

CHAPTER 220

H.B. No. 1280

An Act relating to certain employment, sales, and leasing practices; providing a penalty.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Title 83, Revised Statutes, is amended by adding Article 5165.4 to read as follows:

Art. 5165.4. WEEKLY DAY OFF

Sec. 1. (a) An employer, whether a person, firm, partnership, or corporation, may not require an employee to work seven consecutive days in an establishment whose business is selling merchandise at retail. The employer may not deny the employee at least one period of 24 consecutive hours of time off for rest or worship in each seven-day period. This time off must be in addition to the regular periods of rest allowed during each day worked. The employer will accommodate the religious beliefs and practices of the employee unless the employer can demonstrate that to do so would constitute an undue hardship on the conduct of his business. In addition, the employer may not require the employee to work during a period that the employee requests to be off to attend one regular worship service a week of the employee's religion.

(b) This section does not apply to part-time employees whose total work hours for one employer do not exceed 30 hours during a calendar week.

Sec. 2. An employer whose establishment was closed on Saturdays or Sundays to comply with Chapter 15, Acts of the 57th Legislature, 1st Called Session, 1961 (Article 9001, Vernon's Texas Civil Statutes), before that Act was repealed on September 1, 1985, may not require an employee to work on whichever day the establishment was closed if the employee has been continuously employed by that employer since a time before that date.

Sec. 3. An employer who violates this section commits an offense. An offense under this section is a Class C misdemeanor.

Sec. 4. It is an affirmative defense to prosecution under Section 3 that the employee volunteered for work on the seventh consecutive day and that the employee executed a written statement so stating. Such statement must also contain a provision, signed by the employer or his agent, that the employer did not require such work.

SECTION 2. The legislature finds that regulation of the purchase, sale, and exchange of motor vehicles on certain days, as a part of the state's motor vehicle regulatory scheme, is a valid exercise of the state's police power in order to provide maximum protection to the consumers of motor vehicles and that this regulation is necessary for the preservation of the public health, safety, and welfare.

SECTION 3. Title 116, Revised Statutes, is amended by adding Article 6686-1 to read as follows:

Art. 6686-1. SALE OF MOTOR VEHICLES ON BOTH THE CONSECUTIVE DAYS OF SATURDAY AND SUNDAY

Sec. 1. In this article:

(1) "Motor vehicle" means a self-propelled vehicle of two or more wheels designed to transport a person or property, whether or not it is required by law to have a certificate of title, and whether or not it may be driven legally on a public street or highway.

(2) "Person" means a natural person, firm, partnership, corporation, or other legal entity.

(3) "Employer" means a person who owns a facility that sells or offers for sale motor vehicles or a person who has the authority to determine the hours of operation of such facility.

Sec. 2. (a) No person may, on both the consecutive days of Saturday and Sunday, sell or offer for sale, or compel the person's employees to sell or offer for sale, a motor vehicle.

(b) Each day a motor vehicle is offered for sale is a separate violation of this Act. Each sale of a motor vehicle is a separate violation of this Act.

Sec. 3. This Act does not prohibit the occasional sale of a motor vehicle by a person not engaged in a business which includes the sale of motor vehicles.

Sec. 4. (a) The penalty for the first violation of this Act is a civil fine not to exceed \$500. The penalty for the second violation of this Act is a civil fine not less than \$500 and not more than \$1,000. The penalty for the third and each subsequent violation of this Act is a civil fine not less than \$1,000 and not more than \$5,000.

(b) The attorney general or a district, county, or city attorney may enforce this Act and may bring an action in a court of competent jurisdiction in the county in which a violation is alleged.

(c) On a finding by the trier of fact that a violation of this Act was committed wilfully or with conscious indifference to the provisions of law, the court may treble the fine otherwise due as penalty for the violation.

(d) An employer is a necessary party to an action brought against its employee alleging a violation of this Act by the employee. An employer is strictly liable to pay all sums, including civil fines, damages, costs, and attorney's fees levied as a result of a violation of this Act by its employee.

Sec. 5. The purpose of this Act being to promote the health, recreation, and welfare of the people of this state, the operation of any business whether by any individual, partnership, or corporation contrary to the provisions of this Act is declared to be a public nuisance, and any person or a city, county, or district attorney may apply to any court of competent jurisdiction for and may obtain an injunction restraining such violation of this Act. Such proceedings shall be guided by the rules of other injunction proceedings. A person who successfully brings an action under this section to enjoin a violation of this Act may recover his costs, including court costs and reasonable attorney's fees.

SECTION 4. Chapter 35, Business & Commerce Code, is amended by adding Section 35.42 to read as follows:

Sec. 35.42. STORE LEASE CONTRACTS. *(a) A provision of a lease contract that requires a store to be open when another store located in the same shopping center is open does not apply on Sunday unless the provision specifically states that it applies on Sunday.*

(b) This section applies to a contract regardless of whether it was executed before or after this section took effect.

SECTION 5. (a) Chapter 15, Acts of the 57th Legislature, 1st Called Session, 1961 (Article 9001, Vernon's Texas Civil Statutes), and Chapter 548, Acts of the 66th Legislature, Regular Session, 1979 (Article 9001a, Vernon's Texas Civil Statutes), are repealed.

(b) If, on the effective date of this Act, an action is pending under a statute repealed by this section, the action is dismissed on the effective date of this Act.

SECTION 6. This Act takes effect September 1, 1985.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 2, 1985, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1280 on May 20, 1985, by a non-record vote; passed by the Senate, with amendments, on May 17, 1985, by a viva-voce vote.

Approved: May 31, 1985

Effective: September 1, 1985