

SENATE COMMITTEE AMENDMENTS

2020 Second Extraordinary Session

Amendments proposed by Senate Committee on Revenue and Fiscal Affairs to Original Senate Bill No. 57 by Senator Luneau

AMENDMENT NO. 1

On page 1, line 2, after "To" insert "amend and reenact R.S. 47:1508(B)(28) and to"

AMENDMENT NO. 2

On page 1, line 4, after "the reports;" insert:

"to provide for an exception to the confidentiality of the records of the secretary of the Department of Revenue; to provide for definitions;"

AMENDMENT NO. 3

On page 1, line 7, after "Section 1." insert "R.S. 47:1508(B)(28) is hereby amended and reenacted and"

AMENDMENT NO. 4

On page 1, delete lines 8 through 17, on page 2, delete lines 1 through 29, and on page 3, delete lines 1 through 23 and insert:

**§114.1. Louisiana Act of Government Against Misclassified Employees**

**A. This Section shall be known and may be cited as the "Louisiana Act of Government Against Misclassified Employees" or "LA A GAME".**

**B. The legislature hereby finds that the misclassification of employees is a serious problem in Louisiana that drains revenues otherwise due to state and local government and is contrary to the public policy of this state. Misclassification of employees results in unfair competitive advantages and harms Louisiana businesses that properly comply with applicable laws. It is the intent and purpose of this Section to encourage the secretary of the Louisiana Department of Revenue and the secretary of the Louisiana Workforce Commission to work collaboratively to detect, investigate, and extinguish cases of misclassification of employees in this state utilizing the reports required by this Section. Further, the legislature directs that the reporting requirements shall be developed by the secretary as to cause the least amount of administrative or compliance burden feasible to businesses and the state.**

**C. For purposes of this Section:**

**(1) "LA A GAME Annual Report" means a report prescribed by the secretary and filed annually by a service recipient that includes the following information:**

**(a) The service recipient's name, business name, and address.**

**(b) The service recipient's federal employer identification number, social security number, Louisiana Department of Revenue account number, or other identifying number as required by the secretary.**

**(c) The service provider's full name, address, social security number or federal employer identification number, and the total amount paid to the service provider during the calendar year.**

**(2) "Secretary" means the secretary of the Louisiana Department of Revenue.**

**(3) "Service recipient" means any individual, person, corporation, association, or partnership, or agent thereof, doing business in this state, deriving trade or business income from sources within this state, or in any manner is engaged in the course of a trade or business subject to the laws of this state that pays, in the course of its trade or business, remuneration to a service provider for services provided in this state. "Service recipient" includes any agency or political subdivision of the state.**

1 (4) "Service provider" means a person who is not an employee of the  
2 service recipient who receives remuneration for services performed for the  
3 service recipient in Louisiana.

4 D. Beginning January 1, 2022, any service recipient who makes or is  
5 required to make a return to the Internal Revenue Service, in accordance with  
6 Section 6041A(a) of the Internal Revenue Code, relating to payments made to  
7 a service provider as remuneration for services provided in this state, shall file  
8 the LA A GAME Annual Report with the secretary as provided in this Section.

9 E.(1) The LA A GAME Annual Report required pursuant to this Section  
10 shall be filed with the secretary on or before the 28th day of February of each  
11 year for the preceding calendar year. The first LA A GAME Annual Report  
12 shall be filed on or before February 28, 2022, for remunerations made during  
13 calendar year 2021.

14 (2) Upon receipt of a written request from a service recipient in the  
15 manner prescribed by the secretary, the secretary may grant a reasonable  
16 extension of time, not exceeding thirty days, for filing the annual report.

17 (3) The secretary may waive the annual reporting requirement upon a  
18 showing by the service recipient that the requirement creates an undue  
19 hardship. A request for waiver shall be submitted to the secretary in the  
20 manner prescribed by the secretary.

21 F.(1) A penalty shall be imposed for the delinquent submission of, or  
22 failure to submit, the LA A GAME Annual Report in the form prescribed by  
23 the secretary.

24 (2) For each failure to fully comply with LA A GAME Annual Report  
25 filing requirements, the secretary may assess a penalty of one hundred dollars  
26 for each service provider for whom the required information is not reported  
27 timely or is incomplete. The total penalty imposed pursuant to this Subsection  
28 shall not exceed ten thousand dollars per calendar year.

29 (3) If the failure to timely submit a complete and accurate LA A GAME  
30 Annual Report is attributable, not to the negligence of the service recipient, but  
31 to other causes set forth in written form and considered reasonable by the  
32 secretary, the secretary may waive all or any part of the specific penalty  
33 provided for the failure.

34 G.(1) In consultation with service recipients and their representatives,  
35 the secretary shall prescribe the forms and format to be used for compliance  
36 with the provisions of this Section. The secretary may also prescribe the types  
37 of media and record layout to be used in the submission of the LA A GAME  
38 Annual Report consistent with Internal Revenue Service Form 1099-MISC,  
39 Form 1099-NEC, or successor forms' filing requirements.

40 (2) The secretary may promulgate rules and regulations to prescribe any  
41 alternative technological, mathematical, or data-driven methods for filing,  
42 signing, and submitting any report, statement, or other document required  
43 pursuant to this Section.

44 (3) The secretary shall design and provide for the electronic filing of LA  
45 A GAME Annual Reports at no charge for use by the service recipients. The  
46 secretary may require electronic filing of LA A GAME Annual Reports by rule  
47 and shall provide for hardship exceptions.

48 \* \* \*

49 §1508. Confidentiality of tax records

50 \* \* \*

51 B. Nothing herein contained shall be construed to prevent:

52 \* \* \*

53 (28) The sharing or furnishing, in the discretion of the secretary, of LA A  
54 GAME Annual Reports required by R.S. 47:114.1 or other information to the  
55 Louisiana Workforce Commission for the purposes of determining, investigating, or  
56 prosecuting fraud related to all areas administered by the Louisiana Workforce  
57 Commission. Any information shared or furnished shall be considered and held  
58 confidential and privileged by the Louisiana Workforce Commission to the same  
59 extent heretofore provided.

60 \* \* \*"