

SENATE BILL NO. 360—SENATOR ROBERSON

MARCH 18, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Establishes certain provisions relating to independent contractors. (BDR 53-904)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to labor; establishing certain criteria to determine when a person is an independent contractor; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 This bill establishes certain criteria for the purpose of determining whether a
2 person is an independent contractor in the performance of any work or service. This
3 bill also exempts from this criteria any claim, demand, cause of action, application
4 or classification made pursuant to certain laws of this State governing the
5 employment of minors, industrial insurance and occupational diseases.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 608 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. Except as otherwise provided in subsection 2, for the*
4 *purpose of determining whether a person is an independent*
5 *contractor in the performance of any work or service, a person is*
6 *an independent contractor if the person:*

7 *(a) Has entered into a written contract to perform the work or*
8 *service which specifies that the work or service is to be performed*
9 *by the person as an independent contractor and not as an*
10 *employee;*

11 *(b) Is responsible for a substantial portion of the costs or*
12 *expenses relating to the work or service that has been or will be*
13 *performed, and any contribution to such costs or expenses from*



1 *the person requesting the work or service is only incidental and is*
2 *specified in the contract for the work or service;*

3 *(c) Is responsible for providing the necessary personnel to*
4 *perform the work or service, subject only to specific functions to*
5 *be performed by such personnel as described in the contract for*
6 *the work or service;*

7 *(d) Is compensated for the work or service based on the value*
8 *of the work or service that has been or will be performed, and is*
9 *not compensated based solely on the hours worked;*

10 *(e) Substantially controls the means and manner of*
11 *performing the work or service, subject only to any regulatory and*
12 *customer requirements, the description of the work or service that*
13 *has been or will be performed and the measurement of quality or*
14 *standards of the work or service agreed to;*

15 *(f) Has applied for and obtained a state business license*
16 *pursuant to chapter 76 of NRS; and*

17 *(g) Has obtained any governmental, professional or*
18 *occupational license, permit or certification that is required to*
19 *perform the work or service which the person was hired to*
20 *perform.*

21 *2. The criteria established in subsection 1 does not apply to*
22 *any claim, demand, cause of action, application or classification*
23 *made pursuant to chapter 609, 616A, 616B, 616C, 616D or 617 of*
24 *NRS.*

25 **Sec. 2.** NRS 608.010 is hereby amended to read as follows:

26 608.010 "Employee" ~~includes~~ :

27 *1. Includes both male and female persons in the service of an*
28 *employer under any appointment or contract of hire or*
29 *apprenticeship, express or implied, oral or written, whether lawfully*
30 *or unlawfully employed.*

31 *2. Does not include an independent contractor as described in*
32 *subsection 1 of this act.*

