

1 A bill to be entitled
 2 An act relating to unemployment compensation; providing a
 3 short title; amending s. 443.036, F.S.; redefining the
 4 term "employee leasing company" to reflect reporting
 5 requirements imposed by the act; amending s. 443.1216,
 6 F.S.; requiring an employee leasing company to submit a
 7 report regarding its establishments to the Labor Market
 8 Statistics Center within the Agency for Workforce
 9 Innovation; providing reporting requirements; requiring
 10 the agency to adopt rules; providing a definition;
 11 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, is responsible for producing quarterly reports
 24 concerning the clients of the employee leasing company and the
 25 internal staff of the employee leasing company ~~maintains a~~
 26 ~~listing of the clients of the employee leasing company and of~~
 27 ~~the employees, including their social security numbers, who have~~
 28 ~~been assigned to work at each client company job site. Further,~~

29 ~~each client company job site must be identified by industry,~~
 30 ~~products or services, and address. The client list must be~~
 31 ~~provided to the tax collection service provider by June 30 and~~
 32 ~~by December 31 of each year.~~ As used in this subsection, the
 33 term "client" means a party who has contracted with an employee
 34 leasing company to provide a worker, or workers, to perform
 35 services for the client. Leased employees include employees
 36 subsequently placed on the payroll of the employee leasing
 37 company on behalf of the client. An employee leasing company
 38 must notify the tax collection service provider within 30 days
 39 after the initiation or termination of the company's
 40 relationship with any client company under chapter 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.
 44 443.036, is subject to this chapter under the following
 45 conditions:

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

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

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

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

70 (I) The trade or establishment name.

71 (II) The former unemployment compensation account number,
 72 if available.

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

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

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

79 (VI) The address of the physical location.

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

84 (VIII) The total wages subject to unemployment

85 compensation taxes paid during the calendar quarter.

86 (IX) An internal identification code to uniquely identify
 87 each establishment of each client.

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

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

92 b. The report shall be submitted electronically or in a
 93 manner otherwise prescribed by the Agency for Workforce
 94 Innovation in the format specified by the Bureau of Labor
 95 Statistics of the United States Department of Labor for its
 96 Multiple Worksite Report for Professional Employer
 97 Organizations. The report must be provided quarterly to the
 98 Labor Market Statistics Center within the Agency for Workforce
 99 Innovation, or as otherwise directed by the agency, and must be
 100 filed by the last day of the month immediately following the end
 101 of the calendar quarter. The information required in sub-sub-
 102 subparagraphs a.(X) and (XI) need be provided only in the
 103 quarter in which the contract to which it relates was entered
 104 into or terminated. The sum of the employment data and the sum
 105 of the wage data in this report must match the employment and
 106 wages reported in the unemployment compensation quarterly tax
 107 and wage report. No report shall be required for any calendar
 108 quarter preceding the third calendar quarter of 2010.

109 c. The Agency for Workforce Innovation shall adopt rules
 110 as 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 3. An individual other than an individual who is an
117 employee under subparagraph 1. or subparagraph 2., who performs
118 services for remuneration for any person:

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

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

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

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

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

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

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