-08

2008940c1

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

65 (I) The trade or establishment name;

66 (II) The former unemployment compensation account number,
67 if available;

68 (III) The former federal employer identification number
69 (FEIN), if available;

70 (IV) The industry code recognized and published by the
71 United States Office of Management and Budget, if available;

72 (V) A description of the client's primary business activity
73 in order to verify or assign an industry code;

74 (VI) The physical location address;

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

79 (VIII) The total wages subject to unemployment compensation
80 taxes paid during the calendar quarter;

81 (IX) An internal identification code to uniquely identify
82 each establishment of each client;

83 (X) The month and year the client entered into contract;
84 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

577-06923-08

2008940c1

88 manner otherwise prescribed by the agency in the format specified
89 by the United States Bureau of Labor Statistics for its Multiple
90 Worksite Report for Professional Employer Organizations. The
91 report must be provided quarterly to the Labor Market Statistics
92 Center of the Agency for Workforce Innovation, or as otherwise
93 directed by the agency, and must be filed by the last day of the
94 month immediately following the end of the calendar quarter. The
95 information required in sub-sub-subparagraphs 2.a.(X) and (XI)
96 need be provided only 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 in the 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 this subparagraph.

106 d. For the purposes of this subparagraph, the term
107 "establishment" 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
110 employee under subparagraph 1. or subparagraph 2., who performs
111 services 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.

577-06923-08

2008940c1

116 b. As a traveling or city salesperson engaged on a full-
117 time basis in the solicitation on behalf of, and the transmission
118 to, his or her principal of orders from wholesalers, retailers,
119 contractors, or operators of hotels, restaurants, or other
120 similar establishments for merchandise for resale or supplies for
121 use 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 sales activities performed on behalf of a
124 person other than the salesperson's principal.

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

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

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

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

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