

By the Committee on Commerce; and Senator Fasano

577-02364-09

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

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

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

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

21 443.036 Definitions.—As used in this chapter, the term:
22 (18) "Employee leasing company" means an employing unit
23 that has a valid and active license under chapter 468 and that
24 maintains the records required by s. 443.171(5) and, in
25 addition, is responsible for producing quarterly reports
26 concerning the clients of the employee leasing company and the
27 internal staff of the employee leasing company ~~maintains a~~
28 ~~listing of the clients of the employee leasing company and of~~
29 ~~the employees, including their social security numbers, who have~~

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

43 Section 3. Paragraph (a) of subsection (1) of section
44 443.1216, Florida Statutes, is amended to read:

45 443.1216 Employment.—Employment, as defined in s. 443.036,
46 is subject to this chapter under the following conditions:

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

50 1. An officer of a corporation.

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

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59 to the client, except as prohibited by regulations of the
60 Internal Revenue Service. Employees of an employee leasing
61 company must be reported under the employee leasing company's
62 tax identification number and contribution rate for work
63 performed for the employee leasing company.

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

71 (I) The trade or establishment name;

72 (II) The former unemployment compensation account number,
73 if available;

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

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

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

80 (VI) The address of the physical location;

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

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

87 (IX) An internal identification code to uniquely identify

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88 each establishment of each client;

89 (X) The month and year that the client entered into the
90 contract for services; and

91 (XI) The month and year that the client terminated the
92 contract for services.

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

109 c. The Agency for Workforce Innovation shall adopt rules as
110 necessary to administer this subparagraph, and may administer,
111 collect, enforce, and waive the penalty imposed by s.
112 443.141(1)(b) for the report required by this subparagraph.

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

116 e. Any information or report that is submitted to the

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117 agency by an employer or the agent of the employer under this
118 paragraph is confidential and exempt as provided for in s.
119 443.1715(1).

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

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

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

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

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

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

145 c. The services are not in the nature of a single

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146 transaction that is not part of a continuing relationship with
147 the person for whom the services are performed.

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