



State of Tennessee
PUBLIC CHAPTER NO. 424

SENATE BILL NO. 833

By Ketron

Substituted for: House Bill No. 551

By Curtiss, Eldridge

AN ACT to amend Tennessee Code Annotated, Title 50 and Title 56, relative to misclassification of employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 6, Part 4, is amended by adding the following new section thereto:

50-6-411.

(a)(1) It is a violation of this section if at any time a construction services provider, as defined in § 50-6-901, misclassifies employees to avoid proper classification for premium calculations by concealing any information pertinent to the computation and application of an experience rating modification factor or by materially understating or concealing:

(A) The amount of the construction services provider's payroll;

(B) The number of the construction services provider's employees; or

(C) Any of the construction services provider's employee's duties.

(2) A construction services provider who violates subdivision (a)(1) shall be subject to a penalty issued by the commissioner or commissioner's designee of up to the greater of one thousand dollars (\$1,000) or one and one half (1½) times the average yearly workers' compensation premium for such construction services provider based on the appropriate assigned risk plan advisory prospective loss cost and multiplier minus the premium dollars paid on the policy that was the object of the understatement or concealment.

(b) This section shall have no effect upon a construction services provider's or carrier's duty to provide benefits under this chapter or upon any of the construction services provider's or carrier's rights and defenses under this chapter, including, but not limited to, § 50-6-108.

(c) In addition to the penalties provided for in subdivision (a)(2), the department shall refer cases involving business operations that are in violation of this section to the Tennessee bureau of investigation or the appropriate district attorney general for any action deemed necessary under any applicable criminal law.

(d) An individual or entity that is not a successor-in-interest or a principal of a construction services provider who is in violation of this section shall not be liable for the monetary penalties in this section.

(e) The funds collected by the commissioner of labor and workforce development or the commissioner's designee for penalties assessed pursuant to subdivision (a)(2) shall be deposited in the employee misclassification education and enforcement fund established by § 50-6-913 to be administered by the commissioner of labor and workforce development.

SECTION 2. Tennessee Code Annotated, Section 50-6-913(b), is amended by adding the following language to the second sentence of the subsection between the words "development" and "for":

for the purchase of computer software and hardware designed to identify potential employee misclassification activity, for the hiring of additional employees to investigate potential employee misclassification activity,

SECTION 3. This act shall take effect July 1, 2013, the public welfare requiring it, and shall apply to violations occurring on or after the effective date of this act.

SENATE BILL NO. 833

PASSED: April 18, 2013



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 16th day of May 2013



BILL HASLAM, GOVERNOR