

By Senator Fasano

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1 A bill to be entitled
 2 An act relating to unemployment compensation; amending
 3 s. 443.036, F.S.; redefining the term "employee
 4 leasing company" to reflect reporting requirements
 5 imposed by the act; amending s. 443.1216, F.S.;
 6 requiring an employee leasing company to submit a
 7 report regarding its establishments to the Labor
 8 Market Statistics Center within the Agency for
 9 Workforce Innovation; providing reporting
 10 requirements; requiring the agency to adopt rules;
 11 providing definitions; providing an effective date.

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

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

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

19 443.036 Definitions.—As used in this chapter, the term:
 20 (18) "Employee leasing company" means an employing unit
 21 that has a valid and active license under chapter 468 and that
 22 maintains the records required by s. 443.171(5) and, in
 23 addition, produces quarterly reports concerning the clients of
 24 the employee leasing company and the internal staff of the
 25 employee leasing company ~~maintains a listing of the clients of~~
 26 ~~the employee leasing company and of the employees, including~~
 27 ~~their social security numbers, who have been assigned to work at~~
 28 ~~each client company job site. Further, each client company job~~
 29 ~~site must be identified by industry, products or services, and~~

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30 ~~address. The client list must be provided to the tax collection~~
31 ~~service provider by June 30 and by December 31 of each year.~~ As
32 used in this subsection, the term "client" means a party who has
33 contracted with an employee leasing company to provide a worker,
34 or workers, to perform services for the client. Leased employees
35 include employees subsequently placed on the payroll of the
36 employee leasing company on behalf of the client. An employee
37 leasing company must notify the tax collection service provider
38 within 30 days after the initiation or termination of the
39 company's relationship with any client company under chapter
40 468.

41 Section 3. Paragraph (a) of subsection (1) of section
42 443.1216, Florida Statutes, is amended to read:

43 443.1216 Employment.—Employment, as defined in s. 443.036,
44 is subject to this chapter under the following conditions:

45 (1) (a) The employment subject to this chapter includes a
46 service performed, including a service performed in interstate
47 commerce, by:

48 1. An officer of a corporation.

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

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59 company must be reported under the employee leasing company's
60 tax identification number and contribution rate for work
61 performed for the employee leasing company.

62 a. In addition to any other report required to be filed by
63 law, an employee leasing company shall submit a report to the
64 Labor Market Statistics Center within the Agency for Workforce
65 Innovation which includes each client establishment and each
66 establishment of the employee leasing company, or as otherwise
67 directed by the agency. The report must include the following
68 information for each establishment:

69 (I) The trade or establishment name;

70 (II) The former unemployment compensation account number,
71 if available;

72 (III) The former federal employer's identification number
73 (FEIN), if available;

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

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

78 (VI) The address of the physical location;

79 (VII) The number of full-time and part-time employees who
80 worked during, or received pay that was subject to unemployment
81 compensation taxes for, the pay period including the 12th of the
82 month for each month of the quarter;

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

85 (IX) An internal identification code to uniquely identify
86 each establishment of each client;

87 (X) The month and year that the client entered into the

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88 contract for services; and

89 (XI) The month and year that the client terminated the
90 contract for services.

91 b. The report shall be submitted electronically or in a
92 manner otherwise prescribed by the Agency for Workforce
93 Innovation in the format specified by the Bureau of Labor
94 Statistics of the United States Department of Labor for its
95 Multiple Worksite Report for Professional Employer
96 Organizations. The report must be provided quarterly to the
97 Labor Market Statistics Center within the Agency for Workforce
98 Innovation, or as otherwise directed by the agency, and must be
99 filed by the last day of the month immediately following the end
100 of the calendar quarter. The information required in sub-sub-
101 subparagraphs a.(X) and (XI) need be provided only in the
102 quarter in which the contract to which it relates was entered
103 into or terminated. The sum of the employment data and the sum
104 of the wage data in this report must match the employment and
105 wages reported in the unemployment compensation quarterly tax
106 and wage report.

107 c. The Agency for Workforce Innovation shall adopt rules as
108 necessary to administer this subparagraph, and may administer,
109 collect, enforce, and waive the penalty imposed by s.
110 443.141(1)(b) for the report required by this subparagraph.

111 d. For the purposes of this subparagraph, the term
112 "establishment" means any location where business is conducted
113 or where services or industrial operations are performed.

114 e. Pursuant to s. 443.1715(1), any information or report
115 that reveals an employing unit's identity and that is submitted
116 to the agency by an employer or the agent of the employer under

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117 this paragraph is confidential.

118 3. An individual other than an individual who is an
119 employee under subparagraph 1. or subparagraph 2., who performs
120 services for remuneration for any person:

121 a. As an agent-driver or commission-driver engaged in
122 distributing meat products, vegetable products, fruit products,
123 bakery products, beverages other than milk, or laundry or
124 drycleaning services for his or her principal.

125 b. As a traveling or city salesperson engaged on a full-
126 time basis in the solicitation on behalf of, and the
127 transmission to, his or her principal of orders from
128 wholesalers, retailers, contractors, or operators of hotels,
129 restaurants, or other similar establishments for merchandise for
130 resale or supplies for use in their business operations. This
131 sub-subparagraph does not apply to an agent-driver or a
132 commission-driver and does not apply to sideline sales
133 activities performed on behalf of a person other than the
134 salesperson's principal.

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

137 a. The contract of service contemplates that substantially
138 all of the services are to be performed personally by the
139 individual;

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

143 c. The services are not in the nature of a single
144 transaction that is not part of a continuing relationship with
145 the person for whom the services are performed.

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Section 4. This act shall take effect October 1, 2009.