

1 HOUSE BILL 372

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO REGULATORY FUNCTIONS; TRANSFERRING THE EMPLOYEE
12 LEASING REGISTRATION DUTIES OF THE REGULATION AND LICENSING
13 DEPARTMENT TO THE WORKFORCE SOLUTIONS DEPARTMENT; MAKING AN
14 APPROPRIATION.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 60-13A-1 NMSA 1978 (being Laws 1993,
18 Chapter 162, Section 1) is amended to read:

19 "60-13A-1. SHORT TITLE.--~~[This act]~~ Chapter 60, Article
20 13A NMSA 1978 may be cited as the "Employee Leasing Act"."

21 SECTION 2. Section 60-13A-2 NMSA 1978 (being Laws 1993,
22 Chapter 162, Section 2, as amended) is amended to read:

23 "60-13A-2. DEFINITIONS.--As used in the Employee Leasing
24 Act:

25 A. "applicant" means a person applying for

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1 registration as an employee leasing contractor;

2 B. "client" means a person who obtains workers
3 through an employee leasing arrangement;

4 C. "department" means the [~~regulation and~~
5 ~~licensing~~] workforce solutions department;

6 D. "employee leasing arrangement" means any
7 arrangement in which a client contracts with an employee
8 leasing contractor for the contractor to provide leased workers
9 to the client; provided that "employee leasing arrangements"
10 does not include temporary workers;

11 E. "employee leasing contractor" means any person
12 who provides leased workers to a client in New Mexico through
13 an employee leasing arrangement;

14 F. "leased worker" means a worker provided to a
15 client through an employee leasing arrangement; provided that
16 if a worker works and should be classified in any construction
17 class or in any oil and gas well service or drilling class
18 pursuant to provisions of or regulations adopted under the New
19 Mexico Insurance Code, the worker shall be presumed to be a
20 leased worker and the employee leasing contractor that provides
21 the worker shall comply with the provisions of the Employee
22 Leasing Act;

23 G. "person" means an individual or any other legal
24 entity;

25 H. "temporary services employer" means an employing

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1 unit that contracts with clients or customers to provide
2 workers to perform services for the client or customer and
3 performs all of the following functions:

4 (1) negotiates with clients or customers for
5 such matters as time, place, type of work, working conditions,
6 quality and price of the services;

7 (2) determines assignments of workers, even
8 though workers retain the right to refuse specific assignments;

9 (3) retains the authority to reassign or
10 refuse to reassign a worker to other clients or customers when
11 a worker is determined unacceptable by a specific client or
12 customer;

13 (4) assigns the worker to perform services for
14 a client or customer;

15 (5) sets the rate of pay for the worker,
16 whether or not through negotiation; and

17 (6) pays the worker directly; and

18 I. "temporary worker" means a worker employed or
19 provided by a temporary services employer to support or
20 supplement another's work force in special work situations,
21 such as employee absences, temporary skill shortages, temporary
22 provision of specialized professional skills, seasonal
23 workloads and special temporary assignments, including the
24 production of motion pictures, television programs and other
25 commercial media projects; provided that if a worker who is

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1 employed or provided by a temporary services employer works and
2 should be classified in any construction class or in any oil
3 and gas well service or drilling class pursuant to provisions
4 of or regulations adopted under the New Mexico Insurance Code,
5 the worker shall be presumed to be a temporary worker and the
6 temporary services employer that provides the worker shall
7 comply with the provisions of the Employee Leasing Act."

8 SECTION 3. A new section of the Employee Leasing Act is
9 enacted to read:

10 "[NEW MATERIAL] APPROPRIATION OF FEES.--

11 A. Fees received pursuant to Section 60-13A-3 NMSA
12 1978 are appropriated to the department to pay the costs of
13 administering the Employee Leasing Act.

14 B. Fees received pursuant to Section 60-13A-3 NMSA
15 1978 in excess of the amount necessary to pay the costs of
16 administering the Employee Leasing Act are appropriated to the
17 general fund."

18 SECTION 4. TEMPORARY PROVISION.--On July 1, 2017, all
19 functions, appropriations, money, files, records and other
20 property of the regulation and licensing department relating to
21 the implementation of the Employee Leasing Act are transferred
22 to the workforce solutions department.

23 SECTION 5. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2017.